

Ohio Attorney General's Nonprofit News

Protecting the Integrity of Nonprofits



SUMMER 2017

[Latest Giving Statistics Show Increases in Philanthropy](#)

According to a recent report that tracks nonprofit giving, giving to charities across the country rose last year to a record high of more than \$390 billion.

Every year Giving USA reports on giving patterns to charitable organizations throughout the United States.

According to [Giving USA 2017: The Annual Report on Philanthropy for the Year 2016](#), charities across the country saw an overall 2.7 percent increase in charitable giving from American individuals, estates, foundations, and corporations in 2016. Most of the increase came from individual gifts, which totaled approximately \$281.86 billion, an increase of nearly 4 percent from the previous year.

According to report researchers, the growth in individual giving is believed to be related to the stronger economy, which showed growth in both personal consumption and disposable personal income. The Standard & Poor's 500 finished the year up more than 9 percent during the period – a healthier showing than mixed reports of prior years.

Giving grew among all nine major categories of recipient organizations: religion; education; human services; giving to foundations; health; public-society benefit; arts, culture, and humanities; international affairs; and environment and animals. This growth has only happened six times in the past 40 years, according to the researchers. Giving to environment and animal groups saw the largest increase among the categories with an increase of 7.2 percent.

The Giving USA report is researched and written by the Indiana University Lilly Family School of Philanthropy. Data in the annual report is often used by charitable leaders and fundraisers for research and planning purposes.

[Save The Date – OANO Conference is Oct. 19](#)

The Ohio Association of Nonprofit Organizations will hold its annual conference Oct. 19 at the Columbus State Conference Center.

Registration details and agendas will be posted at www.oano.org.

This year's registration fees are as follows:

- Early Bird Registration Member-\$75
Early Bird Registration Non-Member-\$99
- Regular Registration Member-\$99
Regular Registration Non-Member-\$125
- Late Registration Member-\$125
Late Registration Non-Member-\$150

The Ohio Attorney General's Office is a sponsor of this annual gathering of charitable organizations.

[Recent Settlements Help Protect Charitable Sector](#)

Enforcement actions by the Ohio Attorney General's Charitable Law Section have helped improve board governance, stop violations of charitable laws, and recover misused funds.

The Attorney General's Charitable Law Section takes action to protect Ohio's charitable donors and ensure charitable funds are used properly. It investigates suspected violations of the state's charitable laws, and it pursues settlements, assurances of discontinuance, and other enforcement actions to help recover misused charitable funds, stop fraudulent activity, and protect donors and charities.

Recent settlements and actions include:

- Cause for Paws and Eva R. Woods, the group's incorporator, entered into a March assurance of discontinuance, requiring several operational changes, such as not holding

the organization's funds in the name of an individual officer or board member. An investigation found that the organization's accounts had not been managed properly.

- Crystal Phoenix and her husband, Eric V. Poole, agreed to dissolve their charity, ROAR Inc., and to pay \$10,000 in restitution under an assurance of discontinuance filed in May. An investigation by the Attorney General's Charitable Law Section found that Phoenix and Poole failed to disclose receiving compensation from the charity and failed to properly manage accounts. Under the assurance, Phoenix and Poole agreed not to handle charitable trust money in Ohio and not to solicit for charities in Ohio.
- John Sillup, a California resident, agreed to dissolve his organization, the Society of Notre Dame, and to pay \$26,519 in restitution, which will be redistributed for charitable purposes, under a February settlement that resolved a lawsuit filed by the Ohio Attorney General's Office in 2016. Sillup was accused of creating and using his charity primarily to pay for personal expenses, even though he claimed the charity was an international organization that helped child refugees. Under the settlement, Sillup agreed to pay a civil penalty, not to work for or solicit for charities in Ohio, and to shut down websites and social media accounts related to the organization.
- Judith Nagy and Advanced Opportunities and Life Enrichment Inc. entered into an April assurance of discontinuance. Under the assurance, Nagy agreed not to hold a position as an officer, trustee, employee, or agent of a charity in Ohio nor solicit for charitable purposes in Ohio. The assurance also called for Advanced Opportunities to dissolve. In a separate but related case, Nagy was indicted in Cuyahoga County on charges of theft, money laundering, and passing bad checks.
- Kimberlee K. Little, a former treasurer of the Southern Local Little Indians, agreed not to serve in a fiduciary capacity for a charity in Ohio under a March assurance of discontinuance. She also agreed not to volunteer for an Ohio charity until completing a nonprofit board governance webinar from the Ohio Attorney General's Charitable Law Section. Little previously admitted to stealing about \$3,200 from the organization, which she later repaid in full.
- Mike Portis, a former president of the Good Shepherd Athletic Club (now dissolved), agreed to pay \$1,000 in restitution and a \$500 fine under an April assurance of discontinuance. An investigation found that Portis had failed to comply with a 2013

