

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



Summer 2018

[Takeaways from Giving USA's Annual Report on Philanthropy](#)

Charitable giving in the United States hit a record high last year, exceeding \$400 billion for the first time, according to "Giving USA 2018: The Annual Report on Philanthropy for the Year 2017."

[The national report, released in June](#), indicated that charities received an estimated \$410.02 billion from individuals, foundations, corporate giving, and bequests in 2017. This represents an inflation-adjusted increase of three percent over the 2016 total.

Gifts from individuals totaled \$286.65 billion, an increase of three percent adjusted for inflation, and represented 70 percent of total giving.

Giving by corporations saw the largest increase (compared to the other sources of giving), totaling \$20.77 billion for an increase of 5.7 percent when adjusted for inflation.

The most common type of organization to receive contributions was religious organizations, which received \$127.37 billion in contributions, a 0.7 percent increase when adjusted for inflation.

Giving to seven of the other eight categories of charitable organizations covered in the report grew during the year, with the largest growth occurring in giving to foundations, which increased 13.1 percent when adjusted for inflation compared to the previous year. The only type of organization that saw a drop in giving for the period was for international affairs, which saw a decrease of 6.4 percent adjusted for inflation.

The report's authors attribute the growth in giving to strong stock performances and healthy economic conditions.

The report, which is used by charitable professionals throughout the nation to develop fundraising strategies, has been produced annually since 1956. The report is released by

the Giving USA Foundation and researched and written by the Indiana University Lilly Family School of Philanthropy. Additional information can be found at www.givingusa.org.

Eight Considerations for Hiring Solicitors

Hiring a professional fundraiser can be an important strategy for a nonprofit organization. At the same time, it's important to approach such agreements carefully and seriously.

Some organizations may lack the staff and expertise to conduct fundraising on their own. They may find that professional fundraisers have databanks and specialized equipment that make hiring them seem more cost effective than trying to develop those assets internally. Because these solicitors represent the organization to the public, the integrity and reputation of an organization can be affected by the quality of the solicitation efforts.

Here are some considerations to help protect your organization and to approach an arrangement with a professional solicitor seriously and carefully:

1. **Consider multiple options.** When considering hiring professional fundraisers, talk to multiple providers before finalizing a relationship. In Ohio, the names of registered professional solicitors can be found on the [Ohio Attorney General's website](#). Nonprofit leaders also can contact the Ohio Attorney General's Charitable Law Section for information.
2. **Seek information about other campaigns.** Consider how other nonprofits have used professional solicitors. Nonprofits can contact the Ohio Attorney General's Office for information about campaigns that specific solicitors have handled for other organizations. Ask for a copy of the contract and review the materials the solicitors used. Contact other nonprofits for feedback on their experiences with the solicitors.
3. **Make sure the fundraiser is properly registered.** It is vital that nonprofits only hire professional fundraisers who are properly registered with the Ohio Attorney General's Office. The nonprofit also needs to ensure that the solicitor will file all of the appropriate notices and final financial reports connected with the campaign.
4. **Check for enforcement actions.** Inquire about whether the solicitor has had any enforcement actions taken against it by the Federal Trade Commission or state charity regulators.
5. **Make sure services are clearly defined in the contract.** Many required elements of a contract are listed in [Ohio Revised Code Chapter 1716](#). In general, when developing contract arrangements with a solicitor, be certain there is clarity about what specific services the solicitor will provide. Ask to see and approve all scripts and materials the

solicitor prepared. Discuss how the cash and donations will be handled and processed. Determine whether the names and contact information for all donors will be supplied, so the organization can cultivate a relationship with donors independent of whether the solicitor is retained. It also can be helpful to have an attorney review the contract before signing.

6. **Keep lines of communication open.** It is important to have ongoing communication with the solicitor and to receive regular reports and accountings. It also can be useful to visit the solicitor's office and listen to outgoing telephone calls if telemarketing is a part of the services provided. Some solicitors keep tape recordings of calls that can be monitored.
7. **Check bills and invoices from third-party vendors, if applicable.** It can be important to obtain and review bills and invoices from third-party vendors to make certain those bills are properly paid.
8. **Review campaign results.** At the close of the campaign, it is important to review the results and determine whether the solicitor provided all promised services.

Nonprofits place the reputation of their organization in the hands of others when they hire outside fundraisers. These can be fruitful and productive relationships, but they deserve the investment of time and attention to make certain that the efforts enhance the charitable mission of the organization.

[Enforcement Actions Help Protect Charitable Sector](#)

Recent enforcement actions, including a nationwide crackdown on sham veteran's charities, have helped recover misused funds and protect donors and charities.

In July, Ohio Attorney General Mike DeWine joined the Federal Trade Commission and regulators from every U.S. state in "Operation Donate with Honor," a coordinated effort to target fraudulent and deceptive fundraising operations that falsely claim donors' contributions will help military and veterans causes.

"There are many organizations in Ohio and across the U.S. that do great work to help veterans and service members," Attorney General DeWine said. "Unfortunately there are some groups that only pretend to do this kind of work. We want people to know the difference. Sham charities drain away money and resources that could be used by honest, legitimate organizations."

As part of the nationwide crackdown, Attorney General DeWine [announced a multistate action](#) against a Florida-based nonprofit called Help the Vets, which reportedly collected over

\$11 million from donors between 2014 and 2016 but used less than five percent of it on charitable programming. Instead, the vast majority of funds went to its founder and paid fundraisers. Investigators found that the programs it claimed to provide largely didn't exist and that any benefit to veterans was "merely incidental."

