

Where Your Money Goes

Fundraising by Professional Fundraisers



Charities Bureau | November 2019
Office of the New York State Attorney General | Letitia James

Introduction: Giving in New York State

New Yorkers give generously to charitable organizations and causes. Of those who itemize their tax deductions, two million New Yorkers reported \$37 billion in charitable giving in 2016, the most recent year available. This amount represents a \$3.5 billion increase over the previous year. The multitude of charities, including charitable nonprofits, charitable foundations, charitable trusts, and other charitable organizations, operating in New York reflects the needs that exist as well as New Yorkers' willingness to respond to them. New Yorkers have sought to help in education, human services, the arts, housing, the environment, and a host of other areas. They have supported religious institutions, homeless shelters, hospitals, and nature preserves—to name only a handful of examples—in all, a wide array of organizations that contribute to New York life. This commitment makes our communities throughout New York more vibrant and enriching places. This report provides information about professional fundraising campaigns and other trends in the charitable sector so donors can make informed decisions about the charities they support.

Many charities are headquartered in New York State, making it one of the leading bases for charitable nonprofits nationally.² The sector currently employs more than 1.4 million people. Using data from the U.S. Bureau of Labor Statistics, Johns Hopkins University recently found that in Albany's Capital Region alone, charitable nonprofits employ 87,819 people.³ Even more charities seek New Yorkers' support than are based here. All these charities must register with the Attorney General's Charities Bureau. As of October 2019, there were 85,059 charities registered with the bureau.

¹ Email correspondence from New York State Dept. of Tax and Finance representative. Data can be found at https://tax.ny.gov/research/stats/statistics/pit-filers-summary-datasets-through-tax-year-2016.htm and https://data.ny.gov/Government-Finance/Personal-Income-Tax-Filers-Summary-Dataset-3-State/rt8x-r6c8/data. Report is available at https://www.budget.ny.gov/pubs/archive/fy20/exec/ter/fy20ter.pdf, see page 14.

² See IRS' Exempt Organizations Business Master File. As of 10/14/2019, New York ranked third in number of 501(c)(3) organizations—92,193--filing with the IRS. (irs.gov/charities-non-profits/exempt-organizations-business-master-file-extract-eo-bmf.)

³ Data available at: bls.gov/bdm/nonprofits/nonprofits.htm and ccss.jhu.edu/nonprofit-works/

As the chief law enforcement officer and regulator of charitable fundraising in New York, Attorney General Letitia James works diligently to foster and assist the nonprofit sector in complying with regulations and to protect donors and charities from fraudulent conduct. Many charities use professional for-profit fundraisers as outside contractors to further their fundraising efforts, educate donors about their mission, and increase returns. Fundraisers can play a critical role in furthering a charity's goals, and many belong to professional associations.

While professional fundraisers can help charities meet their goals, some fundraisers collect fees so large that charities receive only a small fraction of the total money donated. Some also give potential donors misleading information about a charity to spur their gifts. The Attorney General's Charities Bureau has brought enforcement actions against such fundraisers and the charities that hire them through its Operation Bottomfeeder.

Charities across New York State continue to rely on New Yorkers' generosity to meet the needs of the communities they serve. Donors can use this report and its accompanying database to help them make informed giving decisions by reviewing how much money raised by professional fundraisers actually goes to the charities they serve. (See "Giving Wisely" below for details.) The report also gives donors insight into trends in the charitable sector, provides practical information on how to vet a charitable solicitation, and seeks to foster giving in New York State.

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⁴ See, e.g., Association of Fundraising Professionals at afpglobal.org/ethics/enforcement-sanctions. Pdf of code of ethics afpglobal.org/sites/ default/files/attachments/2018-10/AFP%20Enforcement%20Procedures%20October%202015.pdf

Giving Wisely: How to Use This Report

Pennies for Charity, and its accompanying database located at **charitiesnys.com**, reports the results of campaigns conducted by professional fundraisers on behalf of a charity.⁵

Many donors do not know–and are not told–how much of their donations go to professional fundraisers handling charities' solicitations. To find out, donors can visit the Pennies database and search by the charity's name to find its fundraising track record. If most of a charity's campaigns yielded little for the charity, a donor should dig deeper by searching the Charities Bureau's registry (charitiesnys.com). The registry has charities' organizing documents, financial statements, and other materials that detail charities' mission and expenditures. Most charities soliciting in New York State are required to register with the Charities Bureau and submit annual financial disclosures that include their Internal Revenue Service ("IRS") form 990.6

Potential donors should also look at sites such as Charity Navigator (charitynavigator.com), the BBB Wise Giving Alliance, and other watchdog organizations that evaluate charities based on annual IRS 990 filings and other financial reporting materials. All of this information will help inform decisions about whether a charity is deserving of a donor's support.

