

TITLE 11. LAW
DIVISION 1. ATTORNEY GENERAL
CHAPTER 15. ATTORNEY GENERAL REGULATIONS REGARDING
ADMINISTRATIVE ENFORCEMENT OF THE SUPERVISION OF TRUSTEES AND
FUNDRAISERS FOR CHARITABLE PURPOSES ACT

§ 999.6. Violations of Government Code section 12580 et seq.

(a) The Attorney General may 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 or coventurer for reasons 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 penalty on any person or entity for reasons specified in section 12591.1, subdivision (c), of the Government Code.

(b) When an administrative action is taken, the Attorney General shall provide a written notice specifying the reasons for the action.

(c) An appeal of the Attorney General's administrative action must be filed within 30 calendar days of the date of the written notice or the right to appeal is waived and the notice becomes the final order of the Attorney General.

(1) The appeal must be in writing and must include: 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 to appear at the time and place of the hearing shall be deemed a withdrawal of the appeal, and the written notice of the administrative action 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 administrative action 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 for 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 sections 12598, subdivision (e) and 12591.1, subdivisions (b) and (c) of the Government Code and under these regulations to Department of Justice staff.

Note: Authority cited: Sections 12581, 12584, 12585, 12586, 12587 and 12598, Government Code; Reference: Sections 11400 et seq. and 11500 et seq., 12581, 12581.2, 12584, 12586, 12588, 12591, 12591.1, 12595, 12596, 12597, 12598(e), 12599, 12599.1, 12599.2, 12599.6, 12599.7 and 12599.8, Government Code; Sections 17510, 17510.2, 17510.25, 17510.3, 17510.4, 17510.5, 17510.8, 17510.85 and 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 an administrative 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: Sections 12581, 12584, 12585, 12586 and 12587, Government Code; Reference: Sections 11400 et seq. and 11500 et seq., 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 and 12599.8, Government Code; Sections 17510, 17510.2, 17510.25, 17510.3, 17510.4, 17510.5, 17510.8, 17510.85 and 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: Sections 12581, 12584, 12585, 12586, 12587 and 12598, Government Code; Reference: Sections 11400 et seq. and 11500 et seq., 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 and 12599.8, Government Code; Sections 17510, 17510.2, 17510.25, 17510.3, 17510.4, 17510.5, 17510.8, 17510.85 and 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.

The grounds for which a registration may be refused, suspended or revoked include, but are not limited to:

- (a) Misuse of charitable assets.
- (b) False or misleading statements and/or conduct in connection with a solicitation for charitable purposes, including any conduct in violation of section 17510 et seq. of the Business and Professions Code and section 12599.6 of the Government Code.
- (c) 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.

- (d) Failure to comply with the Standards of Conduct for nonprofit corporations in sections 5230 through 5239 and 7230 through 7238 of the Corporations Code.
- (e) 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.
- (f) Failure to produce records in response to a subpoena or written request from the Attorney General.
- (g) 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.
 - (1) 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 a fine, administrative or civil penalty, entry of assurance of voluntary compliance or enforceable settlement agreement or an equivalent action regardless of its title.
 - (2) This includes any entity that has an officer, director or key employee, or is owned or operated by a person who was the subject of an adverse action or who owned or operated such an entity or was directly involved in such actions.

