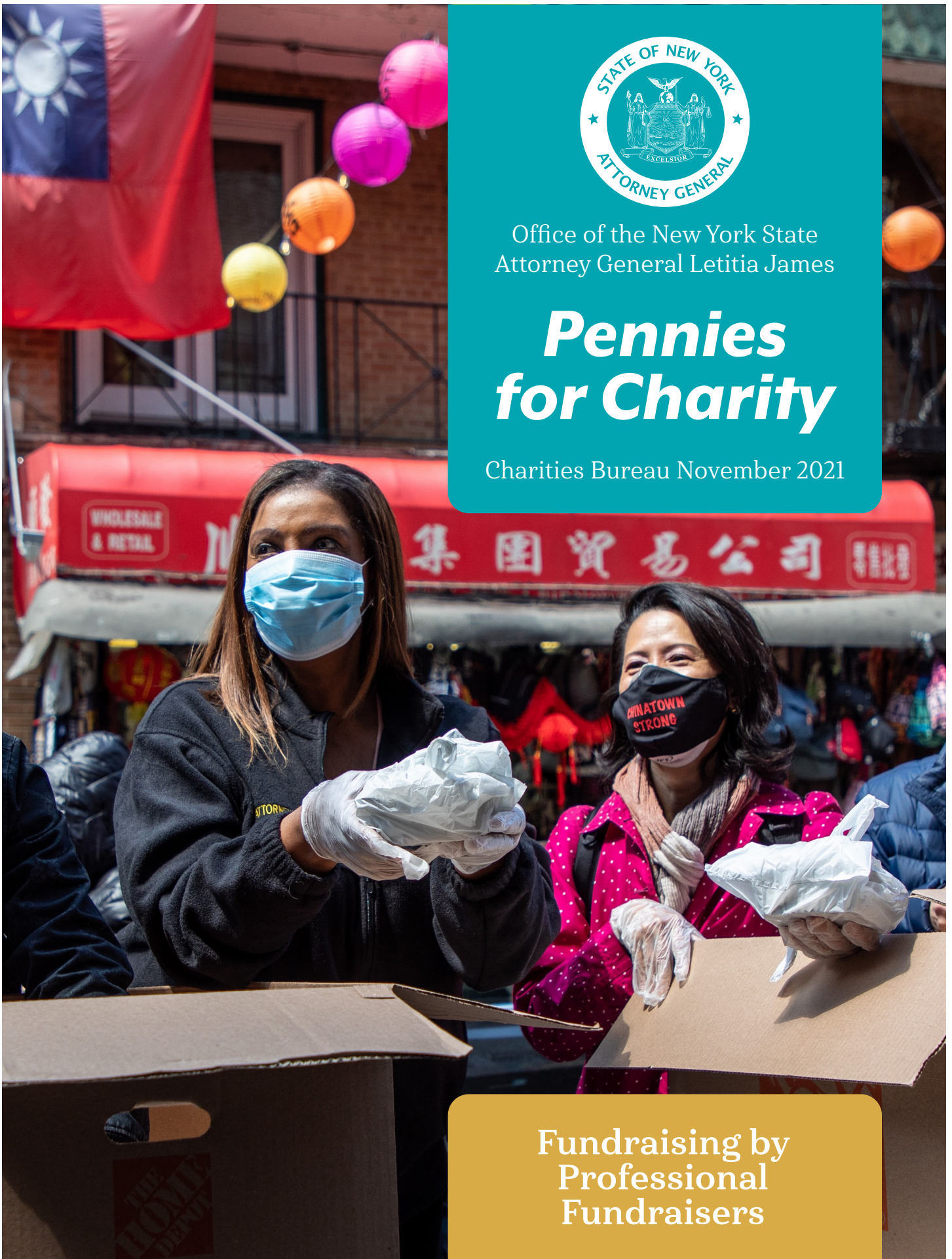




Office of the New York State
Attorney General Letitia James

Pennies for Charity

Charities Bureau November 2021



**Fundraising by
Professional
Fundraisers**

Introduction: Giving in New York State

As New York State's chief law enforcement officer and regulator of charitable fundraising in New York, Attorney General Letitia James recognizes the need to protect charities and their donors from fraud. In this year's *Pennies for Charity* report, the Attorney General's Charities Bureau has analyzed data submitted to the Bureau by professional fundraisers on their 2020 charitable fundraising campaigns in New York.¹ The report looks at trends in the sector, provides guidance and tips for donors and gives charities information on fundraisers' performance.

