



# STUDY GUIDE

## WHEN TRANSPARENCY REALLY MEANS TYRANNY

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**KEY TERMS:** transparency      public record      blacklisting  
privacy      individual right      anonymous speech

<b>NOTE-TAKING COLUMN:</b> Complete this section <u>during</u> the video. Include definitions and key terms.	<b>CUE COLUMN:</b> Complete this section <u>after</u> the video.
<p data-bbox="107 548 545 579">What happened to Scott Eckern?</p> <p data-bbox="107 1003 899 1077">What does the law in New York compel a non-profit to do, in terms of advocating against an elected official's position?</p> <p data-bbox="107 1501 919 1570">What did the state of Alabama attempt to force the NAACP to do?</p>	<p data-bbox="956 548 1455 579">How can transparency be damaging?</p> <p data-bbox="956 1234 1382 1266">Why is anonymity so important?</p>

## DISCUSSION & REVIEW QUESTIONS:

- Towards the beginning of the video, Mr. French states, “In a better world, those associations would be accurate. But in the world of the progressive left, “transparency” means something very different. And you need to be aware of that meaning or you risk becoming a victim of it.” Why do you think that the progressives have appropriated the term ‘transparency’ and given it a negative connotation? What do you think Mr. French means by his warning that you could become a ‘victim’ of transparency?
- Mr. French goes on to share with us how in the progressive mindset, “...transparency means something completely different when it comes to the private, non-government, realm. Take, for example, where you chose to donate your money. Transparency in this case means that there is a public record of your donation. Now, this might sound okay, but it isn’t.” What reasoning do you think the left employs when attempting to argue why their meaning of transparency is justified and morally correct? Explain. Why do you think Mr. French means when he states that their view of transparency sounds okay ‘but isn’t?’ Explain.
- In supporting his case, Mr. French points out that, “In New York, for example, it’s now the law that if a non-profit organization advocates against a position taken by an elected official, it must disclose to the government the identities of all the organization’s significant donors. Faced with this prospect, most people would just as soon avoid the risk altogether. Safer, in other words, to keep your mouth shut and your checkbook closed.” Why do you think that New York passed such a law? In what ways does a law like this limit an individual’s freedoms and discourage an individual from freely exercising such freedoms? Explain.
- Mr. French then explains that, “...even if the government kept that information [non-profit donor lists] secret, it’s none of its business. Because while transparency is a government obligation, privacy is an individual right.” Do you think that information, such as non-profit donor lists, should be kept secret- especially from the press? Why or why not? Do you agree that information about individuals is none of the government’s business? Should it be? Explain.
- Towards the end of the video, Mr. French warns, “Anonymous speech has been a blessing for this country. Anonymous pamphleteers helped launch the American Revolution. Anonymous writers helped ratify the Constitution. Anonymous activists helped liberate black Americans from the oppression of Jim Crow. But if we’re not careful, anonymity will soon be a thing of the past.” In what other ways, besides the examples mentioned above, has anonymous speech been ‘a blessing for this country?’ What do you think Mr. French means with his prediction that ‘anonymity will soon be a thing of the past?’

## EXTEND THE LEARNING:

### CASE STUDY: Bill No. A10742/S8160

INSTRUCTIONS: Read the article “New law chills charitable giving by violating donors’ privacy,” then answer the questions that follow.

- What does this law require? What types of organizations are affected by this law? Why is this law unprecedented? Why is this law unconstitutional?
- What do you think Governor Cuomo means by ‘Dark Money?’ What arguments do the authors make to support their position against this law? In addition to the ones mentioned in the article, what do you think some of the unintended consequences of this law might be? Do you think the law will be struck down or repealed? Why or why not?
- In what ways, specifically, does this article support the points made by Mr. French in the video?



# QUIZ

## WHEN TRANSPARENCY REALLY MEANS TYRANNY

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1. The public has a right to know what the government is doing with tax dollars.
  - a. True
  - b. False
  
2. What happened to Scott Eckern after the LA Times posted his donation information online?
  - a. He was arrested.
  - b. He was promoted.
  - c. He lost his job.
  - d. He was elected to public office.
  
