

Chaminade Nonprofit Seminar 2026

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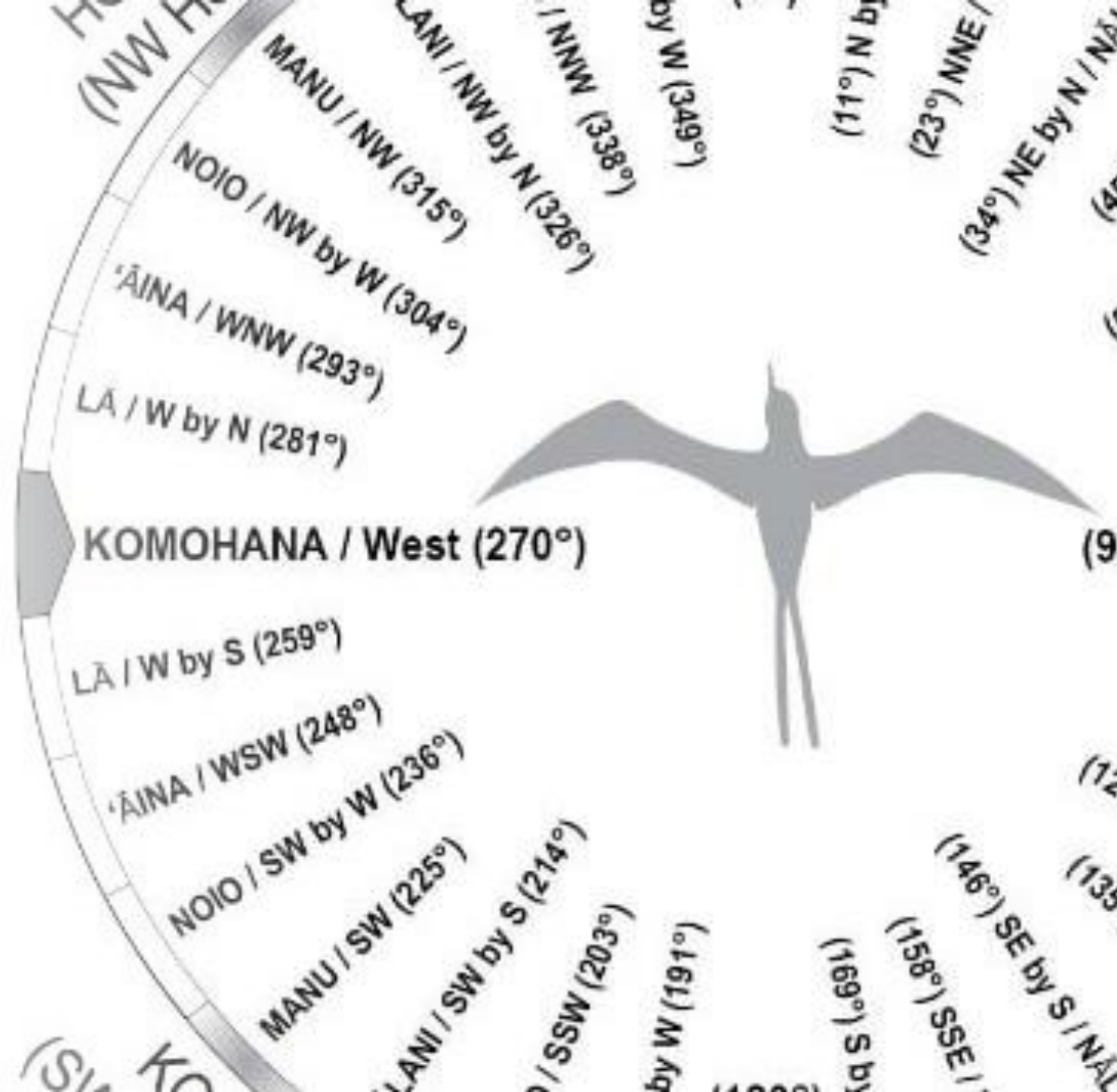
Last year



This year

Navigation

- IRS Priority Guidance Plan
- The Harvard Case
- Donor Advised Funds
- The Form 990
- DEI
- The SPONSOR Act
- Political Activity and Elections



IRS Priority Guidance Plan

SECTION 501(c)(3) ISSUES

1. Guidance on the application of the fundamental public policy against racial discrimination, including consideration of recent caselaw, in determining the eligibility of private schools for recognition of tax-exempt status under §501(c)(3).



