

PBPA Podcast Transcript
Strategic Conversations to Help Nonprofit Boards
Understand and Navigate Major Government Changes
(34:18 minutes)



Sireesha ([00:00](#)):

Hey, board member. Yes. I'm talking to you. Have you thought about how all this stuff is going to impact your nonprofit? Oh, wait, are you not sure what stuff I'm talking about? Phew! Good thing you're listening to this episode, because today we are talking about the "stuff", as in we're talking about recent initiatives of the federal government that are causing a huge shift for nonprofits. This shift may cover potentially everything from your great nonprofits funding to its programming. If you are on the board of a nonprofit, you are a nonprofit leader, and your nonprofit will be looking to you for guidance and strategy as it navigates all this stuff. So join us as we talk about the important and potentially tough conversations that nonprofit boards need to be having right now.

Sireesha ([01:05](#)):

Hello and welcome to the PBPA Podcast. In each episode of the PBPA Podcast, we explore legal questions relevant to Georgia nonprofits. I'm your host Sireesha Ghanta, Counsel and Education Director at the Pro Bono Partnership of Atlanta. PBPA strengthens our community by engaging volunteer attorneys to provide nonprofits with free business legal services. We provide numerous free resources via our website, including articles and webcasts specific to Georgia nonprofits and their business legal concerns. We also provide direct legal services to our clients. For more information on client eligibility requirements, to apply to be a client or to access our vast learning center, visit our website at pbpatl.org. Before we jump into this episode's topic, keep in mind that this podcast is general information, not legal counsel, contact your attorney for guidance on your nonprofits' specific situation.

Sireesha ([02:13](#)):

Rachel Spears is executive director of the Pro Bono Partnership of Atlanta, where she just celebrated her 20th anniversary with the organization in those 20 years. She has advised nonprofits in good times and tough times through a variety of legal landscapes. Eadaoin Walsh is a staff attorney with PBPA. She has a breadth of experience ranging from law firm to in-house. She has advised nonprofits both in her pre PBPA life, and of course, since she has joined our staff, both Rachel and Eadaoin have also served on nonprofit boards, so they have firsthand knowledge about the intricacies of board meetings and concerns of board members. Rachel and Eadaoin, thanks for being here today to have this important conversation about "important conversations".

Eadaoin ([03:09](#)):

Nice to be here. Thanks, Sireesha.

Rachel ([03:11](#)):

Thanks for having us.

Sireesha ([03:13](#)):

So, initiatives of the new federal administration are impacting nonprofits on multiple levels, from funding to employment to programming. Talking about the administration in a professional setting may

be a sensitive topic to broach, though. My first question is, how can a board member talk about federal government initiatives without getting political?

Rachel ([03:39](#)):

As we're gonna discuss, this is an incredibly challenging time for nonprofit organizations, and it's a time when boards need to be talking. It may be awkward, if you feel like it's getting political, but I think there's a way to have these conversations without putting value judgements, more sticking to the facts with here is what is happening here is how it impacts our nonprofit. And then planning for how to react to it. It is possible to do that. I think it's really important that boards move past that awkwardness to have these conversations.

Sireesha ([04:16](#)):

That's a great point. And Eadaoin, what types of nonprofit organizations are being impacted by these recent initiatives?

Eadaoin ([04:25](#)):

Well, all nonprofits are impacted to one degree or another, just as all organizations, uh, business and nonprofit are affected. However, top of the line is publicly funded nonprofits. Uh, those who receive direct federal funding or federal funding indirectly through state grants, sort of middleman agencies that administer federal funding. Those are the organizations that are most at risk and have may already have felt the impact of the executive orders that have been handed down since January.

Eadaoin ([05:05](#)):

The January executive orders that have been all over the news and now to some extent subject of court orders and partial rescissions and injunctive relief, et cetera, creating a lot of confusion in the media. They are aimed at a few different things that are of concern to the current administration. The first is the elimination of fraud abuse waste, things like that in federal expenditure. And so eliminating what the administration considers to be non-essential government spending, libraries, the arts, things like that. Um, foreign aid, anything that does not administer directly to the needs of the American people. Also up for scrutiny and a reduction in funding. And then programs that work on DEI diversity, inclusion, equity type concerns are certainly the subject of scrutiny and environmental organizations. And missions. Missions that aim to advocate for or provide support for members of the LGBTQ community. I think those are the types of nonprofits that we have identified as being most at risk.