New York is home to a large and diverse number of charitable organizations.² According to the New York State Department of Labor, in the fourth quarter of 2020 the nonprofit sector employed over 1.3 million New Yorkers.³ As of October 2021, there were 90,255 charities registered with the Charities Bureau.

Many charities use professional for-profit fundraisers as outside contractors to educate donors about their mission and increase contributions. In recent years, this report has tracked a steady improvement in the percentage of funds charities received overall from such campaigns (see chart on page 5). Unfortunately, some fundraisers collect fees so large that charities only receive a small fraction of the total amount raised. Through donor education, outreach to charities and the Charities Bureau's targeted enforcement efforts, these types of fundraising campaigns in New York continue to decline.

The Covid-19 pandemic created many fundraising challenges in 2020. In-person relationship-building with donors was almost impossible. Charities and fundraisers had to scramble to move live events to a virtual setting. Some were able to do so with relative ease; others were not. A 2020 survey by Nonprofit New York, an umbrella group for New York charities, showed that responding organizations reported over \$31 million in lost or postponed revenue from mid-March to early June 2020.⁴ The charities also laid off or furloughed almost 1,000 staffers in total during that time period.⁵

Despite such difficulties, many charities and fundraisers continued to reach potential donors. The pandemic raised awareness among many New Yorkers about the needs of their fellow citizens and they gave generously. This year's report details a \$179 million rise in overall giving compared to what was collected in 2019 in New York State. This increase is consistent with national trends noted in *Giving USA 2021*, an annual report researched and written by Indiana University's Lilly Family School of Philanthropy.⁶

Giving is not limited to money. The pandemic saw an increase in volunteerism in New York as well. Some organizations, like New York Cares, a New York City charity that coordinates a network of volunteer activities, have seen an upsurge in volunteer applications. New York Cares partnered with the City of New York to coordinate coronavirus relief efforts, and saw applications nearly triple to 6,500 in March 2020, compared to 2,400 in the same time period the previous year.⁷

While those who choose to give money should give wisely, the need continues to be great as communities struggle to recover from the pandemic. Demand for services to address food insecurity, for instance, exploded across the state last year. Nearly three-quarters (74 percent) of food pantries and soup kitchens in New York City reported an increase in the overall number of visitors compared to the previous year.⁸ Municipalities, community foundations, and other organizations have set up funds and special resources to help those in need and the charities that serve those needs.⁹

Charities throughout New York rely on donors' generosity to aid the communities they serve. This report highlights trends in charitable fundraising, provides guidance on how to evaluate a charitable solicitation, and encourages giving throughout New York State. Whether giving at the holidays, to an annual appeal, or to a specific cause, donors should use this report and other tools to help them select the charities they want to support.

Giving Wisely: How to Use This Report

This report and its accompanying database, which can be found on the Charities Bureau's website (CharitiesNYS.com), highlight the results of campaigns conducted for charities by professional fundraisers. These campaigns tap fundraisers' expertise to help charities achieve their goals. Professional fundraisers aid charities in selecting the best and most effective methods to educate donors about missions and needs.

Donors may not realize, however, that a percentage of what they contribute to a charitable campaign that is conducted by a professional fundraiser may go to the fundraiser rather than the charity. To review a charity's fundraising track record, donors can visit the Pennies for Charity database. Donors can find additional information on a charity in the Bureau's registry on the home page of the Bureau's website. Charities that are registered in New York must submit annual financial disclosures that include information on their programs and expenditures; these are posted in the registry. Donors can search the registry by the charity's name and review these submissions.

Donors should also look for information on charities in other resources like Charity Navigator (charitynavigator.org), GuideStar (guidestar.org), ProPublica (projects.propublica.org/nonprofits) and Charity Watch (charitywatch.org). These and other sites evaluate charities based on a number of factors. Taken together, all of these resources help donors choose charities that will further their goals effectively.

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A percentage of what donors contribute to a campaign conducted by a professional fundraiser may go to the fundraiser rather than the charity.

To view a charity's fundraising track record, donors can visit the *Pennies for Charity* database on the Charities Bureau website and search by the charity's name.

Dollars to Charities

This year's *Pennies for Charity* includes data from the 718 fundraising campaigns conducted, all or in part, in 2020 by professional fundraisers in New York.¹⁰ In 2020, the Charities Bureau saw a significant dip in the number of fundraising campaigns reported, in part due to cancelled or postponed fundraising activity. At the same time, however, the campaigns raised over \$1.4 billion – an increase of more than \$179 million from 2019 pre-pandemic campaign revenues. More than 60 percent of that amount was reported by two donor-advised funds (DAFs), Network for Good, which partners with Facebook, and Eaton Vance Distributors.¹¹ DAFs are large funds run by sponsoring charities with 501(c)(3) tax exemption whose donors make tax deductible contributions, recommending the purpose for which their donations should be used. However, DAFs control the donation once it has been made.

