

June 29, 2021

Legal Alert: New York Nonprofit Audit Revenue Threshold Increases to \$1 Million on July 1, 2021

The New York Nonprofit Revitalization Act of 2013 (NPRA) instituted a number of substantial changes to the New York Not-for-Profit Corporation Law (NPCL). One of these changes—increasing the annual revenue threshold that triggers heightened filing duties for nonprofits to \$1 million— is taking effect on July 1, 2021.

One goal of the NPRA was to gradually increase the threshold that triggers a duty for New York nonprofits to obtain an audit conducted by an independent Certified Public Accountant.¹ Such an audit must be filed with the Charities Bureau of the New York State Attorney General. When the Act was passed in 2013, the gross annual revenue and support² that triggered this obligation was \$500,000. This amount increased to \$750,000 on July 1, 2017, and to \$1 million on July 1, 2021.³

Unchanged as of July 1, 2021, organizations with gross annual revenue and support under \$250,000 must continue to file an unaudited financial report with the Charities Bureau, and those over \$250,000 but below the full audit requirement of \$1 million must file an independent CPA review report,⁴ which differs from an audit report.⁵

¹ An audit provides the highest level of assurance on an organization's financial statements. An audit provides assurance that an organization's financial statements are free of material misstatement and are fairly presented based upon the application of generally accepted accounting principles. It includes confirmation with outside parties, testing selected transactions by examining supporting documents, completing physical inspections and observations, and considering and evaluating the internal control system of the organization. See <https://www.nonprofitaccountingbasics.org/audit/audit-vs-review-vs-compilation>

² Gross revenue and support for purposes of determining if an audit is necessary consists of all revenue of the organization including revenue raised through fundraising. According to guidance issued by the New York Attorney General on April 15, 2014, all income received by the organization from any source, including contributions, grants, fees and other types of revenue, is included. See: https://lawyersalliance.org/userFiles/uploads/legal_alerts/Nonprofit_Revitalization_Act_FAQs.pdf at p. 7.

³ Nonprofit Revitalization Act §§ 3, 3-a, 3-b, 132, amending Exec. Law § 172-b. See also: <https://www.charitiesnys.com/pdfs/AuditCommittees.pdf> at p. 8.

⁴ Nonprofit Revitalization Act §§ 3, 132, amending Exec. Law § 172-b

⁵ A review provides limited assurance on an organization's financial statements. During a review, inquiries and analytical procedures present a reasonable basis for expressing limited assurance that no material modifications to the financial statements are necessary; they are in conformity with generally accepted accounting principles. See <https://www.nonprofitaccountingbasics.org/audit/audit-vs-review-vs-compilation>. While this review report meets the minimum requirement, many nonprofits nonetheless decide to obtain a full audit report as a best practice.

Requirements effective July 1, 2021	
<i>Gross Annual Revenue and Support</i>	<i>Requirement</i>
\$250,000 or less	Unaudited financial report
More than \$250,000 but less than \$1 million	Independent CPA review report
More than \$1 million	Independent CPA audit report

For the law specifying what needs to be included in these financial filings, please see: <https://www.nysenate.gov/legislation/laws/EXC/172-B>

This alert is meant to provide general information only, not legal advice. If you have any questions about this alert please contact Rafi Stern at rstern@lawyersalliance.org or visit our website at www.lawyersalliance.org for further information. To become a client, visit www.lawyersalliance.org/becoming-a-client. For her assistance in preparing this Legal Alert, Lawyers Alliance would like to thank Aditi Thakur of Columbia Law School.

Lawyers Alliance for New York is the leading provider of business and transactional legal services for nonprofit organizations and social enterprises that are improving the quality of life in New York City neighborhoods. Our network of pro bono lawyers from law firms and corporations and staff of experienced attorneys collaborate to deliver expert corporate, tax, real estate, employment, intellectual property, and other legal services to community organizations. By connecting lawyers, nonprofits, and communities, Lawyers Alliance for New York helps nonprofits to provide housing, stimulate economic opportunity, improve urban health and education, promote community arts, and operate and advocate for vital programs that benefit low-income New Yorkers of all ages.