

April 7, 2025

The Honorable Brett Guthrie
Chair
Committee on Energy and Commerce
U.S. House of Representatives
Washington, DC 20515

The Honorable John Joyce
Vice Chair
Committee on Energy and Commerce
U.S. House of Representatives
Washington, DC 20515

Dear Chairman Guthrie and Vice Chairman Joyce,

Thank you for your work on national data privacy and data security legislation. We, the undersigned nonprofit organizations, write to share our support for efforts to protect consumer data and our interest in working with the Data Privacy Working Group as it develops the parameters of a federal comprehensive data privacy and security framework. As public charities, we are approved by the federal government to exist in pursuit of a charitable purpose and our organizations work every day to meet critical public safety, health, education, and other vital community needs. Protecting the data of the people we serve, as well as donor and volunteer data, is fundamental to that work. We cannot meet our missions individually or as a nonprofit sector without public trust.

The charitable sector supports the goals of data privacy legislation to protect consumers from unwanted commercial activities that collect and process large amounts of personal consumer data. We are firmly committed to stewarding the information of those we work with and those we serve, which includes collecting, managing, and protecting personal data lawfully, fairly, and transparently.

We appreciate the opportunity to suggest the following considerations in response to the Request for Information:

I. Roles and Responsibilities

- Differentiate nonprofits from business entities: Public charities registered under section 501(c)(3) of the tax code have been recognized by the federal government to be unique. They have a different purpose and different responsibilities than businesses, and therefore operate differently. For example, many government or private grants may mandate the collection and preservation of certain covered data in order to meet reporting requirements. We ask that the Working Group recognize the differences between nonprofits and for-profit entities in future legislation and exempt nonprofits from policies designed to address private companies collecting data for business purposes. Most of the 19 states that have enacted comprehensive data privacy legislation in the past few years have fully exempted nonprofits. These include California, Connecticut, Indiana, Iowa, Kentucky, Montana, Nebraska, New Hampshire, Rhode Island, Tennessee, Texas, Utah, and Virginia. Legislation that does not thoughtfully consider the impact on nonprofits could have significant unintended consequences.

- Account for structure of federated nonprofit organizations: Some nonprofit organizations operate under a federated structure: organizations with a national office and independent affiliates that operate under a shared mission and brand. Data sharing between national organizations and their state or local affiliates does not have a commercial purpose, yet is absolutely essential to serving shared populations, identifying trends and challenges, achieving efficiencies of scale, and informing opportunities for innovation. As a result, data transfers between these types of federated nonprofits should be treated separately from third-party data transfers. As in legislation introduced in the previous Congress – H.R. 8818, the *American Privacy Rights Act* – this can be accomplished with a definition of “third-party” that excludes any “federated nonprofit organization” and defines such as “a network or system of 2 or more entities, described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from taxation under section 501(a) of such Code, that share common branding.” This aligns with consumer expectations.

II. Personal Information, Transparency, and Consumer Rights

- Volunteer information: Volunteers are a key multiplier for the nonprofit workforce. In 2023, volunteers contributed nearly five billion hours of service to their communities. If data privacy legislation makes it burdensome to collect and maintain volunteer information, it will be more difficult for nonprofit organizations to manage and deploy volunteers, again diverting charitable resources away from our missions.

III. Existing Privacy Frameworks & Protections

- Current State Legislation: To date, 19 states have enacted comprehensive data privacy laws, with 13 of these currently in effect¹. Most states have exempted nonprofit organizations from these policies. For example, the Kentucky Consumer Data Protection Act, which goes into effect on January 1, 2026, recognizes the unique structure and function of nonprofits and provides an exemption for their operations. Pennsylvania previously considered a comprehensive consumer privacy law, which also incorporated an exemption for nonprofit organizations, but the bill did not pass. Pennsylvania currently does not have a statewide data privacy law. In addition to Kentucky, comprehensive privacy laws also exempt nonprofits in the following states represented on the Working Group: California, Texas, and Virginia.

VI. Accountability & Enforcement

- Oversight of nonprofit entities: Nonprofits are regulated by the Internal Revenue Service and every state has its own specific statutes and enforcement mechanisms in place.

¹ For more information, see *US State Privacy Legislation Tracker 2025*, International Association of Privacy Professionals. https://iapp.org/media/pdf/resource_center/State_Comp_Privacy_Law_Chart.pdf

Should a legislative framework propose a new jurisdiction over nonprofit organizations, it is vital that any overseeing agency have experience with the nonprofit sector. By contrast, the Federal Trade Commission Act of 1914 directs FTC to oversee commerce conducted by any corporation “organized to carry on business for its own profit or that of its members.”² This generally excludes public charities organized under section 501(c)(3) of the tax code. Lack of familiarity with nonprofit organizations could lead to confusion among regulators and nonprofits.

- Existing standards for nonprofit organizations: While Congress considers a comprehensive data privacy and security framework that factors in the unique circumstances of nonprofit organizations, there should be principles to rely upon. The BBB Wise Giving Alliance, an independent, national body, has set Standards for Charity Accountability and manages the accreditation that consumers should be able to rely on. These Standards have the same intent as the policies the Working Group is considering, especially Standard 18: *Donor Privacy*. We encourage consideration of these Standards or other widely held frameworks in the nonprofit sector as a model for such privacy protections³.

VII. Additional Information

- Cost and financial impacts: Compliance costs imposed upon nonprofits would divert limited resources away from their mission-oriented services. Losing the trust of either the people we serve or those who make that work possible would make it impossible to meet our missions. As a result, nonprofits already have incentive to exercise due care in handling donor data and other data necessary for financial sustainability. Some large, national nonprofits anticipate spending millions of dollars for compliance with federal data legislation. While verifying and responding to data privacy rights requests may be feasible, they may create a significant cost burden even for small and mid-sized nonprofit organizations that are covered by federal legislation. Our funding is not from profits, but from donors, sponsors, and grant makers. Each dollar spent on compliance means less going towards nonprofit missions of public safety, health, education, and other community needs. Further, many nonprofits have limited staffing, with many employees having to wear multiple “hats”- including IT-related functions. They lack the resources to undergo burdensome tasks that are designed to protect consumers from for-profit entities.

Again, we appreciate your attention to this important issue, and share your commitment to appropriate data privacy and protection for every person. We look forward to working with you as this framework is developed further.

² 15 U.S.C. § 44

³ For more information, see *BBB Standards for Charity Accountability*, BBB Wise Giving Alliance.
<https://give.org/charity-landing-page/bbb-standards-for-charity-accountability>

Sincerely,

American Heart Association
Big Brothers Big Sisters of America
Boys & Girls Clubs of America
Catholic Charities USA
Covenant House International
Goodwill Industries International
Independent Sector
YMCA of the USA

Cc: Congressman Morgan Griffith
Congressman Troy Balderson
Congressman Jay Obernolte
Congressman Russell Fry
Congressman Nick Langworthy
Congressman Tom Kean
Congressman Craig Goldman
Congresswoman Julie Fedorchak