
**PROPOSED REGULATIONS TO TITLE 11, DIVISION 1,
CHAPTERS 4 and 15
DEPARTMENT OF JUSTICE
Notice published September 26, 2014**

NOTICE OF PROPOSED RULEMAKING ACTION

Notice is hereby given that the Department of Justice (DOJ) proposes to adopt section 313 of Title 11, Division 1, Chapter 4, of the California Code of Regulations (CCR) concerning a registrant's or applicant's current address. DOJ also proposes to adopt sections 314 through 316 of Title 11, Division 1, Chapter 4 of CCR. Sections 314 through 316 concern the following: (1) the grounds for which a cease and desist order may be issued; (2) the penalties that may be imposed; and (3) the circumstances upon which a registrant's registration may be suspended for violations of the Supervision of Trustees and Fundraisers for Charitable Purposes Act.

DOJ also proposes to amend sections 999.6, 999.7, and 999.8 of Title 11, Division 1, Chapter 15 of the CCR concerning the administrative review applicable to violations of the Supervision of Trustees and Fundraisers for Charitable Purposes Act. DOJ also proposes to adopt sections 999.9, and 999.9.1 through 999.9.5 of Title 11, Division 1, Chapter 15 of the CCR. Sections 999.9 through 999.9.5 concern the following: (1) the grounds for which the Attorney General may refuse an applicant's registration or revoke or suspend a registrant's registration; (2) the grounds for an automatic suspension of a registrant's registration; (3) the grounds for refusing a registrant's renewal registration; (4) the registrant's obligations upon a revocation of a registration; (5) the necessary good standing of a registrant to solicit for a charitable purpose; and (6) the procedure for which a revoked registrant may petition the Registrar of Charitable Trusts for reinstatement.

PUBLIC HEARING

No public hearing has been scheduled for the proposed regulatory action; however, any interested person, or his or her duly authorized representative, may request, no later than 15 days before the close of the written comment period, a public hearing pursuant to Government Code Section 11346.8.

WRITTEN COMMENT PERIOD

Any interested party, or his or her duly authorized representative, may submit written comments relevant to the proposed regulatory action to the contact person listed below. The written comment period closes on November 10, 2014 at 5:00 p.m. Only written comments received by that time shall be reviewed and considered by the Department of Justice before it adopts, amends, or repeals a regulation.

Scott Chan, Deputy Attorney General
California Department of Justice
Charitable Trusts Section
455 Golden Gate Avenue, Suite 11000
San Francisco, CA 94102

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AUTHORITY and REFERENCE

DOJ proposes the adoption of California Code of Regulations Title 11, Division 1, Chapter 4, sections 313 through 316 pursuant to the authority vested in it by Government Code sections 11400 et seq. and 11500 et seq., 12581, 12584, 12585, 12586(a) and (b), 12587, 12598(e), 12599, 12599.1, and 12599.2. The proposed regulations will implement, interpret, and make specific the provisions of Government Code sections 12581, 12581.2, 12584, 12585, 12586, 12588, 12591, 12591.1, 12594, 12595, 12596, 12597, 12598(a), 12599, 12599.1, 12599.2, 12599.6, 12599.7, and 12599.8; Business and Professions Code sections 17510, 17510.2, 17510.25, 17510.3, 17510.4, 17510.5, 17510.8, 17510.85, 17510.9; and Corporations Code sections 5142, 5230, 5231, 5232, 5233, 5235, 5236, 5237, 5238, 6215, 7231, 7233, 7236, 7237 and 7238.

DOJ also proposes to amend California Code of Regulations Title 11, Division 1, Chapter 15, Sections 999.6, 999.7, and 999.8 pursuant to the authority vested in it by Government Code sections 11400 et seq. and 11500 et seq., 12581, 12584, 12585, 12586(a) and (b), 12587, 12598(e), 12599, 12599.1, and 12599.2. The proposed regulations will implement, interpret, and make specific the provisions of Government Code sections 12581, 12581.2, 12584, 12585, 12586, 12588, 12591, 12591.1, 12594, 12595, 12596, 12597, 12598(a), 12599, 12599.1, 12599.2, 12599.6, 12599.7, and 12599.8; Business and Professions Code sections 17510, 17510.2, 17510.25, 17510.3, 17510.4, 17510.5, 17510.8, 17510.85, 17510.9; and Corporations Code sections 5142, 5230, 5231, 5232, 5233, 5235, 5236, 5237, 5238, 6215, 7231, 7233, 7236, 7237 and 7238.