Rachel ([06:24](#)):

And I'll just add a couple things to that. Number one, when it comes to government funding, there was a lot of news around the pause and funding and as Eadaoin mentioned how it's back. But I think our boards need to keep in mind that the future of funding is very uncertain as well. Uh, you may have heard about the continuing resolution that recently passed Congress, that there were some federal government funding cuts already in that. At bigger stake, I think is with the upcoming 2026 budget, which is expected, I think by September. There are, we expect many, many more cuts in government funding, which will be across the board impacting nonprofits. And I think organizations who fall in both buckets, they get public funding and they're in those target areas that Aiden mentioned are most at risk. But organizations that are only in the public funding bucket or the target area bucket are also at risk.

Sireesha ([07:28](#)):

And Rachel, what about privately funded organizations? Are they impacted by any of these recent initiatives?

Rachel ([07:36](#)):

Yeah, I think it's important to note that even if your organization does not get any federal government funding, whether directly or through a pass through, your organization may still have risk, particularly if they're in those targeted areas that Eadaoin mentioned for those organizations. There has been some indication that the administration is encouraging agencies to do investigations of DEI practices, even for private organizations. Also, the administration sent a signal by saying that public service loan forgiveness would disqualify workers at nonprofits working contrary to the administration's values. It's believed that will be for nonprofit employees working perhaps in organizations related to immigration might be impacted and lose their public service loan forgiveness. We've also heard of some loss of private funding that's related to these government funding initiatives. And just a reminder that ever since the Fearless Fund lawsuit last year, private organizations were needing to look at their DEI practices because of concerns about private lawsuits like that. So there are other areas that organizations need to be looking at, even if they don't get any government funding. I also wanna add that the organizations that are most at risk for this type of scrutiny are certainly larger organizations, large nonprofits are gonna be the focus, particularly with the government that is reducing its ranks and therefore has less ability to launch these investigations. I think larger organizations are gonna be most at risk, but I think it's something for all organizations to be aware of, particularly kind of how they fit in those targeted areas.

Sireesha ([09:35](#)):

You've talked about the impact on an organization's funding and programming. Are there any other impact areas for a board member to keep in mind.

Rachel ([09:46](#)):

As a board member? I think it's also important to be looking at the impact of all these changes on your organization's client. Cuts in funding may be impacting your clients directly and leading to increased demand for things like financial assistance. Also, clients may be afraid to reach out for assistance. So that's just something to keep in mind, not only how these changes are impacting the organization itself, but how that is impacting your clients and even your employees.

Sireesha ([10:18](#)):

You have both been fielding many questions about these new federal initiatives from your nonprofit clients. Can you share with us very generally, what are their top concerns? Eadaoin, let's hear from you first.

Eadaoin ([10:33](#)):

Yeah, I mean, I think that we still have a long way to go in terms of seeing the full impact of these recent changes at the federal level. I think many of our clients who may feel effects later on, either when it comes to, uh, grant renewal time or enforcement time, don't yet know that they're going to be impacted. But as far as what we have already heard anecdotally from clients, I think predictably enough, the first nonprofits to feel the effect of, in those that work with USAID funding and other funding that impacts work overseas. They have had grants sort of instantaneously stopped and cut for programming that, um, is done overseas.

Eadaoin ([11:22](#)):

Our clients who work with the refugee population and serve that population, whether through immigration support or the direction towards other resources like housing and healthcare and advocacy and those kinds of things, um, have also been impacted in a very immediate and clear way that, uh, they've had to figure out how to deal with.

Eadaoin ([11:43](#)):

And then we've also heard whisperings from our privately funded organizations, whether it just be anticipatory, uh, concern that this DEI related scrutiny will interfere with their programming or whether it be real, uh, stories of private funding being impacted. The private privately funded nonprofits are also concerned about the full impact of all of this. I think in terms of what we are telling clients, one of the big focuses has been, what is all this, uh, talk of DEI and how does this, how can we address it? What is a prudent way for us to make sure that we are complying with the requirements, the administration when it comes to the executive orders around DEI. And I think we can talk broadly about two different, um, again, buckets of nonprofits. Ones that are clearly have a diversity or equity mission. So if you're, if you have a stated mission that goes to advocacy for gender related issues, protection of a certain class of people such as a minority class or disability class, you could expect to have to have a very close look at the reason for your being and how sustainable that is and what you can do in order to examine your programming your mission and its viability in light of these recent changes. And then we have all the rest of our organizations, which may have diversity or equity concerns as a submission or a side mission. So it's sort of as a natural consequence of their primary mission to abate poverty or homelessness or addiction. Uh, they might also, in some of their work, advocate for minorities, advocate for mental health.