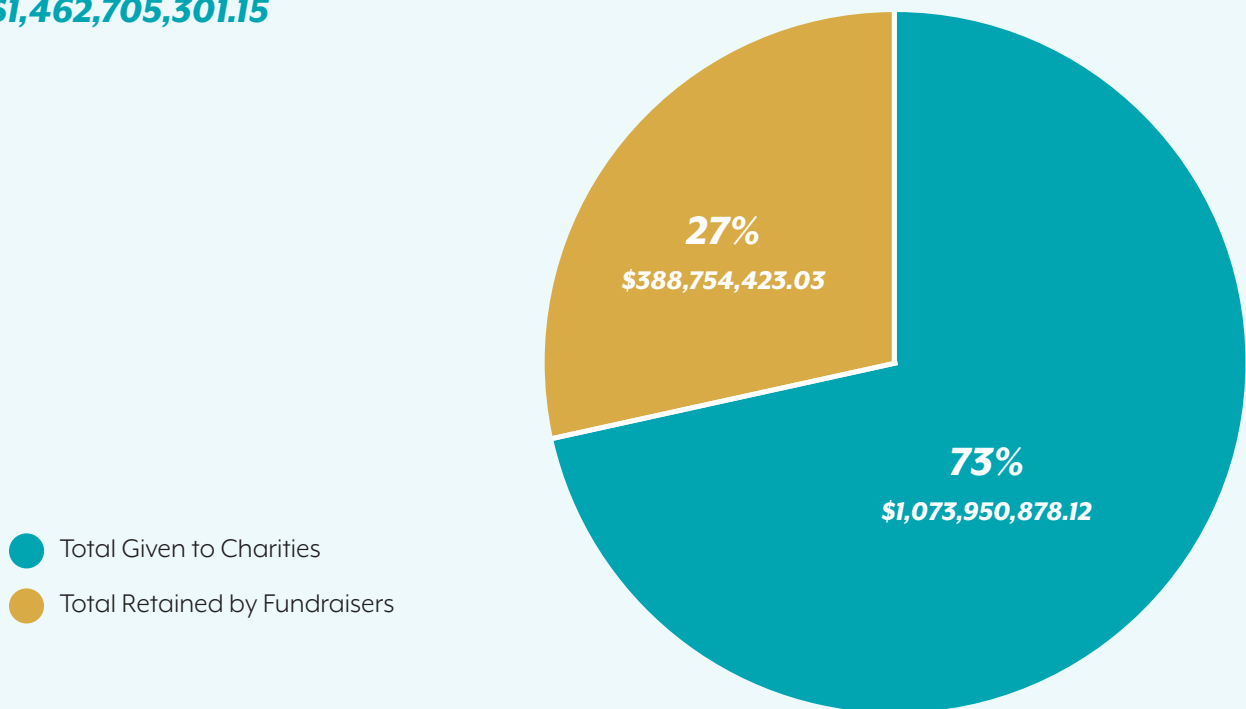
Other key findings include:

- » Charities received more than \$1 billion overall from 2020 campaigns. More than \$380 million, or 27%, of funds raised were retained by fundraisers to cover the costs of conducting the charitable campaigns.
- » Charities received less than 50% of funds raised in 339, or 47 %, of campaigns.
- » In 150, or 21% of the campaigns, expenses exceeded revenue, costing charities more than \$10 million.

