



# *Texas Nonprofits: Staying Informed in a Shifting Policy Landscape*

**By Marziani, Stevens & Gonzalez PLLC**  
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# Part I: Introduction & Background

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# Marziani, Stevens & Gonzalez, PLLC

- We are rooted in Texas with nationally recognized political law expertise
- We are mission-driven, fueled by our passion for a democracy for *all* Texans
- Among other types of clients, we represent nonprofits grappling with the exact issues explored here, including in protective & proactive litigation





# Why are we here today?

- *My goal:* Provide greater context for current political & legal threats to nonprofits to set the stage for organizational risk assessment
- *Panel's goal:* Provide practical suggestions for navigating legal, advocacy, fundraising & communications challenges in this environment
- *Don't forget:* This is a VERY dynamic political environment with policies changing rapidly; consider having trusted legal counsel readily available
- *Last disclaimer:* I have views about many of the (politically charged) issues we'll discuss. But I aim to present info without editorializing!

A photograph of the Austin skyline, featuring several tall skyscrapers under a clear blue sky. In the foreground, a river flows, and a bridge with a colorful mural on its railing spans across it. The scene is framed by green trees along the riverbanks.

# Part II: Threats to Nonprofits in Texas

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# Overlapping, Troubling Threats to Nonprofits in Texas

- Multiyear uptick in state retaliation against nonprofits engaged in work unpopular with Texas leaders, led by AG's office
  - *Unpopular issues include:* GLBTQ+ advocacy (esp. Trans-rights); immigration/borderland work; voter registration & mobilization; reproductive justice
  - *It looks like:* Demands for sensitive documents; efforts to disrupt funding & operations; legal action to revoke business licenses ("quo warranto" proceeding)
- Now, federal government is aggressively pursuing new avenues for investigation & retaliation against disfavored nonprofits
  - *Unpopular issues include:* DEI/DEIB; Gaza; immigration/borderland work; climate
  - *It looks like:* Revoking federal funds & contracts; limiting availability of student loan forgiveness; EEOC, DOJ or other agency investigations; seeking to limit private funding sources; public shaming & risk for online harassment from aligned third-parties

# State Government Threats, Generally

- *What's happening?*
  - AG Paxton initiated investigations or lawsuits against at least 7 Texas nonprofits serving immigrant populations and/or advocating for Latinos in 2024
    - Also in 2024: Paxton sued Austin homeless shelter & led criminal investigation into LULAC members
  - Typical pattern is to: (a) demand sensitive information on charged topics & (b) seek revocation of nonprofit business license if compliance deemed insufficient
  - Several key court cases are ongoing; expect court decisions this Spring to impact law here
- *Why does this matter?*
  - Every nonprofit operating in Texas is at heightened risk of investigation, especially those working on politically unpopular issues
  - Some Texas tactics are now being exported nationally
- *Prominent example:*
  - *Paxton v. Annunciation House* (RTE; quo warranto; immigration law; religious liberty)

# Federal Government Threats, Generally

- *What's happening?*
  - The first 100 days of Trump presidency has had significant ramifications for nonprofits engaged in disfavored practices via new federal policy, agency investigations, canceled funding, threatening tax-exempt status & public shaming
  - Main targets have been universities, migrant services, nonprofit lawyers & various recipients of federal funding
    - Next targets likely to include private philanthropy, nonprofit law firms, high-profile national advocacy organizations, possibly individual activists
- *Why does this matter?*
  - While larger, national nonprofits are more likely to be federal targets, downstream effects of less funding, fewer *pro bono* legal resources & reduced educational partners will be widely felt
  - Texas will also be watching national efforts closely & may seek to replicate in state
- *Prominent example:*
  - Targeting Harvard; also 60 universities facing investigations into antisemitism
  - Law firm *pro bono* practices scrutinized; nonprofit lawyers demonized
  - New EOs targeting nonprofit sector



# A Closer Look: Anti-DEI Attacks

- *What's happening?*
  - Federal & State are taking aggressive view of anti-discrimination law to claim that a broad range of equity initiatives in hiring, contracting, & board selection are illegal
- *Why does this matter?*
  - All Texas nonprofits are at some heightened risk of investigation, funding/contract loss or other acts of retaliation for maintaining & (likely, even more so) promoting equity initiatives
- *Prominent examples:*
  - Trump's Ending Illegal Discrimination & Restoring Merit-Based Opportunity EO
  - Abbott's "color-blind" EO
  - Paxton's attack on financial institutions
  - EEOC letters to 20 law firms; justification for law firm-specific EOs
  - DOJ soon to announce DEI investigation list, including private identify foundations with over \$500 million in assets