settlement with the Attorney General's Office, which had required tracking of and board approval of the organization's expenditures, among other provisions.

- New Lexington Fraternal Order of Eagles #2070 and the Perry County Agricultural Society entered into agreements over the organizations' handling of instant bingo funds. The settlements outline operational changes to bring the organizations into compliance with state charitable laws. (Generally, in Ohio, veterans or fraternal organizations that conduct instant bingo can keep up to 75 percent of the first \$250,000 of net proceeds, but at least 25 percent must be given away to a 501(c)(3).)
- New Way Marketing, and its operator, Johnny Nichols, of West Virginia, entered into a February assurance of discontinuance agreeing not to solicit for charitable donations in Ohio. An investigation determined that New Way Marketing had conducted a solicitation campaign on behalf of an Ohio charity but had failed to properly register with the state.
- Reginald J. Rucker, who formerly served as executive director for Amer-I-Can Cleveland, agreed to never incorporate, organize, or serve in any fiduciary capacity for a charitable organization or charitable trust in Ohio, according to a March assurance of discontinuance. In 2016, Rucker, a former Cleveland Browns player, was sentenced in federal court to 21 months in prison and ordered to pay over \$110,000 in restitution, after he was found to have diverted and used charitable funds for personal purposes.
- Robert Burkhart agreed to dissolve the Fairfield County Youth Football League (which has since been reorganized under a different name) and to pay \$9,200 in remaining charitable funds to the new organization. He also agreed not to hold a position as an officer or trustee of a charitable organization in Ohio, not to solicit for a charity for five years in Ohio, and to volunteer only if he does not handle charitable funds. An investigation found that while Burkhart was president of the Fairfield County Youth Football League, the organization lacked internal financial controls and strong board governance.
- Timothy Ferguson, president of United Young People Association Inc., agreed to dissolve his organization and not to incorporate any other charity under a March settlement that resolved a 2016 lawsuit. The settlement requires Ferguson to pay at least \$24,000 to be redistributed to support workforce development for individuals with disabilities. An investigation found that Ferguson had diverted charitable assets for personal use.

- Trinity Dance Company and Kelly K. Parks entered into an assurance of discontinuance in March. Parks agreed not to incorporate or participate in a nonprofit similar to Trinity Dance Company for a period of five years and not to participate in any nonprofit until taking board governance training from the Ohio Attorney General's Office. An investigation found that Trinity Dance Company was not registered as a charitable organization in Ohio, that it never obtained 501(c)(3) tax-exempt status from the IRS, and that Parks regularly transferred funds between Trinity Dance Company and Medina Centre for Dance Art, a company she owns.
- Youngstown Dogs, or Y-Town Dogs, and two of its board members agreed to dissolve the organization under a February assurance of discontinuance. An investigation found that the organization had never been properly registered and that its accounts weren't properly managed.

In addition to investigating alleged violations of state charitable laws and pursuing enforcement actions, the Ohio Attorney General's Charitable Law Section also maintains registries of charitable organizations and professional solicitors that raise money in Ohio.

To determine whether an organization has registered with the Ohio Attorney General's Office or to report questionable charitable activity, contact the Ohio Attorney General's Office at www.OhioAttorneyGeneral.gov or by calling 800-282-0515.

[Five Training Opportunities for Charities](#)

The Ohio Attorney General's Charitable Law Section provides in-person training on multiple topics and hosts monthly webinars.

