

CHAPTER 48

CHARITABLE FUND RAISING

Authority

N.J.S.A. 45:17A-18 et seq., specifically 45:17A-21b.

Source and Effective Date

R.2011 d.061, effective January 25, 2011.
See: 42 N.J.R. 1676(a), 43 N.J.R. 439(a).

Chapter Expiration Date

Chapter 48, Charitable Fund Raising, expires on January 25, 2016.

Chapter Historical Note

Chapter 48, Charitable Fund Raising, was adopted as R.1979 d.311, effective August 13, 1979. See: 11 N.J.R. 257(a), 11 N.J.R. 466(a). Pursuant to Executive Order No. 66(1978), Chapter 48 expired on August 13, 1984. New fund raising rules were adopted as R.1985 d.698 effective January 21, 1986. See: 17 N.J.R. 1244(a), 18 N.J.R. 205(b).

Pursuant to Executive Order No. 66(1978), Chapter 48 was readopted as R.1991 d.64, effective January 17, 1991. See: 22 N.J.R. 3108(b), 23 N.J.R. 608(b).

Chapter 48 was repealed and new Chapter 48, Charitable Fund Raising was adopted as R.1994 d.494, effective September 19, 1994. See: 26 N.J.R. 2746(a), 26 N.J.R. 3882(a).

Pursuant to Executive Order No. 66(1978), Chapter 48, Charitable Fund Raising, was readopted as R.1999 d.339, effective September 9, 1999. See: 31 N.J.R. 1899(a), 31 N.J.R. 2892(a).

Subchapters 4 through 15 were adopted as new rules by R.1999 d.385, effective November 15, 1999. See: 30 N.J.R. 4115(a), 31 N.J.R. 3751(b).

Chapter 48, Charitable Fund Raising, was readopted as R.2005 d.70, effective January 21, 2005. See: 36 N.J.R. 4370(a), 37 N.J.R. 618(a).

Pursuant to Executive Order No. 1(2010), the chapter expiration date was extended from January 21, 2010 until the completion of the review of administrative regulations and rules by the Red Tape Review Group, and until such time as the extended regulation or rule was readopted pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. See: 42 N.J.R. 1676(a).

Chapter 48, Charitable Fund Raising, was readopted as R.2011 d.061, effective January 25, 2011. As a part of R.2011 d.061, Subchapter 6, Registration of Charitable Organizations—Registration of Local Units By Parent Organizations, was renamed Registration of Local Units By Parent Organizations, effective February 22, 2011. See: Source and Effective Date. See, also, section annotations.

CHAPTER TABLE OF CONTENTS

SUBCHAPTER 1. GENERAL PROVISIONS

- 13:48-1.1 Director
- 13:48-1.2 Applicability
- 13:48-1.3 Definitions
- 13:48-1.4 Address for all matters related to registration

SUBCHAPTER 2. FEES

- 13:48-2.1 Fee schedule

SUBCHAPTER 3. GENERAL REQUIREMENTS

- 13:48-3.1 Registration; registration number
- 13:48-3.2 When registration deemed accepted; failure to satisfy registration requirements; notice and hearing

- 13:48-3.3 Organizations exempt from registration
- 13:48-3.4 Extensions of time for annual filing of the renewal statement and financial report
- 13:48-3.5 Forms
- 13:48-3.6 Notification of change of address; service of process

SUBCHAPTER 4. REGISTRATION OF CHARITABLE ORGANIZATIONS—SHORT FORM REGISTRATION

- 13:48-4.1 Short form registration
- 13:48-4.2 Short form renewal
- 13:48-4.3 Financial reports

SUBCHAPTER 5. REGISTRATION OF CHARITABLE ORGANIZATIONS—LONG FORM REGISTRATION

- 13:48-5.1 Long form registration
- 13:48-5.2 Long form renewal
- 13:48-5.3 Financial reports; audits

SUBCHAPTER 6. REGISTRATION OF LOCAL UNITS BY PARENT ORGANIZATIONS

- 13:48-6.1 Registration of local units by parent organizations

SUBCHAPTER 7. REGISTRATION OF FUND RAISING COUNSEL AND INDEPENDENT PAID FUND RAISER

- 13:48-7.1 General requirements
- 13:48-7.2 Bond requirements for fund raising counsel and independent paid fund raisers
- 13:48-7.3 Requirements for effective registration of fund raising counsel and independent paid fund raisers; failure to comply