DOJ also proposes the adoption of California Code of Regulations Title 11, Division 1, Chapter 15, sections 999.9, and 999.9.1 through 999.9.5 pursuant to the authority vested in it by Government Code sections 11400 et seq. and 11500 et seq., 12581, 12584, 12585, 12586(a) and (b), 12587, 12598(e), 12599, 12599.1, and 12599.2. The proposed regulations will implement, interpret, and make specific the provisions of Government Code sections 12581, 12581.2, 12584, 12585, 12586, 12588, 12591, 12591.1, 12594, 12595, 12596, 12597, 12598(a), 12599, 12599.1, 12599.2, 12599.6, 12599.7, and 12599.8; Business and Professions Code sections 17510, 17510.2, 17510.25, 17510.3, 17510.4, 17510.5, 17510.8, 17510.85, 17510.9; and Corporations Code sections 5142, 5230, 5231, 5232, 5233, 5235, 5236, 5237, 5238, 6215, 7231, 7233, 7236, 7237 and 7238.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Summary of Existing Laws and Regulations:

The Supervision of Trustees and Fundraisers for Charitable Purposes Act (“the Act”) (Government Code sections 12580 through 12599.8) codifies the Attorney General’s authority over persons and entities that hold charitable assets, and persons and entities that are involved in fundraising for charitable purposes. California Code of Regulations, Title 11, Sections 313 through 316, 999.6 through 999.8, 999.9 and 999.9.1 through 999.9.5 are promulgated under the

authority of the Act. These provisions require persons and entities holding charitable assets in California, and the for-profit entities that contract with charities to solicit charitable contributions on their behalf, to register with and report to the Attorney General's Registry of Charitable Trusts. Under Government Code section 12598, subdivision (e)(1), the Attorney General may refuse to register an applicant, or may suspend or revoke the registration of an existing registrant for violations of the Act. DOJ has authority to adopt regulations necessary to effectuate the Act.

Effect of the Proposed Rulemaking:

The proposed regulations clarify the reasons for which an applicant's or registrant's registration with the Attorney General's Registry of Charitable Trusts may be rejected, suspended or revoked, and the procedures for doing so. The proposed regulations also clarify the reasons upon which the Attorney General may issue a cease and desist order, and impose civil penalties, and the procedures for requesting review of such an order.

Comparable Federal Regulations:

There are no existing federal regulations or statutes comparable to the proposed regulations.

Policy Statement Overview and Anticipated Benefits of the Proposed Regulations:

The proposed regulations are needed to clarify the reasons for which a registration may be rejected, suspended, or revoked and to detail the procedures for appealing such action. The proposed regulations are further needed to clarify the reasons on which DOJ may issue cease and desist orders and issue penalties, and to detail the procedures for appealing such an order and/or imposition of penalties.

The regulations will benefit registrants and applicants by clarifying conduct that will subject a registrant to disciplinary action and/or imposition of penalties; and, clarifying the conduct that will result in a refusal to register an unregistered entity, and the related procedures and consequences. These regulations are consistent with existing law and typical administrative enforcement procedures used by regulatory agencies.

Determination of Inconsistency/Incompatibility with Existing State Regulations:

The Department conducted an evaluation for any other regulations on this area and has found that these are the only regulations dealing with organizations subject to the Supervision of Trustees and Fundraisers for Charitable Purposes Act and the grounds on which an applicant's or registrant's registration with the Attorney General's Registry of Charitable Trusts may be rejected, suspended or revoked, and the procedures for doing so. Therefore, the proposed regulations are neither inconsistent nor incompatible with existing state regulations.

Forms Incorporated by Reference:

None.

Mandated by Federal Law or Regulations:

None.

Other Statutory Requirements:

None.

DISCLOSURES REGARDING THE PROPOSED ACTION

DOJ has made the following initial determinations:

Mandate on Local Agencies and School Districts: None.

Cost to any Local Agency or School District: None.

Cost or Savings to any State Agency: None.

Other Non-Discretionary Cost or Savings Imposed on Local Agencies: None.

Cost or Savings in Federal Funding to the State: None.

Significant Effect on Housing Costs: None.

Significant Statewide Adverse Economic Impact Directly Affecting Businesses, including the Ability of California Businesses to Compete With Businesses in Other States: None.

Results of the Economic Impact Analysis/Assessment:

Adoption of these regulations will not do the following:

- (1) Create or eliminate jobs within California;
- (2) Create new businesses or eliminate existing businesses within California; or
- (3) Affect the expansion of businesses currently doing business within California.