2020 Charities Summary

Total Gross Receipts for 2020 Fundraising Campaigns

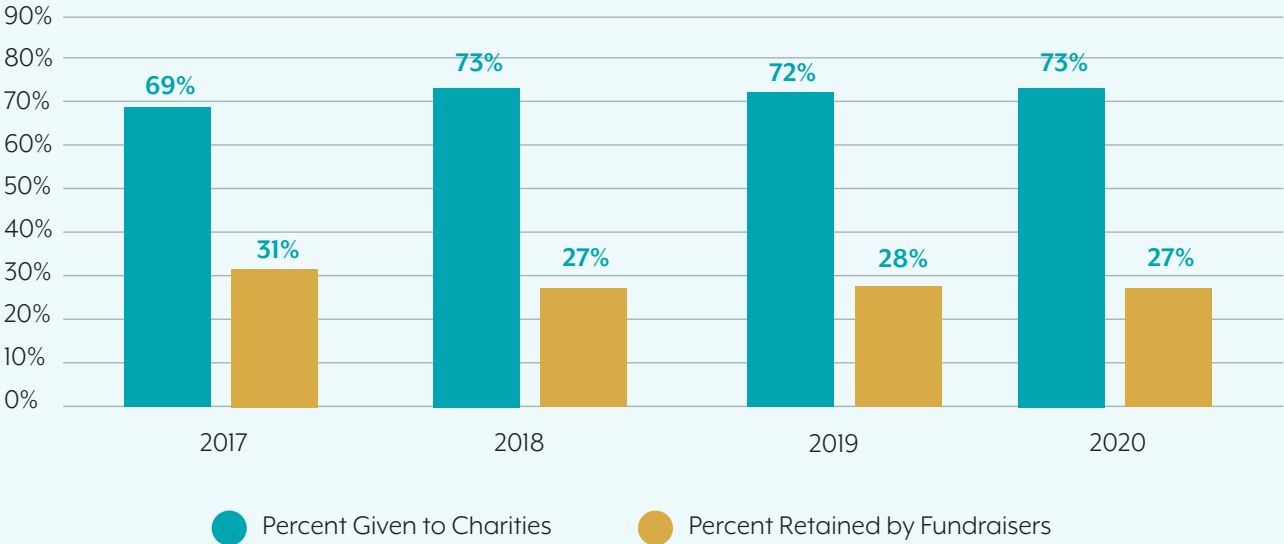
\$1,462,705,301.15



- Total Given to Charities
- Total Retained by Fundraisers

The percentage of dollars going to charities from professional fundraising campaigns increased again this year. In 2020, 73% of funds collected on behalf of charities by professional fundraisers went to charities, in line with an overall increase over the last four years. (See chart below.)²

Percentages to Charities and Fundraisers



Online Fundraising Helps Charities During Pandemic

Many traditional methods of charitable fundraising proved to be challenging during 2020. Events like the Metropolitan Museum's Costume Institute Gala that had been benchmarks for their organizations were cancelled.¹³ Charities could not hold in-person meetings with major donors, though many turned to virtual meetings to make their pitches.¹⁴

One fundraising category, however, saw a jump: online solicitation. According to the Blackbaud Institute, a non-profit that researches trends in philanthropy, online giving grew nearly 21% in 2020.¹⁵ The previous year, online giving grew less than 7%. Last year, online donations accounted for 13% of all fundraising, an increase from 8% in 2019.¹⁶ M&R Benchmarks' study of nonprofit digital advocacy also noted a growth in online outreach. Nonprofits increased the number of emails sent to subscribers by 17% last year and for each 1,000 emails sent, donations went up 35%.¹⁷

There are many ways for charities to reach donors online. Many respond to social media posts by friends and family promoting a specific campaign or cause. Clicking a link to a fundraising campaign is quick and convenient, and lets donors feel they have supported their friends as well as helped others. Some charities have expanded their online outreach to include livestreams of video game challenges. Online video game marathons for charity have been dubbed the 21st century version of telethons.¹⁸ One celebrity video gamer raised \$2.3 million for St. Jude Children's Research Hospital in a 24-hour livestream last year.¹⁹ St. Jude's has recognized the potential in video gaming. On September 1st of this year, the charity launched "CausePlay IRL," a video game campaign that features some of the most popular gamers livestreaming their play to raise money for the hospital.²⁰

Though online fundraising costs less than traditional forms of solicitation, there are drawbacks. With little oversight or regulation of platforms, donors need to do their research before giving. For instance, some platforms do not vet the campaigns that they host and do not ensure that the funds raised will go to charity. (See "Tips for Giving in a Digital World," page 12.)

While many online charitable campaigns are efficient and effective, potential donors still need to be aware of issues that may occur with online giving. Some platforms deduct service fees from contributions, so the charity does not receive the full amount. Some also have a charitable partner, often a donor-advised fund, but may not always disclose clearly that the donation is going to the fund, rather than the charity that the donor has specified.²¹ Generally, the donor-advised fund will direct the gift to the intended charity, but may batch the donations, waiting until contributions reach a certain threshold before sending them to the intended recipients. Finally, donor-advised funds may redirect gifts when charities do not meet their criteria.²² Although online giving offers real convenience, donors need to understand what will happen to their donations.