3. How do we know that privacy is an individual right?
  - a. The First Amendment
  - b. The Second Amendment
  - c. The Third Amendment
  - d. The Fourth Amendment
  
4. \_\_\_\_\_ speech has been a blessing for the United States.
  - a. Foreign
  - b. Improper
  - c. Hate
  - d. Anonymous
  
5. In the 1950s, the state of Alabama tried to force the NAACP to \_\_\_\_\_.
  - a. limit its membership
  - b. grant membership to members of the KKK
  - c. disclose its membership lists
  - d. offer college scholarships



# QUIZ - ANSWER KEY

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<http://www.crainsnewyork.com/article/20170530/OPINION/170519919/new-law-chills-charitable-giving-by-violating-donors-privacy>

OPINION

May 30, 2017 12:01 a.m. Updated 05/30/2017

Op-ed

# **New law chills charitable giving by violating donors' privacy**

## **The courts should strike down a misguided effort to remove money from politics**

By Sean Delany, Laura Abel and Sharon Stapel

In the face of threatened federal cuts to the nation's social services infrastructure, charitable giving is more important than ever. The soup kitchens, public health clinics and child-care programs so essential to low-income communities rely on donations to make up shortfalls in government funds. But a new state law threatens such giving by violating donor privacy.

The law requires a 501(c)(3) nonprofit to publicly disclose its donors if it contributes cash or in-kind support to another organization that has 501(c)(4) tax-exempt status—meaning it can engage in political activity—and does a substantial amount of lobbying in New York. While Gov. Andrew Cuomo claims the law will shed light on “dark money” in elections, the law has nothing to do with campaign finance. Even if the purpose were to reveal those who fund lobbying, it is overbroad because it requires disclosure even if the donations do not support lobbying.

This law is already having many unintended consequences. It exposes the names of donors to nonprofit legal assistance providers such as Lawyers Alliance for New York, where two of us work. This nonprofit provides pro bono or reduced-fee legal assistance to 501(c)(4) organizations. We help our clients comply with their legal obligations; the state has no legitimate interest in chilling our donors. In order to avoid having to disclose their names, we limited the assistance we provide to certain clients. The law affects nonprofits across the sector, such as Nonprofit Coordinating Committee members, who may fear a requirement to release the names of their donors, some of whom request anonymity.

The new law could also identify people contributing to community foundations that make grants to 501(c)(4) organizations, even if the grants are earmarked for financial education classes or other nonlobbying activity. Indeed, at least one community foundation decided to stop providing funds to such organizations as a result of the law. Colleges and universities could be affected if they represent these organizations through law school clinics, place student interns there or make their research and analysis available to the organizations without charge.

This law is unprecedented in this country. No statute has previously required disclosure of the identity of donors to 501(c)(3) nonprofits, which are nonpolitical. There are many good reasons a

contributor might want to keep his or her identity and the amount of a contribution confidential: modesty, a fear of danger that would result from exposing the extent of the donor's wealth, a desire to avoid being targeted for funding requests, or wanting to make a donation anonymously to honor a loved one. The state has nothing to gain, and much to lose, by discouraging such people from donating to charity.

The law is not only bad policy—it is unconstitutional. Compelled disclosure of donors' identities infringes on their rights of speech and association. The Supreme Court has held that government cannot compel donor disclosure unless it can show a substantial interest in learning the donor's identity. The state cannot do so here, because the law requires the disclosure of donors whose donations are used for activities entirely unrelated to lobbying.

We have sued to stop this harmful law, as have the American Civil Liberties Union, New York Civil Liberties Union and Citizens Union. The state has agreed not to enforce the law against us at this stage in the case, but organizations that have not sued must still comply. The courts should stop this government overreach so that New Yorkers of good will can donate to the charities of their choice without losing their privacy.

*Sean Delany is executive director and Laura Abel is senior policy counsel at the Lawyers Alliance for New York. Sharon Stapel is president of the Nonprofit Coordinating Committee of New York.*