

Ohio Attorney General's  
**Nonprofit News**  
Protecting the Integrity of Nonprofits



Summer 2020



# CHARITABLE OHIO

## [We're Moving! Time to Update Your Bookmarks](#)

Ohio Attorney General Dave Yost has announced that Ohioans will be better able to ensure their charitable contributions are being used as they intended through his office's new stand-alone Charitable Ohio [website](#).

Similar to the attorney general's OhioProtects.org consumer protection website, the new streamlined charitable website has been developed with simple-to-find information, forms and publications. Donors will be able to easily access information about charities to assist their giving decisions and learn about enforcement actions taken against charities. They will be able to view annual reports from charities, view charity campaigns conducted by professional solicitors and read good giving guidelines.

Those in the charitable community also can research details about charitable registration,

bingo licensing and board governance on the homepage of Charitable Ohio.

“The Ohio Attorney General’s Office is involved in a wide array of work and there is so much helpful information on the website,” said Dan Fausey, chief of the Charitable Law Section. “We wanted to find a way to make charitable information easy for everyone to find and use, so we developed a separate website that makes most of our information available with a single click. We have added some new materials and hope the public and the charitable sector agree that this is a much-improved resource.”

Especially during the current public health crisis, charities fulfill a vital role in Ohioans’ quality of life. A recent [study](#) from The Ohio State University, Philanthropy Ohio and the Ohio Attorney General’s Office found that the coronavirus pandemic has had a stark impact on charities throughout the state. Many have had to close their doors and limit services. Fundraising events have been canceled and hundreds of charities have been forced to cut staff and trim other expenses. Some charities have discovered that their regular donors are unable to provide support because they have lost their jobs or have seen drops in their investment accounts. The study revealed that 28% of responding charities stopped providing services, 32% reported they had severely reduced services and 18% reported they were providing services in a moderately reduced capacity.

For the next few months, the public will still be able to access the Charitable Law Section’s information through the [current website](#). The Charitable Ohio website can be found at <https://charitable.ohioago.gov>.

## **[Survey of Charities Shows Realities of COVID-19](#)**

The coronavirus pandemic has had a stark impact on charities throughout the state. Many have had to close their doors and limit services. Fundraising events have been canceled and fiscal emergencies have been experienced by some groups that have been forced to cut staff and trim other expenses. Some charities have discovered that their regular donors are unable to provide support because they have lost their jobs or have seen drops in their investment accounts.

The statewide survey of Ohio’s charities, conducted in partnership between the Ohio Attorney General’s Charitable Law Section, Philanthropy Ohio and Erynn Beaton, an assistant professor at The Ohio State University’s John Glenn College of Public Affairs, includes the responses of more than 7,700 charities. The survey responses [were reported](#) in early May. Additional surveys will be taken over time to measure the full impact of the health emergency. The second round of surveys are currently being mailed to charities.

The first round of the survey revealed that 28% of responding charities stopped providing

services, 32% reported they had severely reduced services and 18% reported they were providing services in a moderately reduced capacity. Charities had already begun taking a variety of actions in response to the pandemic: 51% had begun holding virtual board meetings, 37% had restricted travel and 25% cut other administrative expenses. Responses indicated that 15% of participants had already cut or furloughed staff.

Respondents indicated their top concerns are loss of revenues, declines in donations and the impact of the disruption of charitable services to clients and communities.

A copy of the report can be found [online](#).

## **[You Can Help with the Development of Additional Charitable Resources](#)**

The Charitable Law Section has numerous publications and webinars on its webpage. The section is hoping to expand the number of resources on board governance and financial management for charitable leaders interested in strengthening the proper operations of their organizations. The section also is interested in sharing information on best practices and sample policies on a wide range of topics: conflict of interest, cash management, budgeting, board governance and other fiduciary matters. Those policies may be shared on the new Charitable Law web site, although identifying information about the contributing charity may be deleted. If you are willing to share samples of policies and procedures from your organization that may be helpful for other charities, please email the materials to [CharitableLaw@OhioAttorneyGeneral.gov](mailto:CharitableLaw@OhioAttorneyGeneral.gov).