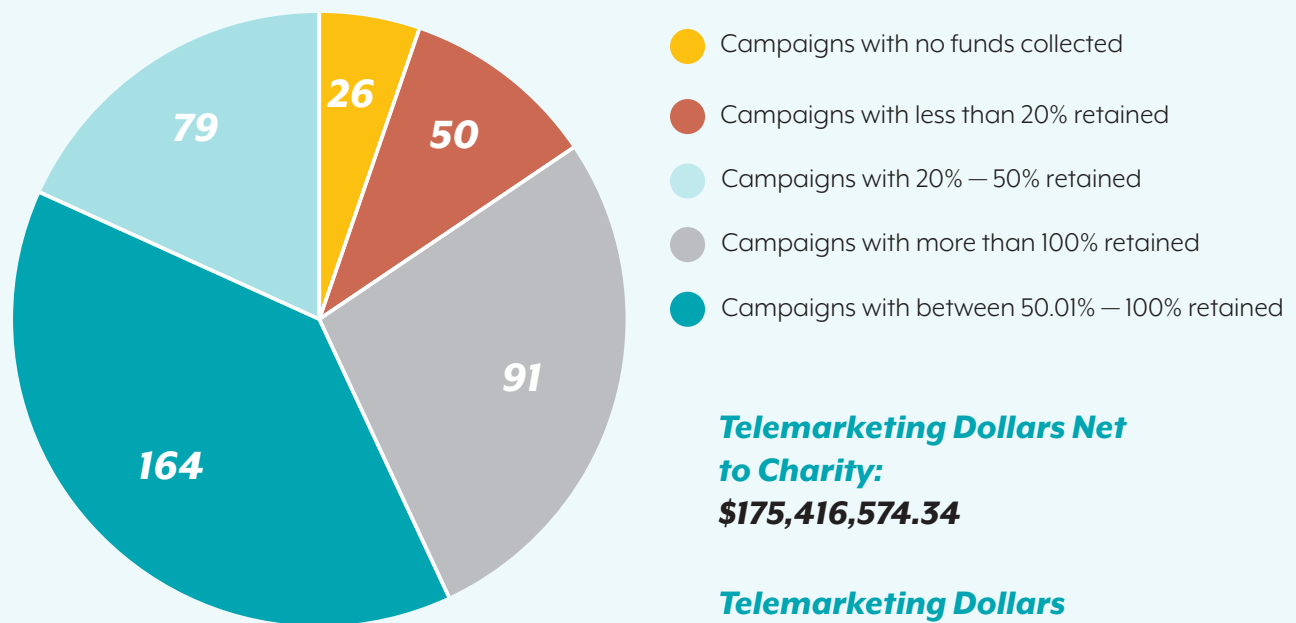
In October, California approved a new law, the first of its kind, to regulate charitable fundraising online.²³ The law places online platforms that solicit donations in California and their charitable partners, such as donor-advised funds, under the oversight of the California Attorney General's office.²⁴ It also requires that online platforms clearly disclose fees and policies to donors, deliver donations to charities promptly, and not permit solicitations from charities that are not current in their standing with the Attorney General's registration requirements.²⁵ While similar protections do not yet exist in New York, the new California law is expected to establish a standard that other states may follow.²⁶

Telemarketing Continues to Shrink in Charitable Fundraising

While telemarketing can be a legitimate fundraising tool to further a charity's message or mission, it long has been a favorite tactic of sham charities to target certain groups like seniors. Misleading pitches for popular causes like cancer victims or helping homeless veterans paint a vivid picture of urgent need to appeal to potential donors. Often only a tiny amount of the money raised by telemarketers for these charities ends up being used for charitable purposes. In many of these campaigns, telemarketers retain more than 90 cents of every dollar raised.

In recent years, fewer fundraising campaigns in New York have included telemarketing. In 2019, there were 504 fundraising campaigns in New York that used telemarketing. In 2020, that number declined to 410. In addition, more of the funds raised by telemarketers are going to charities. In 2019, some 195 fundraisers retained more than 50% of the dollars collected in telemarketing campaigns. In 2020, that number dipped to 164 fundraisers.²⁷ While this year's report shows an overall increase in funds raised via telemarketing, this is largely due to a single donor-advised fund, Eaton Vance Distributors, that reported a significant increase in contributions and used telemarketing as part of its efforts. Many factors have reduced telemarketing for charities in New York. Donor education has played a role (see How to Handle a Telemarketing Solicitation on page 10), as has the Charities Bureau's Operation Bottomfeeder, which targets sham charities and the telemarketers who act on their behalf.