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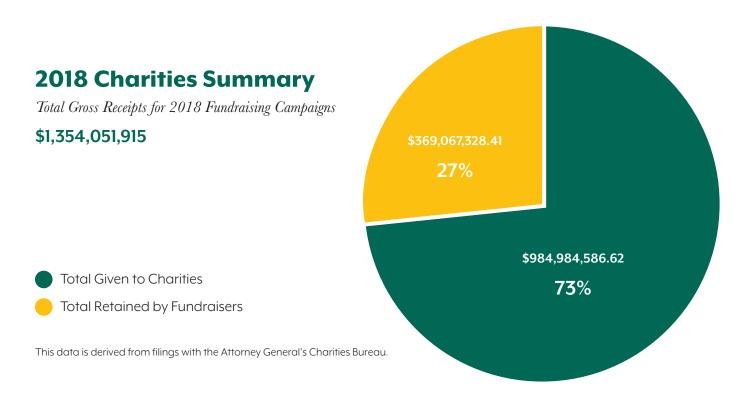
⁵The data in this report is derived from campaign interim and/or closing statements that cover national or local campaigns that concluded in 2018 in New York State and have been filed with the Attorney General's Charities Bureau.

 $^{^{6}}$ NY Exec. Law \S 172(1) and 172-b.

Dollars to Charities

This year's Pennies for Charity report includes data from the 891 fundraising campaigns conducted by professional fundraisers in New York that ended in 2018. Altogether, the campaigns raised more than one billion dollars. Key findings include:

- · Almost \$370 million, or 27 percent of funds raised, was retained by fundraisers to cover their fees and costs of conducting charitable campaigns. Charities received more than \$980 million overall from these campaigns.
- · In 30 percent, or 273 campaigns, charities received less than 50 percent of funds raised.
- In 18 percent, or 161 campaigns, fundraiser expenses exceeded the revenue they raised for charities. In 2018, this loss totaled more than \$13 million.

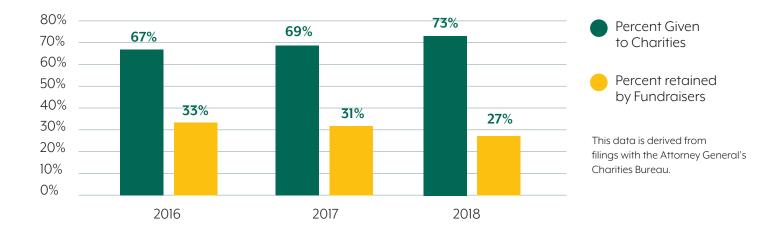


The percentage of dollars going to charities from professional fundraising campaigns is increasing. Some charities have improved their oversight of these companies and have sought better terms from professional fundraisers. Other factors include Charities Bureau enforcement efforts, including its Operation Bottomfeeder, which target fraudulent fundraisers. The Charities Bureau's enforcement actions have served as a deterrent, as have similar enforcement actions by other states. Since 2016, data indicate charities are receiving a larger percentage of donations raised by professional fundraisers. In 2018, nearly 73 percent of the funds collected by professional fundraisers went to charities (see chart below).

⁷ Percentages in this report have been rounded to the nearest full percent.

Percentages of Gross Receipts

Retained by Charities and Fundraisers 2016-2018



Trends in Fundraising

While the Pennies for Charity 2018 results show that funds raised for charities by professional fundraisers in New York increased by 14 percent compared to 2017 results, nationwide charities saw a decline in giving from individual donors. Many experts attribute the dip in the 2018 amounts to changes in the federal tax code. These changes increased the standard deduction for individuals from \$6,000 to \$12,000 and for couples from \$12,000 to \$24,000, so donors who itemized charitable gifts in the past had less incentive to do so. This appears to have contributed to a one percent reduction in giving by individuals last year, according to data compiled annually by The Giving Institute, a group of member organizations in the philanthropy and fundraising fields. However, giving by corporations and foundations continued to expand. Working with data provided to the Growth in Giving Initiative, a nationwide database of gift transactions to charities, two researchers have found that New York City area charities saw a decline in giving and donor retention rates similar to national trends. However, charities with large donors (\$1,000 or more) saw a small uptick in that donation category.