In-person trainings, available by request, include:

- [Bingo School](#) – Learn the duties of officers and board members, state rules and requirements, and other issues of interest to bingo operators.
- [Minding the Business While Changing the World: Legal Obligations of Charity Leaders](#)
Understand the basic requirements all charitable boards must follow and how to protect an organization and its beneficiaries.

- [Charitable Fundraising: the Good, the Bad, and the Ugly](#) – Learn about the legal requirements for fundraising, how to select and work with professional solicitors, and problems to avoid.

Available webinars include:

- [Charitable Registration Webinar](#) – Learn about the registration and filing requirements for Ohio charities and groups that solicit Ohio citizens and understand how to use the Attorney General’s online filing system.
- [Nonprofit Board Governance Webinar](#) – Get an overview of charity board members’ legal responsibilities.

To inquire about the trainings of the Attorney General’s Charitable Law Section, send an email to CharitableLaw@OhioAttorneyGeneral.gov.

The Ohio Attorney General’s Office also provides trainings on a variety of other topics. Some presentations, such as those covering consumer protection, crime victims’ issues, and small business matters, could be useful for charitable organizations, depending on their constituents and partners.

For information about any of the Ohio Attorney General’s training opportunities, visit www.OhioAttorneyGeneral.gov/Training-and-Education or contact the Attorney General’s Help Center at 800-282-0510.

[Bingo Update for Non-501\(c\)\(3\) Licensees](#)

As charitable organizations file renewal applications for the 2018 bingo year, veteran, fraternal, and sporting organizations will see a change that was outlined in a letter sent to affected organizations last year.

If such an organization intends to make its required distributions of instant bingo proceeds to more than one entity, it must enter into a separate contract with each entity. Under Ohio law, non-501(c)(3) charitable organizations that meet the definitions of groups eligible to seek bingo

licenses must distribute a portion of their bingo proceeds to Ohio 501(c)(3) groups or governmental entities that they have contracts with. [Ohio Revised Code Chapter 2915](#) defines the charitable distribution requirements based on revenue earned through bingo. Depending on the net proceeds, charitable distributions must total at least 25 percent or 50 percent.

For example, if a veteran, fraternal, or sporting group is required to distribute 25 percent of its bingo proceeds, and it wants to spread out that required distribution among three different charities, then it must have a contract with each one of those three charities.

Many groups are deciding how to comply with the requirement. For many, the change is not significant because the majority of their charitable distributions went to a single in-state organization with which they already had annual contracts.

Others are exploring new avenues, such as contracting with one local community foundation to distribute funds to multiple charities. Typically under these arrangements, the bingo licensee would open a special account with the 501(c)(3) local foundation and deposit charitable distributions with the foundation. Generally, the foundation then would allow the organization to direct how funds might be distributed from the account. (The foundations have rules such as only forwarding funds to other 501(c)(3) organizations, not businesses or individuals.) The bingo organization would only need a contract with the foundation, but it could support multiple organizations by directing the foundation to distribute funds on its behalf to multiple charities.

[Check Public Safety Listing When Hiring Security Services](#)

If your charitable organization needs to hire security guard services for crowd control, to protect funds raised during bingo or fundraising programs, or to ensure the safety of program participants, check to make sure you're hiring licensed guards.

Hiring properly licensed companies reduces the risk of potential liabilities associated with hiring unlicensed firms. Private Investigator Security Guard Services (PISGS), a division of the Ohio Department of Public Safety, licenses and regulates Ohio security guard companies. Licensed firms employ guards that carry firearms, have undergone required training, and have passed

background checks. In addition, each guard has a state-issued identification card, and licensed companies carry insurance.

If a charity hires a commissioned police officer for off-duty work, and the nonprofit and the police department have an agreement in place, neither the department nor the officer need to be licensed through the Department of Public Safety. However, if a police officer is working for hire independent of the police department, the officer must be licensed by the Public Safety Department. If police officers are working for a licensed security firm, they do not need to be registered by that security firm unlike non-police security personnel.

Charities and citizens can search for licensed companies on the [PISGS website](#). Questions and concerns can also be directed to the Department of Public Safety at 614-466-4130.