Rachel ([13:45](#)):

Sireesha, I've been hearing more about immigration, not something we have had done much with in the last 20 years at Pro Bono Partnership of Atlanta, but just in the past few months, I've gotten a lot of questions about, uh, worker authorizations for employees with some sort of immigration status, questions about worker travel to the US or from the US and, especially questions about from nonprofits that serve immigrants and how they should respond to the new initiatives.

Sireesha ([14:22](#)):

And there's also been a shift in tone related to environmental justice programming. So some of our clients that are within the environmental space have had questions primarily related to their funding. Recipients of Green New Deal funding have seen that money frozen, maybe partially thought out. But they definitely have concerns for the future in terms of any new grants.

Rachel ([14:48](#)):

That's right.

Sireesha ([14:50](#)):

So, these initiatives all started with executive orders and lawsuits have been filed in relation to many of the EOs, and as I'm sure our listeners know, lawsuits can take weeks, months, years to be decided. So the status of some of these initiatives are all up in the air. Rachel, how is a nonprofit supposed to plan amongst all this uncertainty?

Rachel ([15:18](#)):

It, it is impossible to predict what is going to happen on all of this. It's frankly, really hard to even just keep up with it. I'll recommend one resource is the National Center for Nonprofits has a chart to just track all the different executive actions and the litigation related to it, which is helpful if you're trying to watch kind of one particular issue area. In addition, us not knowing how the courts will rule, there's some question about administration abiding by the court rulings at least right away. So there's just a lot of uncertainty. Also, I would expect that if an executive order is struck down, the administration may come back with revisions to that order, you know, a change in strategy in order to get it past the courts the next time. So I don't think these things will go away regardless of what happens in the particular litigation.

Rachel ([16:16](#)):

So I think overall, we know the theme, which is the type of organizations that are gonna be under scrutiny, the fact that government funding is going to be seriously cut, and knowing that, I think it's really important that nonprofits do contingency planning. There are some good resources on this as well. Georgia Center for Nonprofits has some good material as one place. But as board members, it's really important. You don't wait until it's too late to do something about this. Now is the time to be thinking about how your organization will react if it loses all of its government funding, for instance, and, um, make plans for that. And we can talk a little bit more about that later.

Sireesha ([17:05](#)):

Yeah, let's talk about that contingency planning. Um, let's talk about some of the conversations and kind of strategic mini planning that nonprofit boards should be having now. What can or should nonprofits be doing? For example, if they have DEI programming,

Eadaoin ([17:24](#)):

Um, in terms of how to plan for best practices around DEI board members should assist and maybe even prompt a review of the organization's programming and its messaging in light of the executive orders that we've been discussing. One big concern emanating from these recent executive orders is around compulsory disclosures of information and government investigations related to DEI. So you may want to look at how to best protect your organization's sensitive information, in particular, anything that's sensitive around your participants or your employees. And we would advocate that these strategic planning sessions would benefit from an attorney-client privilege. May not always be possible, but you may wish to involve your lawyer in these strategic planning discussions around the latest legal developments. It is not an ironclad guarantee of absolute confidentiality, but having a lawyer present for sensitive discussions, can help in protecting sensitive information as you, as you figure out how you may need to shift and reframe both your mission and your the language around your mission.

Eadaoin ([18:46](#)):

Even if you're not on the government radar or high up on the government radar, shall I say, the potential for, uh, private action pullback on government funding will affect private funders too. You know, there will be more, um, competition for every nonprofit dollar as we enter this era of, uh, a dearth of government funding. And private funders may fear the environment of investigation and compulsory disclosure around nonprofit activity and this may impact their giving. We have heard some stories of that you may wish to review. Even for these, um, non DEI centric mission organization, you may want to consider reviewing programming and marketing materials to remove language that may subject your

organization to DEI-related scrutiny. Even as an organization that is not considered high risk, whether just a smaller organization, an organization that's entirely privately funded or an organization with a non-risky mission.

Rachel ([19:50](#)):

I would, uh, just add a couple things, Eadaoin to that, which is, as I mentioned earlier, with the Fearless Fund litigation, we know that even organizations that are privately-funded could be subject to lawsuits. So that's something else to keep in mind. And then I think every org organization looking at their DEI mission and programming needs to consider the mission of the organization and the risk tolerance of the organization. These are conversations the board should really be involved in to make the decisions about what, if anything, the organization wants to change in response to this activity.

