

**PROPOSED TEXT OF REGULATIONS
CALIFORNIA CODE OF REGULATIONS
TITLE 11. LAW
DIVISION 1. ATTORNEY GENERAL
CHAPTER 4. REGULATIONS ADOPTED PURSUANT TO THE
SUPERVISION OF TRUSTEES AND FUNDRAISERS
FOR CHARITABLE PURPOSES ACT**

§ 313. Address of Record.

Every registrant and applicant is responsible for keeping the Registry of Charitable Trusts informed of the registrant's or applicant's current address. Any notice, order or document issued by the Registry shall be deemed properly served if mailed to the registrant's or applicant's address of record. The address of record is the address listed on the most recent registration or renewal form filed with the Registry unless the registrant or applicant has subsequently notified the Registry of a change of address in writing.

Note: Authority cited: Sections 12584, 12585, 12586(a) and (b) and 12587 Government Code. Reference: Sections 12594, 12598(a), 12599, 12599.1, 12599.2 Government Code.

§ 314. Grounds for Issuance of Cease and Desist Order

(a) The grounds upon which a cease and desist order may be issued include, but are not limited to, the following:

(1) Refusal or failure, after notice, to produce any records of the organization or to disclose any information required to be disclosed.

(2) Making a material false statement in an application, statement, or report required to be filed.

(3) Failure to file a financial report, or filing an incomplete financial report.

(4) Engaging in any act prohibited pursuant to Government Code section 12599.6.

Note: Authority cited: Sections 11400 et seq. and 11500 et seq., 12581, 12584, 12585, 12587, 12598 Government Code. Reference: Sections 12581, 12581.2, 12584, 12585, 12586, 12588, 12591, 12591.1, 12595, 12596, 12597, 12599, 12599.1, 12599.2, 12599.6 and 12599.7 Government Code; Sections 17510, 17510.2, 17510.25, 17510.3, 17510.4, 17510.5, 17510.8, 17510.85, 17510.9 Business and Professions Code; Sections 5142, 5230, 51231, 5232, 5233, 5235, 5236, 5237, 5238, 6215, 7231, 7233, 7236, 7237 and 7238 Corporations Code.

§ 315. Imposition of Penalty

(a) Penalties imposed on any person or entity shall not exceed one thousand dollars (\$1,000) per act or omission, for each act or omission that constitutes a violation of the Supervision of Trustees and Fundraisers for Charitable Purposes Act (Government Code section 12580 et seq.) or Chapter 15 (commencing with section 999.6) of Division 1 of Title 11 of the California Code of Regulations.

(b) At least five days prior to imposing the penalty, the Attorney General shall provide notice to the person or entity that committed the violation by certified mail to the address of record.

(c) Penalties shall accrue, commencing on the fifth day after notice is given, at a rate of one hundred dollars (\$100) per day for each day until that person or entity corrects that violation. When the Attorney General determines that the violation has been corrected, the Attorney General shall issue a written notice identifying the beginning and ending dates of the violation along with the total amount of the penalties accrued by the person or entity committing the violation.

(d) Unless a timely appeal has been filed, all penalties must be paid within thirty (30) days of the issuance of the notice setting forth the amount of the penalty, unless the Attorney General has agreed to a later date in writing.

Note: Authority cited: Sections 11400 et seq., and 11500 et seq., 12581, 12584, 12585, 12587, 12598, Government Code. Reference: Sections 12581, 12581.2, 12584, 12585, 12586, 12588, 12591, 12591.1, 12595, 12596, 12597, 12599, 12599.1, 12599.2, 12599.6 and 12599.7 Government Code; Sections 17510, 17510.2, 17510.25, 17510.3, 17510.4, 17510.5, 17510.8, 17510.85, 17510.9 Business and Professions Code; Sections 5142, 5230, 51231, 5232, 5233, 5235, 5236, 5237, 5238, 6215, 7231, 7233, 7236, 7237 and 7238 Corporations Code.

§ 316. Suspension of Registration

(a) If the Attorney General assesses penalties under section 315, the Attorney General may suspend the registration of that person or entity in accordance with the procedures set forth in section 999.6 et seq. of Title 11 of the California Code of Regulations.

(b) The registration of any person or entity that fails to timely pay a civil penalty shall be automatically suspended until the fine is paid and no registration shall be renewed until the fine is paid.