SUBCHAPTER 8. REGISTRATION OF SOLICITORS

- 13:48-8.1 General requirements

SUBCHAPTER 9. CONTRACTS; CHARITABLE SALES PROMOTIONS REPORTS

- 13:48-9.1 Contract, service agreement and report requirements for fund raising counsel and independent paid fund raiser
- 13:48-9.2 Contracts with commercial co-venturers; sales promotion report
- 13:48-9.3 Contract, service agreement and report requirements for contracts between fund raising counsel or independent paid fund raiser and any other fund raising counsel or independent paid fund raiser
- 13:48-9.4 Failure to satisfy contract requirements; notice and hearing

SUBCHAPTER 10. RECORDKEEPING REQUIREMENTS

- 13:48-10.1 General requirements
- 13:48-10.2 Records of fund raising counsel and independent paid fund raiser

SUBCHAPTER 11. FUND RAISING PRACTICES

- 13:48-11.1 Fund raising counsel and independent paid fund raiser; deposit of funds
- 13:48-11.2 Disclosures to the public; solicitations; receipts and confirmations; notice
- 13:48-11.3 Disclosures to the public; canisters; honor boxes; public vending machines

SUBCHAPTER 12. STANDARDS AND SUPERVISION

- 13:48-12.1 Charitable organization's responsibility for fund-raising activities
- 13:48-12.2 Duty to cooperate in investigative inquiries

SUBCHAPTER 13. VIOLATIONS

- 13:48-13.1 Unregistered practice
- 13:48-13.2 Unlawful acts and practices; misconduct
- 13:48-13.3 Grounds for denial, suspension or revocation of any registration

SUBCHAPTER 14. PENALTIES

- 13:48-14.1 Civil penalties; alternative remedies
- 13:48-14.2 Private actions
- 13:48-14.3 Accountability of parent organization and local unit

SUBCHAPTER 15. CRIMINAL LAW ENFORCEMENT ORGANIZATIONS

- 13:48-15.1 Organizations of law enforcement officers

SUBCHAPTER 1. GENERAL PROVISIONS

13:48-1.1 Director

The Director of the Division of Consumer Affairs shall be the person charged with the administration and enforcement of the Charitable Registration and Investigation Act, N.J.S.A. 45:17A-18 et seq.

Amended by R.2011 d.061, effective February 22, 2011.
See: 42 N.J.R. 1676(a), 43 N.J.R. 439(a).

Deleted designation (a); and substituted "N.J.S.A. 45:17A-18 et seq" for "P.L. 1994, c.16".

Case Notes

The Charities Registration and Investigation Section of the Division of Consumer Affairs is entrusted with the administration and enforcement of the Charitable Fund Raising Act of 1971. *Degnan v. Nordmark & Hood Presentations, Inc.*, 177 N.J.Super. 186, 425 A.2d 1091 (App.Div.1981) appeal dismissed 87 N.J. 427, 434 A.2d 1098.

13:48-1.2 Applicability

(a) These rules shall govern the registration and charitable fund raising activities of charitable organizations, federated fund raising organizations, professional fund raisers, solicitors and commercial co-venturers, pursuant to the Act.

(b) These rules shall apply to any person engaging within this State in any of the activities regulated by the Act, including persons whose principal place of business is located outside this State.

(c) Upon initial request by a potential registrant, or as the result of independent information received by the Attorney General, a determination form, to determine the applicability of the Act, will be supplied. There is no fee for this form, which may be requested by telephone, facsimile, letter sent to the address set forth in N.J.A.C. 13:48-1.4 or by e-mail sent to AskConsumerAffairs@dca.lps.state.nj.us.

Amended by R.2011 d.061, effective February 22, 2011.
See: 42 N.J.R. 1676(a), 43 N.J.R. 439(a).

In (a), deleted a comma following "solicitors", and substituted "Act" for "Charitable Registration and Investigation Act of 1994"; and in (c), deleted "or" preceding "letter", and inserted "or by e-mail sent to AskConsumerAffairs@dca.lps.state.nj.us".

Case Notes

Contract whereby defendants agreed to put on a circus for a registered charity for costs plus 50 percent of profits fell within the statutory proscription in that it involved use of an unrequested professional fundraiser and provided for compensation beyond amount permitted by statute; Appellate Division of Superior Court has exclusive review of administrative decisions. *Degnan v. Nordmark & Hood Presentations, Inc.*, 177 N.J.Super. 186, 425 A.2d 1091 (App.Div.1981) appeal dismissed 87 N.J. 427, 434 A.2d 1098.

13:48-1.3 Definitions

The following words and terms, when used in this chapter, shall have the following meanings:

"Act" means the Charitable Registration and Investigation Act N.J.S.A. 45:17A-18 et seq.

"Address" means the principal street address where a person or organization is most reasonably likely to receive actual notice of a mailing.

"Attorney General" means the Attorney General of the State of New Jersey or, as applicable, the Attorney General's designee, the Director of the Division of Consumer Affairs.