Funds Retained by Fundraisers with Telemarketing Campaigns



This data is derived from fundraisers' filings with the Attorney General's Charities Bureau

Telemarketing Dollars Net to Charity:
\$175,416,574.34

Telemarketing Dollars Retained by Fundraisers:
\$269,502,611.81

New York State Joins with FTC, Multi-State Coalition to Shut Down Fraudulent Telemarketer

As part of its efforts to curb telemarketers' abuses in charitable campaigns, in March of this year the Charities Bureau joined the Federal Trade Commission (FTC) and other states to close down fundraiser Associated Community Services (ACS).²⁸ The telemarketer was responsible for more than 72 million calls to New York residents since 2008, bombarding them with requests to support charities that falsely claimed that the contributions would aid homeless veterans or children with autism.²⁹ In reality, little of the money raised went to provide charitable support. ACS kept as much as 90 cents of every dollar contributed.

ACS raised more than \$110 million from New Yorkers by aggressive tactics like robocalling phone numbers repeatedly.³⁰ Thousands of potential donors received more than 100 calls each.³¹ The complaint charged ACS with making harassing calls, citing instances where some phone numbers had been called as many as 5,000 times.³² Some 477,000 New Yorkers were called two or more times within one hour. The defendants, including owners Richard Cole, Bill Burland, Barbara Cole and Amy Burland have been permanently banned from fundraising activities and telemarketing.³³

Charitable Giving ... The Future Is Now

More than ever, fundraising is a lifeline for charitable organizations. While there is still uncertainty ahead, many charities and fundraisers have succeeded in adjusting to meet communities' needs.

Since the pandemic, virtual fundraising events have become more prevalent. Although these events may not generate as much revenue as their in-person counterparts, they have the potential to attract more attendees and have lower associated costs.³⁴ Some charities and fundraisers also have opted for "hybrid" events that can be attended live or via a virtual platform. These events have the potential to capture an even wider audience.

Charitable organizations continue to face unprecedented challenges and rely heavily on donations. The New York Attorney General's Office applauds the work of charitable organizations and encourages charitable giving. The information provided in this report includes valuable tools for New York's donors.

The Attorney General actively investigates suspect charities and fundraisers. If you believe that an organization is engaged in questionable conduct or a solicitation is misleading, please contact the Charities Bureau:



File a Complaint:
charitiesnys.com/complaints



Email:
charities.fundraising@ag.ny.gov
charities.complaints@ag.ny.gov



Phone:
(212) 416-8401

A man in a maroon shirt is holding a credit card. The card is blue and black with a yellow stripe. It has the text "24 HOUR ASSISTANCE" at the top, "www.kkxxxxx.kkx" below it, and "9876 123" on a yellow background. There are also some small icons and numbers at the bottom of the card. The man is looking down at the card with a slight smile.

Tips for Charitable Giving

How to Give Wisely



Handling a Telemarketing Solicitation

New York law requires telemarketers soliciting for charities to make certain disclosures to potential donors and prohibits them from making false, misleading, or deceptive statements when soliciting contributions.

If you receive a call from a telemarketer:

You must be told:

- » The name of the individual telemarketer,
- » If the solicitation is being conducted by a telemarketer employed by a professional fundraising company and, if so, the name of the company, and
- » That the telemarketer is being paid to make the call.³⁵

Do not feel pressured to make a donation over the phone.

If you choose to consider the caller's request, you should ask:

- » What programs are conducted by the charity? Ask for specifics.
- » Is the caller a paid telemarketer?
- » How much is the telemarketer being paid and what percentage of your donation will be paid to the fundraiser for fees and expenses.

Donors may ask to be placed on that charity's "Do Not Call" list.

Putting your name on the Federal Communications Commission's "Do Not Call" list will not bar calls on behalf of tax-exempt non-profit organizations.



Checklist for Evaluating a Direct Mail Appeal

If you receive a charitable solicitation in the mail, take a close look at what you have been sent:

- Does the organization have a name that sounds like a well-known charity?
- Double-check the organization online—is it the one you think it is?
- Does the mailing claim to follow up on a pledge that you do not remember making? Keep records of your pledges so you will not be scammed.
- Does the mailing state that a copy of the charity's most recent financial report can be viewed on the Charities Bureau's website (CharitiesNYS.com) or obtained directly from the charity? It should also include the charity's address in the same size type as other text on the mailing.
- Does the mailing clearly describe the programs or activities that the charity plans to fund with your donation, or include a statement that a detailed description of those activities is available upon request?



Giving After a Disaster

In the wake of a disaster, like an earthquake or pandemic, donors are eager to help. Unfortunately, fraudulent organizations can take advantage of these good intentions.

Here are some guidelines to donating to disaster relief efforts.

- » Donate to charities you have heard of and that have experience in disaster relief.
- » Check a website like disasterphilanthropy.org to find out which charities are at the forefront of disaster relief.
- » Check the charity's website: Has it worked in the affected area or does it partner with local relief organizations?
- » Does the charity say how it plans to use a donation?
- » Does the campaign have a specific dollar goal? If so, what will be done with excess donations?