Note: Authority cited: Sections 11400 et seq., and 11500 et seq. 12581, 12584, 12585, 12587, 12598 Government Code. Reference: Sections 12581, 12581.2, 12584, 12585,

12586, 12588, 12591, 12591.1, 12595, 12596, 12597, 12599, 12599.1, 12599.2, 12599.6 and 12599.7 Government Code; Sections 17510, 17510.2, 17510.25, 17510.3, 17510.4, 17510.5, 17510.8, 17510.85, 17510.9 Business and Professions Code; Sections 5142, 5230, 51231, 5232, 5233, 5235, 5236, 5237, 5238, 6215, 7231, 7233, 7236, 7237 and 7238 Corporations Code.

TITLE 11. LAW
DIVISION 1. ATTORNEY GENERAL
CHAPTER 15. ATTORNEY GENERAL REGULATIONS ~~UNDER NONPROFIT~~
CORPORATIONS LAW REGARDING THE ADMINISTRATIVE REVIEW APPLICABLE TO
VIOLATIONS OF THE SUPERVISION OF TRUSTEES AND FUNDRAISERS FOR
CHARITABLE PURPOSES ACT

§ 999.6. ~~Charitable Entity Registration Refusal, Revocation or Suspension.~~ Violations of Government Code section 12580 et seq.

(a) The Attorney General may ~~refuse to register, or revoke, or suspend the registration of a charitable corporation, trustee, commercial fundraiser, fundraising counsel, and coventurer, for the reasons as specified in Section 12598, subdivision (e), of the Government Code.~~ take administrative action for violations of section 12580 et seq. of the Government Code, including but not limited to:

(1) refuse to register, or revoke, or suspend the registration of a charitable corporation, trustee, commercial fundraiser, fundraising counsel, and coventurer for the reasons as specified in section 12598, subdivision (e), of the Government Code.

(2) issue a cease and desist order against any person or entity for reasons specified in section 12591.1, subdivision (b), of the Government Code.

(3) impose a civil penalty on any person or entity for reasons specified in section 12591.1, subdivision (c), of the Government Code.

(b) When ~~a registration is refused, revoked, or suspended,~~ an administrative action is taken, the Attorney General shall provide written notice which specifies the reasons for the action.

(c) ~~If the registrant seeks to appeal a registration action, it must request a hearing by filing a written appeal~~ An appeal of the Attorney General's action must be filed with the Registrar of Charitable Trusts within thirty (30) calendar days of the ~~date of the~~ date written notice's ~~issue~~ date ~~or the right to appeal is waived and notice becomes the final order of the Attorney General.~~

(1) The appeal must be in writing and shall include: ~~The written appeal shall contain~~ the name and entity affiliation (if any), address and telephone number of the person appealing, the registration number (if any), and a statement of the basis of appeal.

(2) Notice of the hearing date, time and place shall be provided in accordance with the procedures set out in Chapter 5 (commencing with section 11500) of Part 1 of Division 3 of Title 2 of the Government Code. The failure of the person or entity ~~who has appealed~~ to appear at the time and place of the hearing shall be deemed a withdrawal of the appeal, and the written notice of the registration refusal, revocation, or suspension, the imposition of civil penalty, or the cease and desist order shall constitute the Attorney General's final order subject to no further administrative review.

(d) All hearings provided for under this regulation shall be conducted by an administrative hearing officer appointed by the Attorney General. The hearing officer shall not have participated in the decision concerning the registration, civil penalty, or the cease and desist order that is the subject of the hearing, and is otherwise subject to the disqualification provisions of sections 11425.30 and 11425.40 of the Government Code.

(e) All hearings under this regulation shall be conducted in accordance with the procedures set out in Chapter 5 (commencing with section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, except where as applicable those provisions requiring the designation of administrative law judges.

(f) Except as otherwise prohibited by law, the Attorney General may delegate any of the powers and duties under section 12598, subdivision (e), of the Government Code and under these regulations to Department of Justice staff.

~~Note: Authority cited: Section 12598(e), Government Code. Reference: Sections 11400, et seq. and 11500, et seq., Government Code.~~

Note: Authority cited: Sections 11400 et seq. and 11500 et seq., 12581, 12584, 12585, 12586, 12587, 12598 Government Code; Reference: Sections 12581, 12581.2, 12584, 12586, 12588, 12591, 12591.1, 12595, 12596, 12597, 12598(e), 12599, 12599.1, 12599.2, 12599.6, 12599.7, 12599.8 Government Code; Sections 17510, 17510.2, 17510.25, 17510.3, 17510.4, 17510.5, 17510.8, 17510.85, 17510.9 Business and Professions Code; Sections 5142, 5230, 5231, 5232, 5233, 5235, 5236, 5237, 5238, 6215, 7231, 7233, 7236, 7237 and 7238 Corporations Code.