"Caging agent" means the person, firm or company responsible for retrieving responses to solicitations from a return post office box, processing contributions and reporting the amount of contributions and non-contributions from the responses.

"Campaign" means an operation or plan organized to solicit a contribution to further a charitable organization's stated or implied purpose.

"Certified public accountant" includes an individual licensed by the New Jersey Board of Accountancy to practice as a certified public accountant or its equivalent in another jurisdiction; an individual licensed as a public accountant by the New Jersey Board of Accountancy to practice as a public accountant or its equivalent in another jurisdiction; or an individual licensed to practice as a registered municipal accountant by the New Jersey Board of Accountancy.

"Charitable organization" means:

1. Any person determined by the Federal Internal Revenue Service to be a tax-exempt organization pursuant to section 501(c)(3) of the Internal Revenue Code of 1986, 26 U.S.C. § 501(c)(3); or

2. Any person who is, or holds himself or herself out to be, established for any benevolent, philanthropic, humane, social welfare, public health, or other eleemosynary purpose, or for the benefit of law enforcement personnel, firefighters or other persons who protect the public safety, or any person who in any manner employs a charitable appeal as the basis of any solicitation, or an appeal which has a tendency to suggest there is a charitable purpose to any such solicitation.

"Charitable purpose" means:

1. Any purpose described in section 501(c)(3), of the Internal Revenue Code of 1986, 26 U.S.C. § 501(c)(3); or

2. Any benevolent, philanthropic, humane, social welfare, public health, or other eleemosynary objective, or an objective that benefits law enforcement personnel, firefighters, or other persons who protect the public safety.

"Charitable sales promotion" means an advertising or sales campaign, conducted by a commercial co-venturer, which represents that the purchase or use of goods or services offered by the commercial co-venturer will benefit a charitable organization or purpose.

"Commercial co-venturer" means any person, including, but not limited to, any assignee, subcontractor, independent contractor or successor in interest who, for profit or other consideration, is regularly and primarily engaged in trade or commerce other than in connection with the raising of funds or any other thing of value for a charitable organization, and who advertises that the purchase or use of his or her goods, services, entertainment or any other thing of value will benefit a charitable organization.

"Commission on Higher Education" means the agency created by N.J.S.A. 18A:3B-13.

"Contract" means an agreement between two or more parties and includes, but is not limited to, initial contracts, extensions, renewals and amendments.

"Contribution" means the conveyance, promise or pledge of money, credit, property, financial assistance or other thing of any kind or value in response to a solicitation. "Contribution" does not include any of the following: bona fide fees, dues or assessments paid by members provided that membership is not conferred solely as consideration for making a contribution in response to a solicitation; monies received pursuant to a governmental grant or contract; or personal services rendered by a volunteer.

"Custody, control, possession or access" means that a person has responsibility for the collection, distribution, protection or preservation of a charitable organization's money or other thing of value; or that a person has the power or authority to manage, direct, restrict, administer or oversee a charitable organization's money or other thing of value; or that a person has the power, authority, opportunity or right to make use of a charitable organization's money or other thing of value. By way of example, but not by limitation, the following demonstrate custody, control or possession of, or access to, a charitable organization's money or other thing of value:

1. A fund raising counsel or independent paid fund raiser has an agreement with an escrow, lock box or caging agent concerning a charitable organization's money or other thing of value;

2. A fund raising counsel or independent paid fund raiser has access to or the right to direct the use of a charitable organization's money in any financial or bank account;

3. A fund raising counsel or independent paid fund raiser has the authority or the opportunity to direct the manner in which collected contributions are handled, disbursed, transferred or deposited;

4. A fund raising counsel or independent paid fund raiser receives or retrieves responses to a solicitation from a post office box;

5. A fund raising counsel or independent paid fund raiser has access to debit or credit card information in response to a solicitation; or

6. A fund raising counsel or independent paid fund raiser accepts donations of goods and in kind, including vehicles, on behalf of the charity.

"Department of Education" means the Department of Education of the State of New Jersey.

"Division" means the Division of Consumer Affairs within the Department of Law and Public Safety.

"Escrow agent" means the person, firm or company responsible for operating any escrow or other account into which monies are deposited and for distributing those monies.

"Event" means a planned happening, occurrence, activity or social occasion.

"Federated fund raising organization" means a federation of independent charitable organizations which have voluntarily joined together for purposes of raising and distributing money.

"Fund raising counsel" means any person, including any assignee, subcontractor, independent contractor or any other successor in interest, who is retained by a charitable organization for a fixed fee or rate to plan, manage, advise, consult or prepare material for or with respect to the solicitation in this State of contributions for a charitable organization, but who does not solicit contributions or employ, procure or engage any compensated person to solicit contributions. "Fund raising counsel" does not include a bona fide salaried officer, employee or volunteer of a charitable organization or an attorney, accountant or banker who renders professional services to a charitable organization or advises a person to make a charitable contribution during the course of rendering professional services to that person.