Under the action, the organization will no longer be able to solicit donations, it will release its remaining funds to be distributed to other charities, and its founder, Neil G. Paulson Sr., will pay \$1.75 million to be used for charitable contributions.

As part of "Operation Donate with Honor," regulators also encouraged donors to support charities by making informed giving decisions. They provided tips to help donors ensure that their contributions end up with reputable organizations rather than sham operators.

In addition to the "Help the Vets" case, other recent enforcement actions of the Attorney General's Charitable Law Section include the following settlements:

- Timothy M. Mercurio agreed not to handle charitable funds for a charitable organization in Ohio under an assurance of discontinuance entered in April. The agreement followed an investigation into his handling of funds of his charity, the Greater Cincinnati Police Athletic Association. Under the assurance, Mercurio agreed not to hold a position as an officer, trustee, or representative of a charity in Ohio and agreed to transfer remaining charitable funds to the Ohio Attorney General's Office to be distributed to other organizations.
- Brandon Bennett agreed not to handle charitable funds in Ohio under a May assurance of discontinuance. He also agreed to dissolve his charity, Butterfly Blessings Inc., and to pay \$4,000 to be distributed to support charitable programming for individuals with Down syndrome in southern Ohio.
- Alicia M. McMorrow entered into an assurance of discontinuance in May, agreeing not to hold any position as an officer, trustee, or employee of any charity in Ohio and not to solicit for any charitable purpose in Ohio. The settlement followed an investigation into allegations that she had misused funds of the Westside Chargers, a youth football team.

Those who suspect questionable charitable activity should contact the Ohio Attorney General's Office. [Complaints may be filed online](#) or by calling 800-282-0515.

School Fundraiser FAQs

As the school year arrives and charities plan fall fundraisers, we're outlining answers to common questions, such as whether booster clubs have to register as charities, who can conduct a raffle, and how much profit an organization can keep.

- 1. Do school booster clubs have to register with the state?** Generally, yes, booster, parent-teacher, and similar groups in Ohio must register with the Ohio Attorney General's Office. Ohio charities, or charities that solicit in Ohio, generally must register within six months of creation. Groups should complete their initial registration at www.OhioAttorneyGeneral.gov/CharitableRegistration. Additional information about charitable registration and filing is available on the Ohio Attorney General's website.
- 2. Can my booster club hold a bake sale, T-shirt sale, or spaghetti dinner fundraiser?** Generally, yes. All of these fundraising examples are considered solicitations and are governed by [Ohio Revised Code \(ORC\) Chapter 1716](#). As long as your fundraiser is conducted in accordance with ORC Chapter 1716, it is permissible under Ohio's charitable organizations law. If your proposed activity includes charitable gaming, please consult [ORC Chapter 2915](#) and the Ohio Attorney General's [Policy 201](#). Also keep in mind that other rules may apply, and you may need to contact other organizations when planning your event. For example, contact your local health department about restrictions on the sale of food.
- 3. Who can conduct a raffle?** According to Ohio Revised Code (ORC) Section 2915.092, only the following groups may conduct a raffle: a charitable organization, a public school, a chartered nonpublic school, a community school, or a veteran's organization, fraternal organization, or sporting organization that is also a 501(c)(3), 501(c)(4), 501(c)(7), 501(c)(8), 501(c)(10), or 501(c)(19) tax-exempt organization.
- 4. Does my charity need a license to conduct a raffle?** Under ORC 2915.092, a group that is permitted to conduct a raffle does not need a license to conduct a raffle. Nevertheless, the raffle must be conducted in compliance with Ohio Revised Code (ORC) [Chapter 2915](#). Raffles are defined in ORC 2915.01(CC) and their conduct is described in ORC 2915.092.
- 5. Can a person who is under 18 sell and purchase raffle tickets?** According to ORC 2915.11(A), a person who is under 18 may sell raffle tickets as long as that person is not selling raffle tickets at the site of the raffle. No statute in the Ohio Revised Code explicitly prohibits a person under 18 years of age from purchasing tickets for a raffle. Similarly, no statute prohibits the sale of raffle tickets to a person under 18 years of age, as long as the raffle itself is permissible under Ohio law. For a more detailed explanation specific to public schools, please see Ohio Attorney General Opinion No. [2004-042](#).

- 6. Do I need to keep records if my charity conducts a raffle?** Under [ORC 2915.10](#), all organizations conducting raffles have recordkeeping requirements related to expenses and prizes. These records must be kept at least three years.
- 7. Can I keep 100 percent of the net profit of a raffle?** If a 501(c)(3) organization conducts the raffle, 100 percent of the net profit from the raffle can go to the organization. If a 501(c)(4), (c)(7), (c)(8), (c)(10), or (c)(19) conducts the raffle, the organization must distribute at least 50 percent of the net profit to a charitable purpose described in [ORC 2915.01\(v\)](#) or to a department or agency of the federal government, the state, or any political subdivision.
- 8. What should parents consider when organizing a fundraiser for a school?** There are many factors to consider. For example, if you're planning to hold a certain type of event or sale, find out if similar fundraisers have been conducted in the past and what the results were. Consider whether the fundraiser is likely to generate enough profit to make the activity worthwhile. Make sure there is a system in place to properly process orders and collect money. If you plan to use a certain company to supply products or services, check the company's reputation. Determine what would happen if products are ordered but not paid for. Also, if children will be involved in the activity, take steps to ensure they will be safe and properly supervised.

For more frequently asked questions about [fundraising by charities](#), visit the Ohio Attorney General's website.