§ 999.7. Review of Hearing Officer's Proposed Decision.

(a) Within 15 days after service of the hearing officer's proposed decision as provided for in Chapter 5 (commencing with section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, any party to a registration or a civil penalty action, or to a cease and desist order-~~action~~ may file a written brief served on all parties seeking review by the Attorney General of the proposed decision. Failure of a party to timely file such a brief waives the party's right to such a review.

(b) Briefing Procedure

(1) No later than 15 days after service of the written brief requesting review of the proposed decision, an opposition to the request (if any) must be filed and served on the parties.

(2) The parties' briefing may address the following:

(A) Whether the facts stated in the proposed decision are consistent with the evidence presented;

(B) Whether the proposed decision contains an accurate statement and/or application of the law; and

(C) Whether additional evidence exists that could not, with reasonable diligence, have been discovered and presented at the administrative hearing.

(3) The Attorney General may in his/her discretion upon a showing of good cause, extend the time requirements set forth herein unless irreparable harm would result from granting such an extension.

~~Note: Authority cited: Section 12598(e) Government Code. Reference: Sections 11517, 11518.5, and 11519 Government Code.~~

Note: Authority cited: Sections 11400 et seq. and 11500 et seq., 12581, 12584, 12585, 12586, 12587 Government Code; Reference: Sections 11517, 11518.5, 11519, 12581, 12581.2, 12584, 12586, 12588, 12591, 12591.1, 12595, 12596, 12597, 12598(e), 12599, 12599.1, 12599.2, 12599.6, 12599.7, 12599.8 Government Code; Sections 17510, 17510.2, 17510.25, 17510.3, 17510.4, 17510.5, 17510.8, 17510.85, 17510.9 Business and Professions Code; Sections 5142, 5230, 5231, 5232, 5233, 5235, 5236, 5237, 5238, 6215, 7231, 7233, 7236, 7237 and 7238 Corporations Code.

§ 999.8. Final Attorney General Decision.

(a) Upon completion of the briefing process or after 15 days of service of the proposed decision, the Attorney General may do any of the following:

(1) Adopt the proposed decision in its entirety.

(2) Reduce or otherwise mitigate the proposed decision in its entirety.

(3) Make technical or non-substantive changes which do not affect the factual or legal basis of the proposed decision and adopt it as the final decision.

(4) Non-adopt the proposed decision. If the proposed decision is not adopted, the Attorney General may decide the case upon the record, including the transcript, or may refer the case back to the hearing officer to take additional evidence. If the case is remanded back to the hearing officer for taking additional evidence, another proposed decision shall be prepared based upon this additional evidence. The

proposed decision shall be subject to the review and adoption procedures set out in these regulations.

(A) Before deciding any case on the record, the Attorney General shall give the parties the opportunity to present further written argument.

(B) If the record and/or the parties' arguments reveal the need for additional evidence, the Attorney General in his/her discretion may order the taking of additional evidence either by the Attorney General or by the hearing officer. Following the receipt of any additional evidence, the Attorney General may require further written or oral argument before deeming the case submitted for final decision.

(b) The proposed decision shall be deemed adopted by the Attorney General 100 days after service of the proposed decision by the hearing officer, unless within that time: (1) the Attorney General notifies the parties that the proposed decision is or is not adopted or is otherwise modified, or (2) the matter is referred to the hearing officer to take additional evidence.

(c) The decision shall become effective 30 days after it is mailed to the parties, unless reconsideration of the decision is ordered within that time or the Attorney General orders that the decision shall become effective sooner.

(d) The Attorney General may designate as precedent the decision or any part thereof that contains a significant legal or policy determination that is likely to recur.

(1) Once a decision is designated as precedent, parties may cite to such decisions in their briefs to the Attorney General, hearing officer, and the courts.

(2) If the Attorney General decides to designate precedent decisions under this regulation, then an index of significant legal and policy determinations made in these decisions shall be maintained and made available to the public at the Charitable Trust Registry as well as publicized annually in the California Regulatory Notice Register. The index shall be maintained at least annually, unless no precedent decisions have been designated since the last preceding update.