# *A Closer Look: Attacks on Migrant/Immigrant Services*

- *What's happening?*
  - As part of the Trump Administration's pledge of large-scale deportations, it has sought to eliminate legal, humanitarian & political support for migrants specifically & immigrants more broadly
  - Enforcement of immigration laws is also being used as political tool by targeting disfavored locales & retaliating against disfavored activism
- *Why does this matter?*
  - Orgs wholly focused on migrants/immigrant populations should take immediate precautions to protect org & sensitive client data
  - Social service orgs that broadly serve public, esp. poorer populations, may also be impacted
- *Prominent examples:*
  - Possible DHS investigations into SSP grant recipients
  - Deportation of student pro-Palestinian activists
  - Rescinding "sensitive locations" policy, opening churches, schools, food pantries to ICE
  - Seeking to criminalize humanitarian services

# A Closer Look: Loss of Funding (Federal & More)

- *What's happening?*
  - Led by DOGE, the Trump Administration is seeking to dramatically reduce federal spending, usually in politically targeted ways
- *Why does this matter?*
  - Orgs that are directly or indirectly (*i.e.*, via state or other intermediary) dependant on federal funds should expect disruptions
- *Prominent Examples:*
  - Early attempt by OMB to “pause” \$3b related to “Federal financial assistance [to]... foreign aid, nongovernmental organizations, DEI, woke gender ideology, and the green new deal”
  - While that initial EO was rolled back,
    - Foreign aid spending has been significantly reduced
    - EPA recently canceled \$20b in grants for climate and clean energy programs
    - Education / research spending has been slashed

# Part III: Risk Mitigation

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## Stay Calm & Pursue Collective Action

- Let's be clear: These actions are not normal operating procedure; many are illegal & being struck down by courts
- Nor are attacks on universities, foreign aid, the legal profession, DEI, immigration advocates different from one another – they collectively represent tactics to suppress dissent & consolidate power
- Ultimately, the only solution will be cross-coalition mobilization & mass political rejection of these efforts
- You can make decisions to protect your organization while refusing to condone these actions

# Internal Threat Assessment

- Your nonprofit exists to effectuate a unique charitable mission for the greater good; nonprofits come in all shapes & sizes
- Every nonprofit should undertake an individualized assessment, considering:
  - Organizational risk profile, based on:
    - Size & reach (*i.e.*, national or local, size of budget)
    - Prominence (*i.e.*, how high profile is brand &/or individuals?)
    - Previous targeting by political actors
    - Political work &/or related political arms
    - Subject matter focus &/or identity of those served (sadly, issues & people disfavored by political leaders are much more likely to be targets)
  - Resources needed to effectuate your mission
    - Orgs dependant on government funding / contracts are at higher risk
  - Reputation, core values, key stakeholders & other less tangible considerations

# Good Organizational Hygiene Matters!

- *Corporate governance* => bylaws; board policies & practices (keep minutes); doc retention/destruction; leadership succession plan
- *Financial controls* => GAAP requirements; regular audits; annual 990s; systems for grant tracking / reporting & fundraising records
- *IRS compliance* => understand tax-exempt status & tax law requirements; have cost-sharing & other written agreements across related entities
- *Other regulatory compliance* => watch for: charitable registrations; employment law requirements; foreign registration requirements; lobbying/campaign finance disclosures
- *Liability practices* => insurance; personnel manual
- *Internal communication* => How are threats quickly elevated?

## Ongoing Compliance for Politically Active Orgs

- *501(c)(3)s* => no electioneering; minimal lobbying (must track & report)
- *501(c)(4)s* => “primary purpose” must not be political (must track); can engage in independent political spending (ad disclaimers & disclosures); can engage in unlimited lobbying (must report)
- *PACs* => transparent & subject to extensive reporting; coordination rules
- *Recommendation*: all politically active organizations should have ongoing political law counsel, esp. for 2026 & 2028 cycles



# *What Do You Do if....Create an Emergency Plan*

- Every Texas org should be prepared for a government investigation; this includes:
  - Budgeting for an emergency fund
  - Identifying a trusted lawyer you can call
  - Knowing your rights:
    - Do not allow the AG's office or any other law enforcement to enter premises or obtain information without a warrant before talking to counsel
    - A judicial warrant is valid only (a) if signed by a judge, (b) for the areas identified in the warrant, & (c) on or before the date indicated as being the date by which it must be used
  - Creating crisis communications plan
- Other emergency situations to plan for:
  - ICE raids
  - Litigation
  - IRS audits
  - Sudden loss of funding



# Thank you!

Never hesitate to contact our MSG  
team with questions or for a free  
consultation

[info@msgpllc.com](mailto:info@msgpllc.com)