Sireesha ([20:31](#)):

Those are some great tips for organizations that have questions or concerns about their DEI programming. And now, for those organizations that receive federal funding, whether it's directly or through states or other partners, what are your suggestions for them?

Eadaoin ([20:49](#)):

If you are a direct or indirect recipient of federal funds, we are just advocating an eyes wide open approach from the board. If you've decided that you are a target for funding freezes, funding cuts, whether now or in the future, um, it's a good idea to review your funding sources and all grant agreements so that you understand all of their intricacies, the conditions of drawing down your funds grant renewal dates, the, the risk of non-renewal, ask whether you need to strategize around diversifying your funding sources. This is not a new concept for nonprofits, but it it's a more urgent one. You're gonna want to ask if you can increase your ask of private funders or maybe ask for release of restrictions on private grants, so that you can access funds for general operating that perhaps you are not able to access for those purposes before.

Eadaoin ([21:56](#)):

That is a conversation that most certainly should be instigated and, and, uh, assisted by the board. The next thing I would say is to be to follow your grant terms. The terms of your grant agreements to the letter. So is to not ever give an agency or a funder any excuse to freeze your funding or withhold funding or fail to renew your funding. You want to be aware of the federal funding restrictions. Are there any anti-discrimination requirements attached to your federal funding? Uh, what audit rights does the funder have, or can they add new requirements? Are you prepared to meet those requirements? And is, are the informational requirements of audit provisions in your grant agreement things that you're prepared to fulfill while also thinking about privacy concerns? Again, those privacy concerns that we talked about around your participants and your employees. Um, you might wanna consider whether your policies and procedures are in keeping with state and federal requirements. And this unfortunately requires you to stay up to date on legal changes as best you can. The good news is, uh, we do have current information on legal changes on our website and our educational tab. As a client of PBPA, you always have the ability to reach out, to seek assistance from your staff attorney here.

Eadaoin ([23:25](#)):

In terms of other words about your examination of the grant situation at your organization, just be aware of termination dates and renewal dates. Uh, have those conversations that we've discussed about

grants may not be renewed, understand termination formalities and the consequences of termination of a grant. And consider which of your funding is most at risk given the various executive orders and government actions that we have, we've discussed in this conversation so far.

Rachel ([23:59](#)):

Uh, Sireesha when it comes to funding, I would just reiterate the, um, importance of scenario planning. If you do get government funding for the different possibilities of you losing all your funding or half your funding or small bit of your funding and kind of how your or organization would react to each of those things. I also wanted to mention advocacy, which is something organizations can be doing, especially as Congress is currently, I'm talking about the 2026 budget. That might be something your organization wants to consider getting involved in. You wanna be sure to follow all the regulations as well as your funder restrictions. And we have great resources on that on the website.

Rachel ([24:42](#)):

And then I really wanna emphasize, I think the time is now for organizations to think about possible mergers, acquisitions, things like this. If you know that you're gonna lose half your funding and, and organization that you work with is also gonna lose a good chunk of their funding, now is the time to have conversations about whether it makes sense to combine your organization's operations in some way. It doesn't always have to be a true corporate merger, but there are lots of scenarios where you can look for efficiencies to hopefully survive as an organization or at a minimum, keep that important program you have running. So now is the time to think about this. Do not wait until it's too late. One thing we saw, I would say with the great recession is organizations waiting until it was too late. They were not an attractive merger partner. So, um, but if you act now and start these conversations that that might be an option for you if the time comes.

Sireesha ([25:48](#)):

And for our listeners wondering about some of the resources that Eadaoin and Rachel mentioned, we will share links to those resources on the episode page. Now let's look at another focus area immigration for organizations that have immigrant employees or immigrant clients, what guidance can you share with them, Rachel?

Rachel ([26:12](#)):

Yes, the first thing I would say is every organization should be doing an I-9 audit. We expect more government activity conducting their own I-9 audits of employers. And you, your nonprofit can do an internal I-9 audit where you make sure you have a properly executed form I-9 for all current employees. You're also required to keep it for former employees for a certain amount of time and check our resources for more information on that. But that's a pretty easy way you can make sure you, you know, can avoid some immigration issues. Next, if you have employees with a work authorization such as a visa, check on the status of those. Make sure you're keeping up with any deadlines and making sure you're staying current on all of those.

