

**Association of Fundraising Professionals Position
NY Bills A08908 and S55883**

- The Association of Fundraising Professionals (AFP) is concerned about bills A08908 and S55883. We applaud efforts to ensure ethical fundraising through education; however, without implementing several necessary changes, we believe that these bills will unduly burden charities and their fundraisers.
- For almost 50 years, AFP has provided guidance and standards to those engaged in the fundraising process. AFP's considerable expertise in the legislative field is based upon the combined experience of our 30,000 members across North America and around the world. We have more than 200 chapters located in almost every state and metropolitan area, as well as in Canada, Mexico, and Asia. Our members raise funds for a wide variety of charities, from large, multinational institutions to local grassroots organizations advocating every conceivable issue or need – education, healthcare, religion, arts, and the environment, to name just a few.
- Originally founded in New York State in 1960 as the National Society of Fund Raising Executives (NSFRE), AFP represents over 1,900 professionals from across New York's charitable sector. AFP promotes professional standards and ethical practices and transparency to assure accountability for the solicitation and use of charitable funds.
- Although we greatly appreciate the changes made to the original legislation over the past few years through input from AFP and others (e.g., the expansion of the definition of "acceptable course" to include courses provided by organizations such as AFP), we find this latest iteration somewhat problematic.
- Bills A08908/S55883 may create a voluntary course on paper. However, when the concept of certification is introduced, the course becomes mandatory in spirit because the certification and the publication of those granted certification creates a clear marketing advantage for those individuals and organizations carrying the certification. Moreover, the certification creates the perhaps erroneous public perception that certified individuals and organizations are automatically more ethical than uncertified organizations.
- In particular, it is worth noting that there is a discriminatory element here. Although large, nationally-known organizations may have the funds and staffing to comply with the training component, small organizations that do not have such resources will suffer. If they are unable to earn certification, the smaller organizations will be at an even greater disadvantage when competing with large organizations for charitable dollars.
- The legislation also is unclear as to how the certification program will be developed. Who will determine the certification requirements and establish the necessary clear standards? Who within the attorney general's office will provide quality control? Will the attorney general's office provide scholarships or other assistance for small organizations that lack the resources for the training program?
- We believe that the certification element should be eliminated to avoid undermining the voluntary nature of the proposed ethics curriculum.
- Similarly, AFP is concerned about language requiring the attorney general to issue a report that, among other things, would make "recommendations with respect to the feasibility of legislation mandating completion of such courses." As was the case when the original bill (A09061) sought to implement a mandatory course, AFP has great concerns about a mandatory requirement. There is no empirical data

suggesting that widespread abuse exists within the fundraising world and the charitable sector to necessitate such a requirement.

- Mandatory ethics training would impose unnecessary costs such as travel expenses and increased time away from the fundraisers' altruistic endeavors. Although a distance learning component may lessen this burden, some charities may not have the capability to participate through that system, particularly small organizations.
- In addition, these bills do not limit their scope to New York-based individuals and organizations. It seems inequitable to require out-of-state individuals and organizations that raise funds in the State of New York to complete the ethics curriculum, particularly when it is unclear whether the ethics training will be consistent with the laws and regulations of other states. Such a requirement could, in fact, have a chilling effect on fundraising within the State of New York if out-of-state individuals and organizations find the completion of the course overly burdensome.
- Despite these concerns, AFP believes that ethics training for professionals is always a laudable goal and a carefully drafted proposal that provides voluntary ethics training at a reasonable cost could prove quite beneficial for the charitable sector.
- AFP stands ready to work with you and your colleagues in the New York State Legislature to draft legislation that will provide ethics training in the most effective way possible without unduly burdening New York's nonprofit community.
- AFP is well-aware of the importance of ethical fundraising. AFP members are required annually to sign our Code of Ethical Principles and Standards, which were first developed in 1964. The AFP Code of Ethics is widely recognized in the sector as the leading guide to best practices in fundraising. Violation of the AFP Code can result in the revocation of credentials and expulsion of members who engage in prohibited behavior. Much of our work is spent educating and training members in ethical fundraising practices and working with federal and state regulators to improve regulation and to identify wrongdoers who hurt the charitable sector. We have enclosed a copy for your review and records.
- AFP instituted a credentialing process in 1981 – the CFRE, Certified Fund Raising Executive designation--to aid in identifying for the giving public fundraisers who possess the demonstrated knowledge and skills necessary to perform their duties in an effective, conscientious, ethical, and professional manner. This was followed in 1990 by the ACFRE, for advanced fundraisers.
- Since its founding, AFP has championed donor rights. AFP was the driving force behind the creation of the *Donor Bill of Rights* and provides information to potential donors about how to select, evaluate, and give wisely to charities. A copy of the *Donor Bill of Rights* is attached.