~~Note: Authority cited: Section 12598 (e) Government Code. Reference: Sections 11425.10(a)(7), 11425.60, 11517, 11518.5, and 11519 Government Code.~~

Note: Authority cited: Sections 11400 et seq. and 11500 et seq., 12581, 12584, 12585, 12586, 12587, 12598 Government Code; Reference: Sections 11425.10(a)(7), 11425.60, 11517, 11518.5, 11519, 12581, 12581.2, 12584, 12586, 12588, 12591, 12591.1, 12595, 12596, 12597, 12598(e), 12599, 12599.1, 12599.2, 12599.6, 12599.7, 12599.8 Government Code; Sections 17510, 17510.2, 17510.25, 17510.3, 17510.4, 17510.5, 17510.8, 17510.85, 17510.9 Business and Professions Code; Sections 5142, 5230, 5231,

5232, 5233, 5235, 5236, 5237, 5238, 6215, 7231, 7233, 7236, 7237 and 7238
Corporations Code.

§ 999.9. Grounds for Refusal, Revocation or Suspension

- (a) The grounds for which a registration may be refused, suspended or revoked include, but are not limited to:
- (1) Misuse of charitable assets.
 - (2) False or misleading statements and/or conduct in connection with a solicitation for charitable purposes, including any conduct in violation of sections 17510 through 17510.95 of the Business and Professions Code and section 12599.6 of the Government Code.
 - (3) False or misleading statements in a document required by law to be filed with a government agency, including the annual registration and renewal reports filed with the Attorney General and informational returns filed with the Internal Revenue Service and Franchise Tax Board. The omission of material information in response to a question in a document required by law to be filed with a government agency constitutes a false or misleading statement.
 - (4) Failure to comply with the Standards of Conduct for nonprofit corporations in sections 5230 through 5239 and 7230 through 7238 of the Corporations Code.
 - (5) Failure to prepare annual financial statements using generally accepted accounting principles that are audited by an independent certified public accountant in conformity with generally accepted auditing standards, as required by section 12586, subdivision (e), of the Government Code.
 - (6) Failure to produce records in response to a subpoena or written request from the Attorney General.
 - (7) An adverse action by a governmental entity related to the operation of charity or the conduct of a solicitation for charitable purposes, including misuse of charitable assets and unlawful or misleading conduct related to solicitation for charitable purposes.
 - (A) An adverse action by a governmental entity, includes but is not limited to, suspension, revocation or denial of registration, civil or criminal judgment, assessment of civil penalty, entry of assurance of voluntary compliance or enforceable settlement agreement, or an equivalent action regardless of its title.

(B) This includes any entity which has an officer, director, or key employee, or which is owned or operated by a person who was the subject of an action or who owned or operated such an entity, or was directly involved in such actions.

Note: Authority cited: Sections 11400 et seq. and 11500 et seq., 12581, 12584, 12585, 12586, 12587, 12598 Government Code; Reference: Sections 11425.10(a)(7), 11425.60, 11517, 11518.5, 11519, 12581, 12581.2, 12584, 12585, 12586, 12588, 12591, 12591.1, 12595, 12596, 12597, 12599, 12599.1, 12599.2, 12599.6 and 12599.7 Government Code; Sections 17510, 17510.2, 17510.25, 17510.3, 17510.4, 17510.5, 17510.8, 17510.85, 17510.9 Business and Professions Code; Sections 5142, 5230, 5231, 5232, 5233, 5235, 5236, 5237, 5238, 6215, 7231, 7233, 7236, 7237 and 7238 Corporations Code.

§ 999.9.1. Automatic Suspension

(a) A registration shall be automatically suspended if any of the following occur:

- (1) The organization's tax-exempt status is suspended or revoked by the Internal Revenue Service or Franchise Tax Board.
- (2) The registrant fails to file a complete Form RRF-1 for three consecutive years. The Form RRF-1 is not complete if it is not accompanied by the required attachments, renewal fee and the appropriate informational return filed with the Internal Revenue Service.
- (3) A corporation's corporate status is suspended or revoked by the California Secretary of State.
- (4) The registration of a commercial fundraiser for charitable purposes, fundraising counsel or commercial coventurer shall be automatically suspended if any of the following occur:
 - (A) Failure to file a completed annual registration form, including the payment of the required fees, on or before January 15;
 - (B) Failure of a commercial fundraiser to maintain a valid bond or cash deposit in the amount of \$25,000; or
 - (C) Failure to file completed annual financial reports on or before January 30.

- (b) A registrant must notify the Attorney General in writing within five days of any change in its tax-exempt status or corporate status.
- (c) A registration which has been continuously suspended for one year pursuant to this regulation shall be automatically revoked.
- (d) A registrant whose registration has been automatically suspended may appeal the suspension in the manner prescribed by section 999.6 et seq., however, the suspension shall remain in effect while the appeal is pending.
- (e) The registration of any person or entity that fails to timely pay a civil penalty shall be automatically suspended until the fine is paid and no registration shall be renewed until the fine is paid.