Once you pick a charity, vet its track record. Websites such as Charity Navigator (charitynavigator.org) and GuideStar (guidestar.org) can help gauge how well charities have accomplished their mission. If you think an organization could be fraudulent, please contact the Charities Bureau Complaints Section at charities.complaints@ag.ny.gov.



Tips to Tell a Charity From a Political Action Committee

If a telemarketer calls to request a contribution:

- » Ask whether the organization is a charity. If it is actually a political action committee (PAC), it must inform donors that contributions are not tax deductible.³⁶
- » Ask what portion of your donation will be applied to charitable activities and which programs will benefit.
- » If you need more information, check the Federal Election Commission database of PACs; see if the organization is listed. If so, it will include its most recent mission statement and funding. The database can be found at fec.gov/data/browse-data/?tab=committees.



Tips for Giving in a Digital World

Donating online or via an app is convenient for donors and can be cost effective for a charity. But before hitting “Send,” donors should check whether a campaign is legitimate. If you are not giving directly through a charity’s website, use a charity’s “Contact Us” button to verify that the charity has authorized a campaign.

Crowdfunding

Online platforms that host groups and individuals soliciting for causes do not generally vet those who use their service. Donors should only give to campaigns conducted by people whom they know. Donors also should check what fees they will be charged and make sure that the charity has given its permission for the use of its name or logo. The site or the charity should confirm that the charity has approved the campaign.

Secure Web Addresses

When donating online, make sure the website is secure: the web address should start with “https.” Unless the charity uses a separate payment site, the web address should match that of the organization that will receive the donation.

Spam Email

Be wary of email solicitations that ask you to click a link or open attachments. These could be phishing scams that try to trick you into giving out your credit card number, social security number, or other confidential information.

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Before hitting ‘Send,’ donors should check whether a campaign is legitimate.



Tips for Charities Hiring Fundraisers

The officers and directors of a charity have an obligation to oversee its professional fundraisers. A charity's reputation is one of its most valuable assets. A professional fundraiser may be a charity's primary connection to the public. The charity's officers and directors should ensure that a fundraiser represents the charity well and fulfills all regulatory requirements.

Before hiring a professional fundraiser, a charity should:

- » Research a fundraiser's track record using the Pennies for Charity database on the Charities Bureau's website at charitiesnys.com/pfcmapi/index.jsp. The database shows how much charities have retained from campaigns conducted by fundraisers. If a fundraiser's campaigns yielded little for charities, it may be a red flag.
- » Ensure that the fundraiser is properly registered. Fundraising professionals must register annually with the New York State Attorney General's Charities Bureau to fundraise in New York State.³⁷ To find out if a fundraiser is registered, email charities.fundraising@ag.ny.gov or call (518) 776-2160.
- » Charities must have a written contract with a fundraiser. New York law requires that specific financial terms and cancellation language be included in that contract.³⁸ It also requires that, within five days of receipt, all contributions be placed in an account controlled by the charity.³⁹ If an organization agrees to a contract that allows the fundraiser to keep a percentage of the funds raised, be aware that there is no "industry standard" for such contracts, so ensure that the terms maximize the returns to the charity.
- » Retain control of the lists of contributors. Make sure that a fundraiser contract makes the organization the owner of the list of its contributors. Otherwise, the fundraiser may have the right to use the list when raising money for other charities or to sell or rent the list for other campaigns.
- » If the charity raises funds by telemarketing, make sure that the fundraiser makes the required disclosures. New York law requires that fundraising professionals and their representatives ("professional solicitors") disclose to a potential donor the professional solicitor's name, that of the fundraising professional in charge of the campaign and that the solicitor is being paid to raise funds.⁴⁰
- » Once the campaign has ended, closely review the fundraiser's financial report prior to signing. Professional fundraisers must file a financial report with the New York State Attorney General's Charities Bureau disclosing a campaign's results (Form CHAR037). New York law requires that both a charity and its fundraiser certify the accuracy of the report, under penalty of perjury.⁴¹ Charities have an obligation to review a campaign's accounts and costs prior to signing. Form CHAR037 must be submitted within 90 days after a fundraising campaign concludes.

Endnotes

¹ The data in this report is derived from campaign interim and/or closing statements filed with the Attorney General's Charities Bureau that cover national or local campaigns that concluded in 2020 in New York State.