Adoption of these regulations will do the following:

- (4) Beneficially affect the health and welfare of California residents, worker safety, or the state's environment. The general welfare of California citizenry will benefit because the proposed regulations will clarify the reasons for which an applicant's or registrant's registration with the Attorney General's Registry of Charitable Trusts may be rejected, suspended or revoked, and the procedures for doing so. Also, the proposed regulations will clarify the reasons upon which the Attorney General may issue a cease and desist order, and impose civil penalties, and the procedures for requesting review of such an order. The regulations will benefit registrants and applicants by clarifying conduct that will subject a registrant to disciplinary action and/or imposition of penalties. The proposed regulations will assist the Attorney General in protecting the public from charities that are misusing charitable assets or are otherwise in violation of California law.

Cost Impacts on Representative Person or Business:

DOJ is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Business Report:

It is necessary for the health, safety, or welfare of the people of the state that the regulations apply to businesses. The Supervision of Trustees and Fundraisers for Charitable Purposes Act (Government Code sections 12580 through 12599.8) and California Code of Regulations, Title 11, Sections 999.6 through 999.8, 999.9 and 999.9.1 through 999.9.5 require persons and entities holding charitable assets in California, and the for-profit entities that solicit charitable contributions for compensation, to register with and report to the Attorney General's Registry of Charitable Trusts. The proposed regulations do not change these requirements. The proposed regulations clarify the reasons for which the Attorney General may refuse to register an entity, or suspend or revoke registration; the grounds upon which the Attorney General may issue a cease and desist order and/or impose penalties; and the procedures for review.

Small Business Determination:

The proposed regulations only effect nonprofit entities. The DOJ has determined that the proposed regulations do not affect small businesses because the proposed regulations only affect charitable organizations which are not considered small businesses. Government Code section 11342.610, subdivision (b)(6), which defines the term "Small business", expressly excludes entities organized as a nonprofit institution.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5 subdivision (a)(13), DOJ must determine that no reasonable alternative it considered or that has otherwise been identified and brought to its attention would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

The DOJ has not identified any reasonable alternative to the proposed regulations that would be more effective in carrying out its purposes nor would be as effective or less burdensome to affected private persons nor would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provisions of law.

DOJ invites interested persons to present statements or arguments with respect to alternatives to the proposed regulations during the public comment period.

CONTACT PERSON

Inquiries concerning the proposed administrative action may be directed to:

Scott Chan, Deputy Attorney General
California Department of Justice
Charitable Trusts Section
455 Golden Gate Avenue, Suite 11000
San Francisco, CA 94102
Phone: (415) 703-5652
Fax: (415) 703-5480
Email: scott.chan@doj.ca.gov

Questions regarding procedure, comments, or the substance of the proposed action should be addressed to the above contact person. In the event the contact person is unavailable, inquiries regarding the proposed action may be directed to the following backup contact person:

Tania M. Ibanez, Senior Assistant Attorney General
California Department of Justice
Charitable Trusts Section
300 S. Spring Street
Los Angeles, California 90013
Phone: (213) 897-0218
Email: Tania.ibanez@doj.ca.gov

Please direct requests for copies of the proposed text of the regulations, the initial statement of reasons, the modified text of the regulations, or other information upon which the rulemaking is based to Deputy Attorney General Scott Chan at the above address.

AVAILABILITY OF STATEMENT OF REASONS, TEXT OF PROPOSED REGULATIONS, AND RULEMAKING FILE

DOJ will make the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office located at California Department of Justice, Charitable Trusts Section, 455 Golden Gate Avenue, Suite 11000, San Francisco, CA 94102, Fax: (415) 703-5480, and on DOJ website at www.ag.ca.gov/charities.

As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the express terms of the regulations, the initial statement of reasons, any information upon which the proposed rulemaking is based, and an economic impact assessment contained in the initial statement of reasons. Copies may be obtained by contacting the person via the address or phone number listed above.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After considering all timely and relevant comments received, DOJ may adopt the proposed regulations substantially as described in this notice. If DOJ makes modifications which are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before DOJ adopts the regulations as revised. Please send requests for copies of any modified regulations to the

attention of the person at the address indicated above. DOJ will accept written comments on the modified regulations for 15 days after the date on which they are made available to the public.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, copies of the Final Statement of Reasons may be obtained by contacting Deputy Attorney General Scott Chan at the above address.

AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulations in underline and strikeout can be accessed on the Attorney General's website at www.ag.ca.gov/charities.