## **[COVID-19 Resources Posted for Ohio Charities](#)**

In response to some of the comments from the charities that responded to the statewide coronavirus survey, the Charitable Law Section developed and posted a number of resources for charities operating during the pandemic. In addition to information related to the statewide survey, other information available now includes:

- A webinar on various charitable operational issues related to the health emergency.
- A webinar featuring fundraising consultants with tips for charities working to raise donations during the coronavirus situation.
- A recording examining issues for charities to consider when dissolving a charity, engaging in certain transactions and spending reserve or restricted funds.
- Information on requirements for individuals raising funds to support COVID-19 efforts.
- Information on various federal recovery programs and other resources for timely information on the health emergency.

Additional information and resources related to charities during the health emergency will be added over time.

## **Charitable Giving Grew During 2019**

Giving USA 2020, the annual report on charitable giving, reported that total giving in the United States in 2019 showed a 2.4% growth over the prior year and reached more than \$431.43 billion.

The report, published by Giving USA Foundation and researched by the Indiana University Lilly Family School of Philanthropy, is used by charities and fundraising professionals to identify trends and develop strategies for ongoing fundraising initiatives. A summary of the report and details for ordering a complete copy can be found at [GivingUSA.org](http://GivingUSA.org).

According to the report, giving by individuals grew 2.8% when adjusted for inflation to \$309.66 billion, or just below 70% of all charitable giving. The inflation-adjusted growth rate of gifts from foundations was 0.7% or \$75.69 billion and represented 17% of total giving to the sector. There was a slight dip of 1.6% in giving through bequests which totaled \$43.21 billion in 2019. Giving by corporations grew 11.4% over 2018 giving and totaled \$21.09 billion.

There were substantial increases in 2019 giving to charities in the following categories: public-society benefit organizations, education, and groups working in the area of arts, culture or humanities.

Researchers believe that the increases in 2019 giving are attributable to economic conditions and stock market growth as the S&P 500 increased 28.9% and GDP showed a 4.1% growth.

## **Enforcement Actions**

The Ohio Attorney General's Charitable Law Section has taken a variety of recent enforcement actions aimed at ensuring charitable assets are properly used.

**Metropolitan Baptist Church** -- A Baptist church in Cincinnati filed a dissolution form with the attorney general's office in October 2017 stating that it had \$234,497 remaining at the time of dissolution in November 2017 and that it distributed \$72,000 of those funds to its three trustees (\$26,000 to Andrea Robinson, \$26,000 to Sandra Wiles and \$20,000 to Dolores Rowland). The dissolution form did not state why the funds were distributed to the trustees, but the trustees later stated that it was a retroactive payment for service as trustees. The attorney general's office discovered these payments were a breach of

fiduciary duty and a violation of O.R.C 1716. Wiles and Robinson each agreed to pay \$16,380 in restitution to the First Antioch Baptist Church in Cincinnati and also agreed to each pay a \$1,820 civil penalty. The pair also agreed to not serve in any role in a charitable organization for one year. Rowland was not a signer to this settlement.

**Metropolitan Baptist Church** -- Dolores Rowland received a \$20,000 distribution after dissolution. The purpose of the payment was not explained on the dissolution form. The trustees later explained it was a retroactive payment for services performed as a trustee. However, Rowland was not a trustee for any significant length of time and did not perform any services. The attorney general's office found that the payment was a breach of her fiduciary duty and a violation of O.R.C 1716. Rowland agreed to pay a \$500 civil penalty and to an indefinite limitation on her ability to serve a charitable organization in the future.

**Ohio Cheer Explosion All-Star Cheerleaders Inc.** -- Ohio Cheer Explosion is a cheerleading gym out of Brunswick run by Russell and Dawna Coleman. The organization operated as a nonprofit and solicited funds from Ohioans. It was a 501(c)(3) until August 2018 when it had its status revoked for failure to file 990s. It also had its articles revoked by the Ohio Secretary of State's Office for failure to file a statement of continued existence. The Colemans had access to and managed the bank accounts for the organization. The attorney general's office believed the Colemans breached their fiduciary duty and violated O.R.C 1716. The Colemans agreed to dissolve the organization and pay a civil penalty of \$10,000. That penalty can be lowered to \$2,000 if they pay \$2,000 by the end of August 2020. They also agreed to a five-year limitation on their ability to serve a charitable organization in the future and can never incorporate another nonprofit. The attorney general's office conceded that there was no admission of fault or validity of the facts in this case, and that this was a settlement of the issues between the two parties.