“Recent caselaw”

- *Students for Fair Admissions v. Harvard* (2023)
- *American Alliance for Equal Rights v. Fearless Fund* (11th Cir. 2023)

IRS Priority Guidance Plan

2. Guidance on the statutory prohibition in §501(c)(3) against participation or intervention in political campaigns (the “Johnson Amendment”).

501(c)(3)

A charity may “not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of (or in opposition to) any candidate for public office.”





Harvard and the First Amendment

- Administration cancels federal grants and requests:
- New leadership, “audit” of curriculum and “viewpoint diversity”
- Hire new faculty and “admit a critical mass of students” to balance viewpoint diversity
- Elimination of all DEI programs

THE CONSTITUTION of the United States

We the People of the United States, in order to form a more perfect Union, secure domestic Tranquillity, provide for the common defence, promote the general Welfare, and bind ourselves together in a more perfect Union, do hereby establish this Constitution for the United States of America.

Article I.

Section 1. All legislative Powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.

Section 2. The House of Representatives shall be composed of Members chosen every second Year by the People of the several States, and the Electors in each State shall have the Qualifications requisite for Electors of the most numerous Branch of the State Legislature. No Person shall be a Representative who shall not have attained to the Age of twenty five Years, seven Years, and a Day, who shall not, when elected, be seven Years a Citizen of the United States, and who shall not, when elected, be an Inhabitant of that State in which he shall be chosen. Representatives and direct Taxes shall be apportioned among the several States which shall be determined by adding to the whole Number of free Persons, including all bound Persons for Term of Years, and excluding Indians not taxed, three fifths of all other Persons. The actual Enumeration shall be made within three Years after the first Meeting of the Congress, and within every subsequent Term of ten Years, in such Manner as they shall direct: but the Number shall never be less than thirty, nor more than one hundred; and until such Enumeration, the Number shall be ascertained by a List or Census taken by the President of the United States, in such Manner as he shall direct: and the Number of Representatives shall not exceed one for every thirty Thousand, but each State shall have at least one Representative; and until such Enumeration, the Number of Representatives shall be ascertained by a List or Census taken by the President of the United States, in such Manner as he shall direct: and the Number of Representatives shall not exceed one for every thirty Thousand, but each State shall have at least one Representative; and until such Enumeration, the Number of Representatives shall be ascertained by a List or Census taken by the President of the United States, in such Manner as he shall direct.

Section 3. The Senate of the United States shall be composed of two Senators from each State, chosen by the Legislature thereof, for a Term of six Years; and they shall have one Vote.

Immediately after they shall be assembled in Consequence of the first Election of the President, they shall be divided into three equal Classes; and in each Class one Senator shall have his Office filled up at the Expiration of the Term of the Senator to whom it shall next devolve.

and
The Declaration of Independence

Harvard v. U.S. DHHS

- The First Amendment prevents the Government from canceling grants based on viewpoint
- Court notes President's social media posts (“Harvard is a JOKE [and] should no longer receive Federal Funds”)
- Government cannot condition federal funds receipt on giving up free speech rights
- Allegations of antisemitism are not supported by evidence
- Court finds retaliation for exercise of First Amendment

