

## **Recent Supreme Court Case on Donor Disclosure**

### ***Americans for Prosperity v. Bonta***

In a highly watched Supreme Court Case, the Supreme Court ruled on July 1, 2021 that charitable organizations who register with the State of California cannot be compelled to provide a copy of Form 990 Schedule B (Schedule B lists donors who contribute more than \$5,000).

Section 501(c)(3) organizations file Schedule B as part of Form 990 or Form 990-PF. For public charities, however, the schedule is not subject to public disclosure. California required that charities soliciting in the state had to file a complete version of the Form 990, including the Schedule B with the state. California argued that this disclosure was required in order to determine tax evasion and charitable fraud. Plaintiffs (Americans for Prosperity Foundation) argued that security lapses and data breaches by California created a risk that donors would be disclosed, and donors had a First Amendment to not be publicly disclosed in order to avoid possible reprisals by third parties (which would unduly burden the associational aspect of making contributions). The majority opinion ruled that a state could only compel disclosure if the disclosure was narrowly tailored to only address the problem or interest at issue and struck down the California requirement.

The case is a victory for donors (and organizations) who wish to maintain donor information as confidential; it extends the ruling in the Supreme Court's 1958 NAACP v. Alabama decision (striking down a state law requiring disclosure of NAACP members when disclosure may subject them to reprisals) to modern-day arguments about donor transparency and disclosure.