Note: Authority cited: Sections 12581, 12584, 12585, 12586, 12587 and 12598, Government Code; Reference: Sections 11400 et seq. and 11500 et seq., 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 and 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 the periodic written reports required by California Code of Regulations, title 11, section 301, for three consecutive years.
 - (3) A corporation's corporate status is suspended or revoked by the California Secretary of State.
 - (4) Failure of a commercial fundraiser for charitable purposes to maintain a valid bond or cash deposit in the amount required by law.
 - (5) Failure of a commercial fundraiser for charitable purposes, fundraising counsel for charitable purposes or commercial coventurer to file a completed annual registration form, including the payment of the required fees, on or before January 15. This provision does not apply to a commercial coventurer that meets the exemption requirements of Government Code section 12599.2(b).
 - (6) Failure of a commercial fundraiser for charitable purposes or a commercial coventurer to file completed annual financial reports on or before January 30. This provision does not apply to a commercial coventurer that meets the exemption requirements of Government Code section 12599.2(b).
- (b) Prior to suspending the registration, the Attorney General shall mail a notice to the registrant. The notice shall identify the reason for the suspension and shall provide information to the registrant about what is needed to resolve the suspension. If the Attorney General does not receive the information needed to resolve the suspension within 30 days of the issuance of the notice, the registration is suspended.
- (c) A registrant must notify the Attorney General in writing within 10 days of any change in its tax-exempt status or corporate status.
- (d) A registration that has been continuously suspended for one year pursuant to this regulation shall be automatically revoked.

- (e) 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.
- (f) The registration of any person or entity that fails to timely pay a penalty shall be automatically suspended until the fine is paid and no registration shall be renewed until the fine is paid.
- (g) The Attorney General may stay or set aside, in writing, the suspension order and may require the registrant to comply with specific terms and conditions to stay or set aside the suspension order.
- (h) The suspension will remain in effect until the Attorney General notifies the organization in writing that the suspension has been set aside.

Note: Authority cited: Sections 12581, 12584, 12585, 12586, 12587, 12597 and 12598, Government Code. Reference: Sections 11400 et seq. and 11500 et seq., 12599, 12599.1, 12599.2 and 12599.5, Government Code; Sections 2205, 5008.6, 6810, 8810 and 6910, Corporations Code; Section 23775, Revenue and Taxation Code.

§ 999.9.2. Refusal to Renew Registration.

- (a) The Attorney General may refuse to renew the registration of any registrant that has:
 - (1) Failed to file a document with the Attorney General as required by law.
 - (2) Failed to pay fees or late fees.
 - (3) Failed to file the periodic written reports required by California Code of Regulations, title 11, section 301.
 - (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 a fine, administrative or 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 that has an officer, director, or key employee, or which is owned or operated by a person who was the subject of an adverse 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 Attorney General of the adverse action. The notice must be made within 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 12581, 12584, 12585, 12586, 12587 and 12598, Government Code. Reference: Sections 11400 et seq. and 11500 et seq., 12584, 12585, 12586, 12586.1, 12588, 12589, 12590, 12591, 12599, 12599.1 and 12599.2, Government Code.

§ 999.9.3. Disclosure and Restrictions on Use of Charitable Assets After Suspension or Revocation of Registration.

- (a) Within 30 days of the revocation of a registration, the registrant shall provide an accounting of all charitable assets within the registrant's possession, custody or control for 180 days prior to the effective date of the order, unless the Attorney General specifies a different period of time in the order. The Attorney General 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 10 years before the effective date of the suspension or revocation.
- (b) A registrant that 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 12581, 12584, 12585, 12586, 12587, 12598, 12599, 12599.1, 12599.2 and 12599.7, Government Code. Reference: Sections 11400 et seq. and 11500 et seq., and 12596, Government Code.

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

A person or entity subject to the registration requirements of Government Code section 12580 et seq., must be registered and in good standing with the Registry of Charitable Trusts to operate or solicit for charitable purposes. A registration that is delinquent, suspended or revoked is not in good standing and is prohibited from engaging in conduct for which registration is required including, but not limited to solicitation for charitable purposes.

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

§ 999.9.5. Reinstatement.

A revoked registrant may petition the Attorney General for reinstatement after the Order of Revocation has become final. The petition shall be in writing and must establish that the petitioner is entitled to the relief sought. If the Attorney General, in his/her discretion, determines there is no threat to the public or to charitable assets, the Attorney General may grant or deny the petition for reinstatement. The Attorney General may impose terms and conditions as a condition of reinstatement.

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