Note: Authority cited: Sections 11400 et seq. and 11500 et seq., 12581, 12584, 12585, 12586, 12587, 12598 Government Code. Reference Sections 12599, 12599.1, 12599.2, 12599.5 Government Code.

§ 999.9.2. Refusal to Renew Registration

- (a) The Registry of Charitable Trusts may refuse to renew the registration of any registrant which has:
 - (1) Failed to file a document with the Registry as required by law.
 - (2) Failed to pay fees or late fees.
 - (3) Failed to file a complete Form RRF-1 for three consecutive years. The Form RRF-1 is not complete if it is not accompanied by the required attachments, renewal fee and the appropriate informational return filed with the Internal Revenue Service.
 - (4) Been the subject of an adverse action by a governmental entity related to the operation of a charity or the conduct of a solicitation for charitable purposes, including misuse of charitable assets and unlawful or misleading conduct related to solicitation for charitable purposes.
 - (A) An adverse action by a governmental entity, includes but is not limited to, suspension, revocation or denial of registration, civil or criminal judgment, assessment of civil penalty, entry of assurance of voluntary compliance or enforceable settlement agreement, or an equivalent action regardless of its title.

(B) This includes any entity which has an officer, director, or key employee, or which is owned or operated by a person who was the subject of an action or who owned or operated such an entity, or was directly involved in such actions.

(b) Every registrant that is the subject of an adverse action by a governmental entity other than the California Attorney General must provide written notice to the Registry of Charitable Trust of the adverse action. The notice must be made within thirty (30) days of the action or prior to renewing the registration, whichever is sooner.

(c) A registrant whose renewal has been refused may appeal the refusal in the manner prescribed by section 999.6 et seq.

Note: Authority cited: Sections 11400 et seq. and 11500 et seq., 12581, 12584, 12585, 12586, 12587, 12598 Government Code. References Sections 12584, 12585, 12586, 12586.1, 12588, 12589, 12590, 12591 12599, 12599.1 and 12599.2

§ 999.9.3. Revocation

(a) Within 30 days of the revocation of a registration, the registrant shall provide an accounting of all charitable assets within its possession, custody or control for 180 days prior to the effective date of the order, unless the Registry of Charitable Trusts specifies a different period of time in the order. The Registry, in its discretion, may require the registrant to provide an accounting of all charitable assets received, held, or distributed by the registrant for a period of up to ten years before the effective date of the suspension or revocation.

(b) A registrant which has been suspended or revoked may not distribute or expend any charitable assets or assets subject to a charitable trust without the written approval of the Attorney General. Members of the board of directors or any person directly involved in distributing or expending charitable assets may be held personally liable in a civil action brought by the Attorney General for any charitable assets or assets subject to a charitable trust that are distributed or expended in violation of this regulation.

(c) The Attorney General may direct a registrant whose registration has been suspended or revoked to distribute some or all of its charitable assets or assets subject to a charitable trust to another charitable organization or into a blocked bank account.

Note: Authority cited: Sections 11400 et seq. and 11500 et seq., 12581, 12584, 12585, 12586, 12587, 12598, 12599, 12599.1, 12599.2 and 12599.7 Government Code. Reference: Sections 12596 Government Code.

§ 999.9.4. Registrant Must Be In Good Standing to Operate or Solicit

Any registrant whose registration is delinquent, suspended or revoked is prohibited from engaging in conduct for which registration is required, including but not limited to solicitation for charitable purposes.

Note: Authority cited: Sections 11400 et seq. and 11500 et seq., 12581, 12584, 12585, 12586, 12587, 12598, 12598(e), 12599, 12599.1 and 12599.2 Government Code. Reference: Sections 12585, 12586 and 12586.1 Government Code.

§ 999.9.5. Reinstatement

A revoked registrant may petition the Registrar of Charitable Trusts for reinstatement after the Order of Revocation has become final. The petition shall be in writing and must establish that registrant is entitled to the relief sought. If the Registrar, in his or her discretion, determines there is no threat to the public or to charitable assets, the Registrar may reinstate the registration upon proof of compliance with all of the terms and conditions, if applicable, set forth in the Order of Revocation. The Registrar may grant or deny the petition for reinstatement or may impose additional terms and conditions as deemed appropriate as a condition of reinstatement.

Note: Authority cited: Sections 11400 et seq. and 11500 et seq., 12581, 12584, 12585, 12586, 12587, 12598 Government Code. Reference: Section 11522 Government Code.