⁸ Found at givingusa.org/giving-usa-2019-americans-gave-427-71-billion-to-charity-in-2018-amid-complex-year-for-charitable-giving

⁹ "What Fundraisers Should Do Next: How 'Giving USA' Findings Point to Smart Strategies," The Chronicle of Philanthropy," June 18, 2019. philanthropy.com/article/New-Data-on-Fundraising-Points/246509

¹⁰ Found at Givingusa.org/giving-usa-2019-americans-gave-427-71-billion-to-charity-in-2018-amid-complex-year-for-charitable-giving

¹¹ The Growth in Giving Initiative is part of the Association of Fundraising Professionals' Fundraising Effectiveness Project.

¹² "Big Data Fundraising Trends from NY Nonprofits, Tax Reform and the Impact on Giving," by Nathan Dietz and Jon Biedermann, presented at the Association of Fundraising Professionals' Fund Raising Day (6/14/2019). Nathan Dietz is a professor at the Do Good Institute, University of Maryland. Jon Biedermann is vice president of DonorPerfect, a firm that develops fundraising software.

¹³ ld.

Charities continue to face challenges in addition to the federal tax code changes. The rise of donor-advised funds, which are large charitable holdings controlled by a sponsoring organization, provide donors with alternatives to giving directly to charities. Some giving experts believe that donor advised funds contribute to the decline in direct gifts to charities.¹⁴ As giving evolves, charities must seek new approaches to finding and retaining donors. A greater focus on online and other digital giving methods has helped some charities foster their donor relationships.¹⁵ Charities also must contend with bad actors that undermine confidence in the sector. The Charities Bureau seeks to curtail the impact of these so-called sham charities through enforcement efforts and educational programs for donors and charities to encourage savvy giving and fundraising approaches.

Operation Bottomfeeder Investigates Sham Charities and Their Fundraisers

Operation Bottomfeeder is an ongoing Charities Bureau initiative that targets sham charities, which exploit popular causes like breast cancer prevention and veterans in need. This year, Operation Bottomfeeder continued its investigation of several charities that appear to provide little or no actual benefit to the causes and individuals they claim to support.

Such sham charities often now opt to form as political actions committees (PACs). PACs are non-profit organizations that register with the Federal Election Commission rather than with state charities regulators. Contributions to PACs are not tax deductible. They are formed to support political efforts, such as election campaigns for politicians and changes in legislation. However, recently sham charities have been using the PAC structure to sidestep state charity regulators and those laws that regulate charitable solicitation. These organizations rely on the U.S. Supreme Court's ruling in Citizens United v. Federal Election Commission¹⁶ that corporations—including nonprofits other than charitable nonprofits—cannot be restricted from independent expenditures on behalf of causes under their First Amendment right to free speech.

Maryland's Montgomery County consumer protection office recently closed down Heroes United, a sham PAC posing as a charity. The group used a telemarketing operation that falsely claimed to be raising money for local volunteer firefighters. The organization's telemarketing appeals received more than \$4.6 million in donations over the last two years. More than 90 percent of the funds collected went to the professional fundraisers soliciting on the organization's behalf. The organization previously had launched a similar campaign in North Dakota and been shut down by the North Dakota Attorney General's Office.¹⁷

¹⁴ Found at Philanthropy.com/resources/toolkit/understanding-and-tapping-into/138.

¹⁵ Found at Institute.blackbaud.com/asset/2018-charitable-giving-report/

¹⁶ See 558 U.S. 310 (2010).

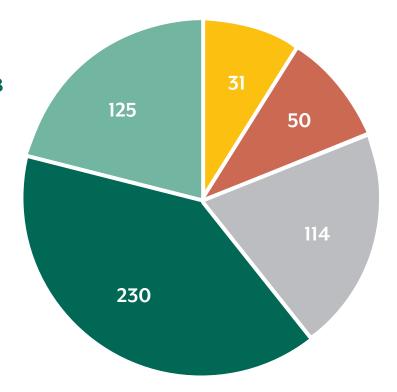
 $^{^{17} \ \} Found\ at\ www2.montgomerycountymd.gov/mcgportalapps/Press_Detail.aspx?ltem_ID=23648$

Other sham charities have formed as social welfare organizations. Such entities are tax-exempt pursuant to section 501(c)(4) of the federal tax code, and while the organizations are nonprofit, contributions to them are not deductible by donors. Unlike charities, such organizations may take positions on political issues. While some social welfare organizations have charitable purposes and are required to register as charities, many are not. Bad actors that create PACs or social welfare organizations in an effort to persuade donors are helping a charitable cause use misleading pitches while most of the funds raised go to the professional fundraiser handling the campaign. While donors may wish to support PACs or a social welfare organization, they should be aware of its mission, purpose and activities before making that decision. (See How to Tell If a Pitch Is From a Charity.)