Donor Advised Funds



Hawai'i
Community
Foundation



FIDELITY Charitable®

BANK OF AMERICA



Philanthropic Solutions

Bank of America Charitable Gift Fund

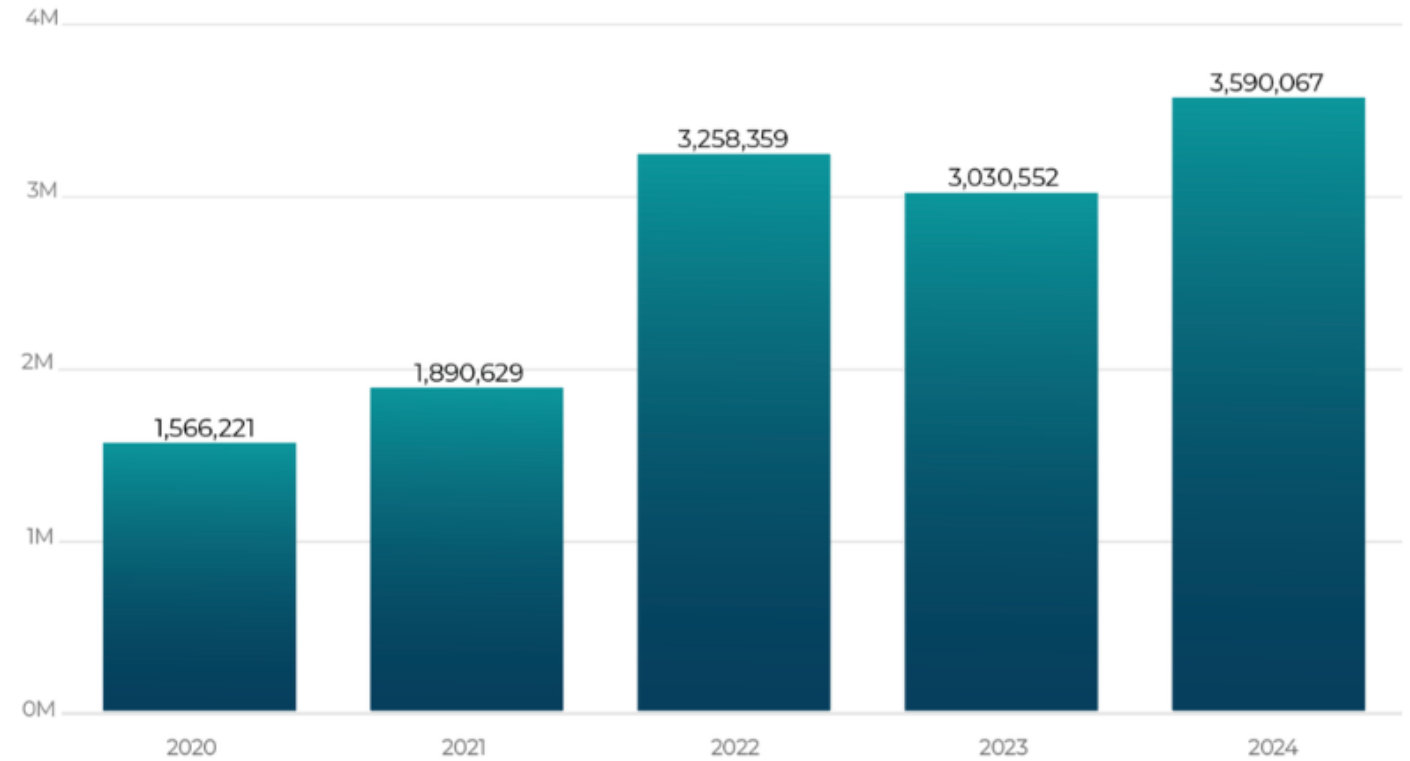
WOMEN'S
FUND OF HAWAI'I



Aloha
UNITED WAY

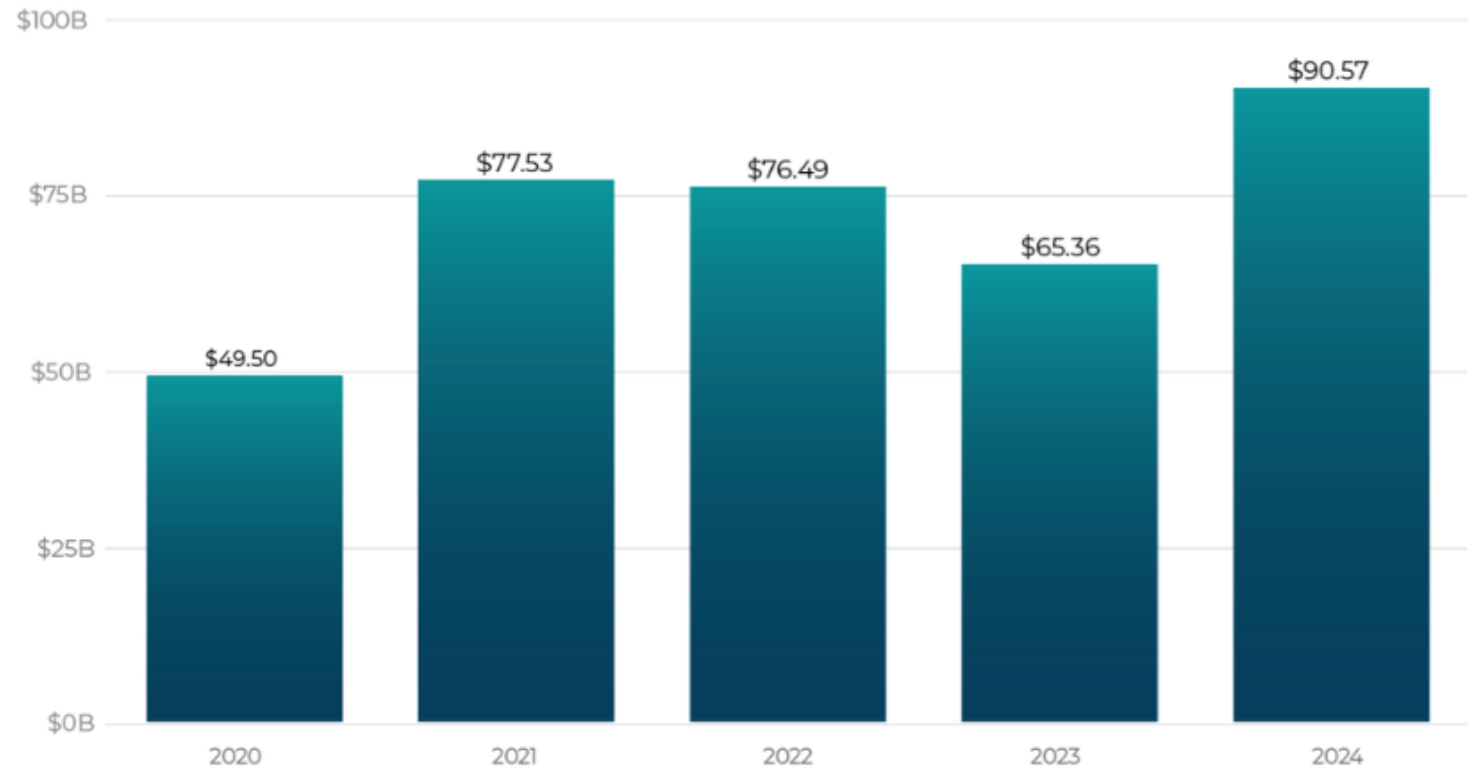
Donor Advised Funds

Updated Total Number of DAF Accounts