Rachel ([27:07](#)):

Uh, next, if your organization serves immigrant populations, make sure you have a plan in place because, ever since January, ICE raids are allowed at schools, clinics, and other nonprofits where they were not before. So your organization, your employees need to know what happens if there is ice enforcement at your facility and make sure your staff is trained. Make sure they know who the point

person is to contact if that happens. And also some advice we are giving our clients is to make sure, uh, you designate private areas as private that will help in the event of a enforcement of some type of some sort. We had a webcast recently, Sireesha did with one of our volunteers that, uh, we'll also make available to you for more information. And last, I'll mention that we are seeing the, or administration going after organizations in various ways organizations that they see as serving undocumented immigrants. So that is why compliance, again, is really important for organizations to make sure that they are not kind of opening themselves up to greater scrutiny through their lack of compliance.

Sireesha ([28:31](#)):

And for my last question, I would love to hear from both of you. Are there any other general thoughts you have for nonprofit leaders as they're strategizing for this new era?

Rachel ([28:46](#)):

I'll follow up on compliance, which I just brought up as just being very important for all nonprofits right now to, again, keep your organization out of the radar.

Eadaoin ([28:59](#)):

Always, but more particularly now is whether you're in good standing with the IRS, um, is your mission correctly stated on your charter documents, on your documentation with the IRS, your 990 et cetera? Or have you timely filed your 990 and are you correctly reporting legislative lobbying on your 990? For instance, is your Secretary of State record correct, correct. Officer information, et cetera. And if you're required to file anything with the attorney general in your state, have you done that correctly? And then are you exercising good corporate practice complying with your conflict of interest policy, whistleblower, and document retention policies? Those are all policies that the IRS focuses on. And you want to be above reproach in all of those regards. That is one thing that you can control and do very well and signals, uh, good governance to anybody who may come looking.

Rachel ([29:59](#)):

This is something people hadn't thought much about before, but if you may be subject to a government investigation, all of a sudden what documents you have or don't have become very important. So I'd encourage you to think about, um, make sure you don't not only have a document retention policy, but they're actually complying with it and doing those sort of audits of your documents periodically. You may not realize the 990 ask whether your organization has a conflict of interest, policy, has a document retention policy, et cetera. These are ways the IRS kind of signals to organizations that you should have these things and you want to be able to, of course, say on the form that you have them, but you also wanna make sure that you are actually following them, that the board is familiar with them and these are, you know, actually parts of the practice of your organization.

Eadaoin ([30:54](#)):

One thing I would add is, in terms of just looking at good practices for board members and nonprofit leaders generally, is to have a look at your D&O insurance. Um, I think D&O insurance is always important to have in place, but now is a great time to really make sure you understand the terms of your D&O insurance, make sure that it's adequate for your organization and its size, and look at the renewal date, make sure that it stays current, that it stays in force. And again, an eyes wide open approach to that for all members of the board. In addition to the, the executive leadership of the organization. One other tip that I would, and this, this mentions something that Rachel referred to a second ago, is be

aware that there is going to be more of an emphasis on reporting, documenting justification for grant receipts, and being prepared to respond to requests for information from various sources. Just focus on that. Um, having your information ready for reporting in a format that you're comfortable with and that the board is comfortable with sharing is an important way to be prepared for this for this new era too.

Rachel ([32:16](#)):

If I can jump in one more time, just, just the importance of board members at this time. It's really important that board members be present at meetings, be paying attention to what's going on, be contributing their skills and expertise to help the organizations at this time. Your organization needs you now more than ever. And, and again, you need to be able to have these conversations, even if it feels a little bit awkward. You know, you can have these conversations without being political by focusing on the mission of the organization and the critical need for the organization and how to keep the organization going through these challenging times.

Sireesha ([33:02](#)):

Wow, this is some intense but very helpful information. Um, this insight we hope will allow our board member listeners to be ready to have some important conversations in their upcoming board meetings. Thank you to our listeners, to the nonprofit leaders and board members for taking the time to tune in and learn. And thank you so much, Aine and Rachel for sharing your guidance and expertise with us. Thanks, Sireesha.

Rachel ([33:32](#)):

Thank you.

Sireesha ([33:36](#)):

We hope that you found this episode of the PBPA Podcast to be informative and helpful. We add new episodes every month with short conversations about general, yet important legal information for Georgia nonprofits. Remember that this is not legal counsel. Talk to your attorney about your organization's specific concerns. Thanks for tuning into the PBPA Podcast. And to all nonprofits listening out there, thank you for all the good work you continue to do in our community.