Telemarketers' Slice of Fundraising Pie is Shrinking

Fundraisers with Telemarketing Campaigns Retained \$205,814,068 in 550 Campaigns

- Number of campaigns with no funds retained
- Number of campaigns with less than 20% retained
- Number of campaigns with between 20% and 50% retained
- Number of campaigns with between 50% and 100% retained
- Number of campaigns with more than 100% retained



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

Sham charities continue to rely largely on telemarketing to reach certain groups like seniors. Donors should be on the lookout for charities that claim to promote popular causes, such as veterans, cancer victims, or curing children's illnesses, and have names that sound like those of better-known organizations. However, the number of telemarketing campaigns in New York State has declined gradually over the last three years. Pennies for Charity data from 2016 campaigns showed a total of 628 campaigns included telemarketing. By 2018, that number decreased to 550. The percentage of New York telemarketing campaign funds going to charities rather than fundraisers continues to rise. Pennies for Charity data from 2017 campaigns showed 271 fundraisers retained over 50 percent of funds raised in campaigns. In 2018, that number had dipped to 230. This may be due in part to the Charities Bureau's Operation Bottomfeeder and other efforts to enforce New York State laws on charitable solicitation. (See "Tips on Handling a Telemarketing Solicitation.")

Online, Digital Giving Continues to Expand

Younger donors increasingly turn to online and mobile devices when they give. According to the Blackbaud Institute, a nonprofit that researches trends in philanthropy, online giving grew 1.2 percent in 2018. More than eight percent of charitable fundraising overall, excluding grants, was raised online. 19 Nearly a quarter of those donations were made with a mobile device.²⁰ Social media has become key in this area. Eighteen percent of donors worldwide have given through Facebook fundraising tools.²¹

Social media offers charities a way to amplify their message and reach a greater number of donors. However, users should check where their donations will go before they hit "Donate." Facebook, for instance, permits two types of fundraising: nonprofit fundraisers and personal fundraisers. Those opting for the nonprofit category can create fundraisers to benefit specific charitable organizations. Facebook requires that those beneficiary organizations be designated as charitable by the IRS under section 501(c)(3) of the federal tax code, have a bank account with a licensed financial services institution, and a tax ID number. Monies raised for such organizations are paid directly to the organization.²² The funds raised for those who opt for the personal fundraising category go directly to the fundraiser's creator. The Federal Trade Commission cautions against donating through social media unless someone you know has contacted you about a specific project. The best way to donate to a charitable organization remains directly through its website.²³

Many donors give through online platforms like GoFundMe that host both charitable and personal campaigns. While giving online may be fast and convenient, platforms have policies and fees that donors should review before they contribute. Disclosures are sometimes difficult to locate or provided only in fine print or click-through pop-up windows. Usually a platform's Frequently Asked Questions and/or its terms and conditions pages will describe pricing and fees. Increasingly, online platforms have revised or changed their charitable giving disclosures to ensure that users understand their policies. GoFundMe, for one, no longer charges a fee for donating.²⁴ Neither does Facebook when a donor is giving to a nonprofit campaign.²⁵

Donors should bear in mind that contributions made directly to a charity, via its website or another method, go directly to the charity. (See "Tips for Giving in a Digital World" on page 12 for guidance on vetting online campaigns.)

- ¹⁸ Found at institute.blackbaud.com/asset/2018-charitable-giving-report
- 19 ld.
- ²⁰ Id.
- ²¹ Found at nonprofitssource.com/online-giving-statistics/social-media
- ²² Found at facebook.com/help/356680401435429/?helpref=hc_fnav
- ²³ Found at consumer.ftc.gov/articles/0074-giving-charity
- ²⁴ Found at support.gofundme.com/hc/en-us/articles/203604424-Fees-on-GoFundMe
- ²⁵ Found at facebook.com/help/356680401435429/?helpref=hc_fnav

Pennies Tips

Tips on Handling a Telemarketing Solicitation

Telemarketers must adhere to laws that address the scope and content of their solicitations. Charitable organizations and their for-profit fundraisers are prohibited from making false, misleading, or deceptive statements to potential donors in connection with fundraising activities. The New York State Attorney General has the authority to investigate and prosecute such statements.