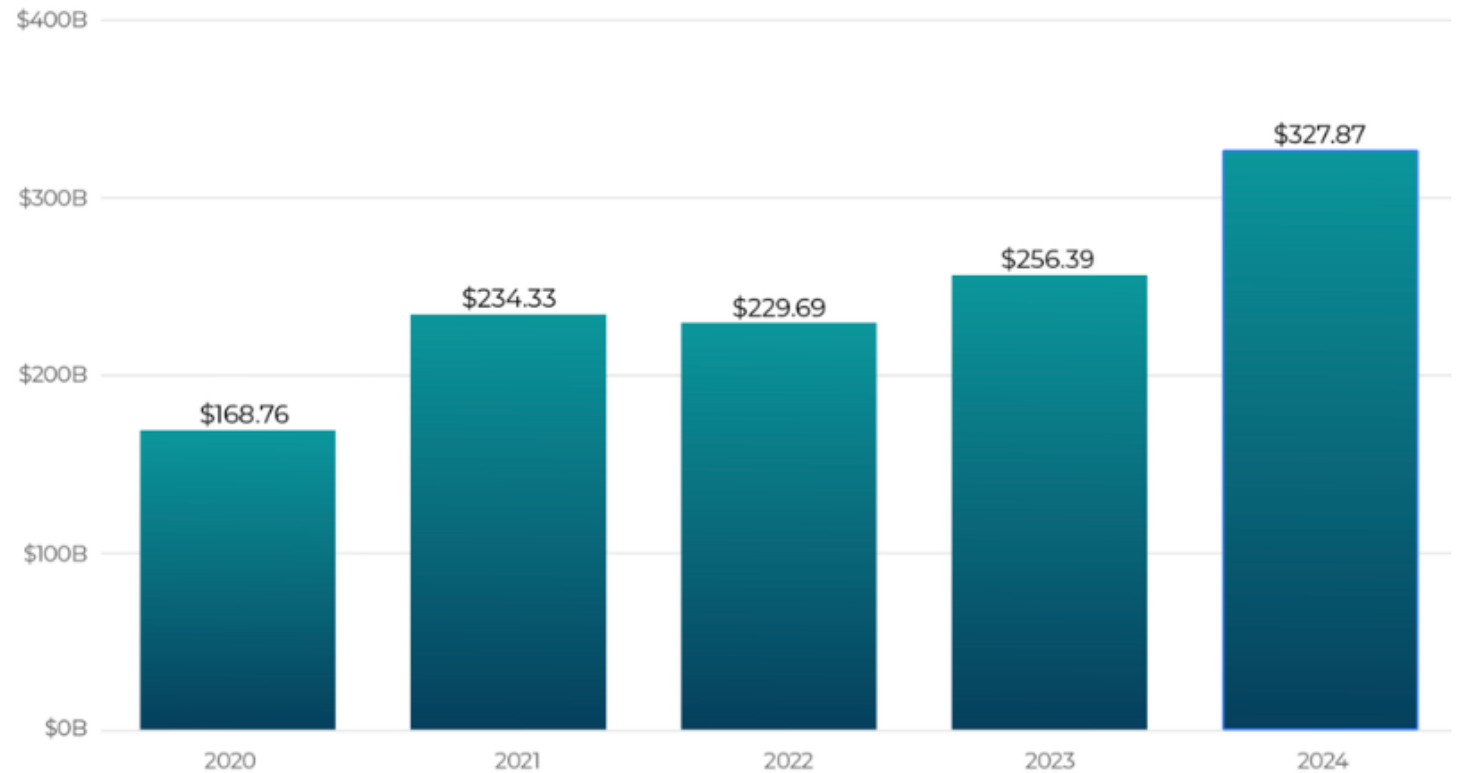
Donor Advised Funds

Updated Total Value of Contributions to DAFs (\$ in billions)



Donor Advised Funds

Updated Total Assets in DAFs (\$ in billions)



Donor Advised Funds

- Potential requirements for minimum payout
- Potential changes to eligible distributions
- Potential changes to deductibility
- Potential rules regarding “self dealing”
- Should DAFs be treated more like private foundations?
- **Note: DAF regulations removed from Priority Guidance Plan**



The Form 990

Changes “to achieve the goals of clearer reporting, better detection of misconduct, and accountability for wrongdoers.”