² See IRS' Exempt Organizations Business Master File. As of 9/13/2021, New York has 114,063 501(c)(3) organizations filing with the IRS. irs.gov/charities-non-profits/exempt-organizations-business-master-file-extract-eo-bmf

³ Source: Email correspondence from New York State Dept. of Labor. Data can be found at statistics.labor.ny.gov/ins.asp

⁴ See <https://mk0nonprofitnew3f5m3.kinstacdn.com/wp-content/uploads/2020/08/Pulse-Poll-2.0-Report.pdf>

⁵ Id.

⁶ See [https://philanthropy.iupui.edu/news-events/news-item/giving-usa-2021:-in-a-year-of-unprecedented-events-and-challenges,-charitable-giving-reached-a-record-\\$471.44-billion-in-2020.html?id=361](https://philanthropy.iupui.edu/news-events/news-item/giving-usa-2021:-in-a-year-of-unprecedented-events-and-challenges,-charitable-giving-reached-a-record-$471.44-billion-in-2020.html?id=361).

⁷ 11 Numbers That Show How the Coronavirus Has Changed N.Y.C. - The New York Times ([nytimes.com](https://www.nytimes.com)); Our Response to COVID-19 | New York Cares.

⁸ Full report available at foodbanknyc.org/research-reports/.

⁹ See albanycounty.com/departments/health/coronavirus-covid-19/support-for-vulnerable-populations; cfgb.org/news/wny-covid-19-community-response-fund-announces-additional-4-5-million-in-emergency-needs-grants-to-support-nonprofits-in-western-new-york; robinhood.org/rh-relief-effort-resources; <https://nyshealthfoundation.org/resource/covid-19-resources-for-grantees>.

¹⁰ All campaigns took place all or in part in 2020 and concluded in 2020.

¹¹ Id.

¹² Percentages in this report have been rounded to the nearest full percent.

¹³ See <https://www.wmagazine.com/story/met-gala-2020-officially-canceled>.

¹⁴ Phone interview with Jill Scibilia, president-elect, Association of Fundraising Professionals, New York City Chapter.

¹⁵ Blackbaud Institute, 2020 Charitable Giving Report,3 (2021), <https://institute.blackbaud.com/charitable-giving-report>.

¹⁶ Id., page 6.

¹⁷ See <https://mrbenchmarks.com/editorial/email>.

¹⁸ See <https://www.washingtonpost.com/video-games/2019/12/24/livestreams-are-new-telethons-theyre-raising-millions-charities>.

¹⁹ See <https://www.prnewswire.com/news-releases/gaming-stars-launch-causeplay-fortnite-charity-fundraiser-for-st-jude-childrens-research-hospital-301366443.html>.

²⁰ See <https://variety.com/2021/gaming/news/gaming-charity-fundraiser-st-jude-childrens-hospital-dr-lupo-myth-1235050998>.

²¹ See Assurance of Discontinuance, *In re Paypal Charitable Giving Fund*, 2020.

²² See <https://www.irs.gov/charities-non-profits/charitable-organizations/donor-advised-funds>.

²³ Attorney General Bonta and Assemblymember Irwin's Legislation to Provide Oversight of Online Charitable Fundraising Platforms Signed into Law | State of California - Department of Justice - Office of the Attorney General.

²⁴ *Id.*

²⁵ *Id.*

²⁶ See https://www.philanthropy.com/article/calif-law-aims-to-make-online-giving-safer-for-nonprofits-and-donors?cid=gen_sign_in.

²⁷ In 91 telemarketing campaigns, the fundraiser retained more than 100 percent of the monies raised. This generally occurs when a campaign's expenses exceed revenues.

²⁸ See https://ag.nv.gov/News/PR/2021/Attorney_General_Ford_Joins_FTC,_38_States,_D_C_to_ShutDown_Massive_Charity_Fraud_Telefunding_Operation.

²⁹ *Id.*

³⁰ *Id.*

³¹ *Id.*

³² *Id.*

³³ *Id.*

³⁴ See [Thenonproffitimes.com/finance/revenue-tanks-as-virtual-events-replace-peer-to-peer-fundraising](https://thenonproffitimes.com/finance/revenue-tanks-as-virtual-events-replace-peer-to-peer-fundraising).

³⁵ NY Executive Law 174 b(3)

³⁶ See <https://www.fec.gov/help-candidates-and-committees/making-disbursements-pac/notices-required-nonconnected-solicitations>.

³⁷ NY Exec. Law §173

³⁸ NY Exec. Law §174-a(2),(4)

³⁹ NY Exec. Law §173-a(2)

³⁰ NY Exec. Law §174-b(3), See also charitiesnys.com/disclosure.

⁴¹ NY Exec. Law Section 173-a(1)