Further, New York and other states require telemarketers to disclose (a) the name of the individual telemarketer, (b) that the solicitation is being conducted by a professional fundraising company, (c) the name of that company, and (d) that the telemarketer is being paid to make the call.²⁶

Donors can 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 nonprofit organizations. However, if a professional telemarketer is calling on behalf of a charity, a consumer may ask to be removed from that particular charity's calling list.

If you get a call...

Do not feel pressured to give 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.
- How much of your donation will be used for charitable programs?
- Is the caller a paid telemarketer?
- How much is the telemarketer being paid and what percentage of your donation is the charity guaranteed?



²⁶ NY Executive Law 174-b(3).

Checklist for Assessing 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-chec 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 requested from the Attorney General's Charities. Bureau or viewed on its 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 it 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?

How to Tell if a Pitch is from a Charity

If a telemarketer calls to request a contribution, find out whether the organization the person represents is a charity. If an organization is actually a political action committee, it is required to inform donors that contributions are not tax deductible.²⁷ If you are unsure:

- · Ask whether your donation is tax deductible.
- Ask what portion of your donation will be applied to charitable activities and which programs will benefit.
- · Check the Federal Election Commission database of PACs. Look to see if the organization is listed. It will include its most recent mission statement and funding and can be found at fec.gov/data/browsedata/?tab=committees.

²⁷ fec.gov/help-candidates-and-committees/making-disbursements-pac/notices-required-nonconnected-solicitations

Tips for Giving in a Digital World

Donating online or via text offers a convenience factor for the donor and can be cost effective for a charity. But before hitting "Send," donors should check whether a charity has authorized a campaign. Most charities have websites and will answer promptly through their "Contact Us" buttons.

Crowdfunding

Online platforms that host groups and individuals soliciting for causes do not vet those who use their service. Donors should only give to campaigns conducted by people whom they know. Donors also should take a close look at the site's FAQs and Terms and Conditions to see what fees they will be charged. Also, 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.

Text Donations

Some text solicitations are scams. Don't hesitate to ask what percentage of the donation is being retained by the fundraiser. Also, remember that donating by text means the organization may not receive the funds until after a phone bill is paid. Contributions made directly to a charity will reach it faster.

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. Confirm that the email is from a legitimate charity by checking the sender address carefully before clicking a link or providing credit card number, social security number, or other confidential information. Often phishing scams use an address similar to that of a legitimate organization, but a close look will reveal the differences.

Before hitting 'Send,' donors should check whether a charity has authorized a campaign.

Tips for Charities Hiring Fundraisers

The officers and/or directors of a charity have an obligation to oversee its professional fundraisers. A charitable organization's reputation is one of its most valuable assets. A professional fundraiser and its staff may be a charity's primary connection to the public. The officers and directors should make sure 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/pfcmap/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.²⁸ 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 that includes certain terms. New York law requires that specific financial terms and cancellation language be included in fundraiser contracts.²⁹ It also requires that, within five days of receipt, all contributions must be placed in an account controlled by the charity.³⁰ 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 and that of the fundraising professional in charge of the campaign and that the solicitor is being paid to raise funds.³¹
- · Once the campaign has ended, closely review the fundraiser's financial report prior to signing. Fundraisers must file a financial report with the New York State Attorney General's Charities Bureau disclosing a campaign's results (Form CHARO37). New York law requires that both a charity and its fundraiser certify the accuracy of the report, under penalty of perjury.³² 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.

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<sup>28</sup> NY Exec. Law §173.
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³¹ NY Exec. Law §174-b(3), See also charitiesnys.com/disclosure.

 29 NY Exec. Law §174-a(2),(4).

³² NY Exec. Law Section 173-a(1).

³⁰ NY Exec. Law §173-a(2).

The New York State 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 New York State Attorney General's Charities Bureau.

For information about charities:

Phone:

(212) 416-8401

Email:

charities.bureau@ag.ny.gov

To file a complaint:

Website:

charitiesnys.com/complaints

Email:

charities.complaints@ag.ny.gov