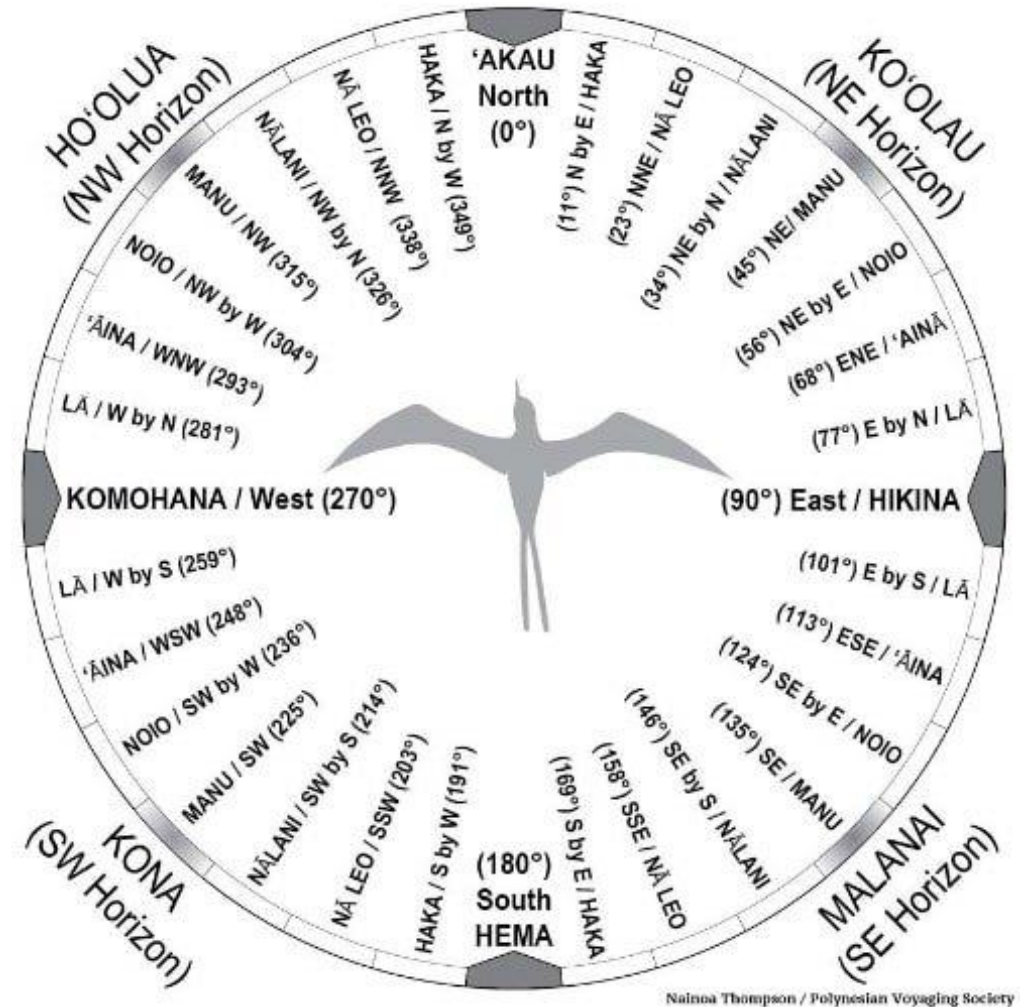
- Government contracts
- Government grants
- Fiscal sponsorship arrangements

DEI (Diversity, Equity, and Inclusion)

- Affirmative action programs ruled invalid (SFFA v. Harvard)
- But Government cancellation of Harvard funding violated First Amendment (Harvard v. U.S. DHHS)
- Government can tell you not to engage in discrimination
- Government cannot dictate viewpoints or philosophies
- Government can stop funding specific programs
- Government cannot single you out for your exercise of free speech

How to navigate DEI in 2026

- Does my program discriminate on the basis of race? **If so, do I have a legal basis for continuing my program?**
- Is the Government seeking to take action against me? **If so, on what ground?**
- Is my expression of ideas important to my organization and its voice? **If so, how can I continue to express these ideas?**



The background image shows a protest scene with several tents in shades of green, blue, and yellow. People are visible around the tents. In the background, there is a large, classical-style building with many columns, possibly a government or institutional building. The sky is overcast.

The SPONSOR Act

(under consideration by
Congress)

Stop Proxy Organizations Nurturing Subversive Operations and Riots

- Would impose criminal liability on “sponsors” for covered activities of fiscally sponsored projects
- Establishes presumption of responsibility for sponsor

Political Activity (It's an Election Year!)

“The Johnson Amendment”

A charity may “not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of (or in opposition to) any candidate for public office.”



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Immediately after they shall be ascertained in consequence of the
of the character of the first Bight shall be vacated at the expiration of the year

... and the ... shall be President of the ...

"Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances."



Political Activity: New rules for churches?

- National Religious Broadcasters v. Billy Long Consent Judgment: “Bona fide communications internal to a house of worship, between the house of worship and its congregation, inconnection with religious services” do not violate the Johnson Amendment
- This applies only to the parties, but can it be limited?
- Is this the beginning of a change?

Act 11 (2026)

- Effective July 1, 2027
- Prohibits corporations (including nonprofit corporations) from spending money to influence politics
- Intended to combat the *Citizens United* decision
- Impacts all corporations, including nonprofit corporations
- But also ballot initiatives

**It's official—
Hawaii
has kicked
Citizens United
out of its politics.**



Gov. Josh Green (D) just signed S.B. 2471, making Hawaii the first state to force corporate money out of its elections and render *Citizens United* irrelevant!

Learn more about the “Corporate Power Reset” at **AMERICANPROGRESS.ORG**



BATTLE PLAN



Xmas ornaments

red hot!

feather
fan
by Kevin Mc