**Summer Rays** -- The Ohio Attorney General's Charitable Law Section filed suit against a central Ohio sober living program after an investigation revealed massive self-dealing activities among the founders, reducing services that should have been provided to participants in the program. On Feb. 26, the Franklin County Common Pleas Court entered consent judgment against Chuck Kirk and three of his family members as a result of their abuse of the charitable trust of Summer Rays. As the head of Summer Rays, Chuck Kirk had the duty to act in the best interests of the charity, which provided a place for those with addiction to live. But the attorney general's office alleged that Chuck and his wife Marsha Kirk received more than \$170,000 in unreported compensation at the same time they took financial advantage of vulnerable residents. After filing suit in July 2018 seeking injunctive and monetary relief, a receiver was appointed immediately to safeguard the charitable assets, which included a number of houses and the sober-living services for participants in Summer Rays' programs. As the case continued, three other former board members and family members of Chuck Kirk agreed to consent judgments. In the court's February judgment, the court found that members of the Kirk family breached their fiduciary duties to

Summer Rays and Reynoldsburg Revolve Church and ordered them to pay a combined total of \$80,000 in restitution and civil penalties. The judgment also permanently prohibits Chuck and Marsha Kirk from directly or indirectly being involved with any charitable organization in Ohio. Finally, the judgment authorizes the receiver to dissolve and windup the affairs of Summer Rays and Reynoldsburg Revolve Church.

**Toy Time, Inc.** -- The attorney general's office received a complaint alleging Teresa Boner, as executive director of Toy Time, Inc., had completely stopped operating the organization and no longer responded to anyone while maintaining exclusive control over the organization's assets and documents. The attorney general's office initiated an investigation and filed litigation to compel Ms. Boner's response. In February, the attorney general's office filed a motion asking the court to grant default judgment and to appoint a receiver, which it did. The receiver's appointment requires him to take control of Toy Time's assets, sell the building, windup the affairs, dissolve the entity and give the remaining funds to the attorney general's office to distribute to another charitable entity. The order also bars Ms. Boner from incorporating a nonprofit, from serving as a board member, from handling charitable funds or soliciting for charity in Ohio, and assessed a civil penalty of \$10,000 against her.

**Circleville Girls Softball League** -- In April, a complaint was filed in Pickaway County against Joshua Peters, the former Circleville Girls Softball League treasurer. Peters was indicted for grand theft of the league's funds and pleaded guilty to the charges in December. The Ohio Attorney General's Office requested a permanent injunction prohibiting him from incorporating, organizing or serving in a fiduciary capacity of any charitable organization. Peters was also ordered to pay a civil penalty of \$10,000.

**Making Healthy Relationships** – Making Healthy Relationships (MHR) is an Ohio nonprofit organization incorporated in 2012 by Doug Smith. From January 2012 through July 2016, MHR's programming consisted primarily of providing health education to teens at local schools in Franklin County. The attorney general's office investigation revealed a number of issues with the charity, including overbilling for education provided, improper use of charitable funds and board governance issues. In April, the attorney general's office filed a complaint against MHR, Doug Smith and his wife, Rebecca Smith, which seeks restitution, civil penalties and enjoins Doug Smith from incorporating a nonprofit in Ohio. The complaint, which also seeks to dissolve the charitable organization, is now pending in the Franklin County Common Pleas Court.

**University of East Cleveland** – The attorney general's office received a complaint from a constituent alleging that University of East Cleveland was a fraudulent charitable entity run by Ashok Gupta that engaged in no charitable activity. The office completed an investigation and concluded that Gupta had breached his fiduciary duties to the charity and had filed false or misleading information with the attorney general's office. To resolve the matter,

Gupta agreed to dissolve the University of East Cleveland and avoid being affiliated with charitable entities in Ohio. He also agreed not to incorporate additional nonprofits or be involved with charitable funds. Additionally, he agreed to pay a \$10,000 civil penalty.