"Government grant" means:

1. Any amounts received from a governmental unit, including donations or contributions and amounts received in connection with a contract entered into with a governmental unit for the performance of services or in connection with a government research grant;

2. Tax revenues levied for the organization's benefit and either paid to or expended on its behalf;

3. The value of services or facilities furnished by a governmental unit to the organization without charge.

"Gross contributions" means the total amount of contributions received nationwide by a charitable organization before any deductions for expenses of collection or for overhead or for compensation for any services such as the services provided by a fund raising counsel or an independent paid fund raiser.

"Gross receipts" means the total amount, without deductions, of cash or other assets received, including, but not limited to, all contributions.

"Gross revenue" means the total amount of revenue, without deductions, of cash or other assets received including, but not limited to, all contributions, government grants, program service revenue, membership dues, performance fees, interest and dividends, pledges, rents, and other support. "Gross revenue" does not include items purchased by other entities for the use of the charitable organization where ownership of the item is retained by the original purchaser. For the purpose of determining if an audit is required, "gross revenue" does not include one-time bequests, fund raising campaigns for capital property in a single fiscal year or the value of services performed by volunteers and does include pledges when and to the extent recognized under the basis of accounting used by the organization.

"Honor box" means a container in which a person places a contribution and selects a piece of gum, candy or token gift such as a toy or magnet.

"Independent paid fund raiser" means any person, including any assignee, subcontractor, independent contractor or any successor in interest, who for compensation performs for, or on behalf of, a charitable organization any service in connection with which contributions are, or will be solicited in this State by that compensated person or by any compensated person he or she employs, procures or engages, directly or indirectly, to solicit contributions. "Independent paid fund raiser" does not include a bona fide salaried officer, employee or volunteer of a charitable organization or an attorney, accountant or banker who advises a person to make a charitable contribution during the course of rendering professional services to that person.

"Local unit" means a charitable organization that is affiliated with a parent organization under terms specified in the parent organization's charter, articles of organization, agreement of association, instrument of trust, constitution or other organizational instrument or bylaws.

"Membership" means a relationship which entitles a person to the privileges, professional standing, honors or other direct benefit of the organization and either the right to vote or elect officers, or hold office in the organization. "Membership"

does not include any relationship granted solely upon making a contribution as a result of a solicitation.

"Parent organization" means a charitable organization which charters or affiliates local units under terms specified in the charitable organization's charter, articles of organization, agreement of association, instrument of trust, constitution or other organizational instrument or bylaws.

"Person" means an individual, corporation, association, partnership, trust, foundation or any other entity, however established within or without this State.

"Professional fund raisers" means both independent paid fund raisers and fund raising counsel.

"Registrant" means any person who has filed a registration statement with the Attorney General required by the Act.

"Registration statement" means an initial registration, renewal, financial report, or any other document or report required pursuant to N.J.S.A. 45:17A-23 through 28 to be filed with the Attorney General.

"Solicitation" or "solicit" means the request, directly or indirectly, for money, credit, property, financial assistance or other thing of any kind or value, which will be used for a charitable purpose or to benefit a charitable organization. A solicitation takes place whether or not the person making the solicitation receives any contribution, except that a charitable organization's use of its own name in any communication is not alone sufficient to constitute a solicitation. "Solicitation" includes, but is not limited to, the following methods of requesting or securing money, credit, property, financial assistance or other thing of value:

1. Any oral or written request;
2. The making of any announcement in the press, over the radio or television, by telephone, through the mail or any other media concerning an appeal or campaign by or for any charitable organization or purpose;
3. The distribution, circulation, posting or publishing of any handbill, written advertisement or other publication which directly or by implication seeks to obtain a contribution;
4. The offer of, attempt to sell, or sale of any advertising space, book, card, tag, coupon, device, magazine, membership, merchandise, subscription, flower, ticket, candy, cookies or other tangible item in connection with which any appeal is made for any charitable organization or purpose, or where the name of any charitable organization is used or referred to in any appeal as an inducement or reason for making any sale, or where any statement is made that the whole or any part of the proceeds from the sale will be used for any charitable purpose or benefit any charitable organization; and

5. The use of or employment of canisters, cards, receptacles or similar devices for the collection of money or other thing of value in connection with which any appeal is made for any charitable organization or purpose.

"Solicitor" means any individual who attempts to solicit or solicits contributions, for compensation. A bona fide salaried officer, employee or volunteer of a charitable organization shall not be deemed a solicitor.

Amended by R.1999 d.385, effective November 15, 1999.
See: 30 N.J.R. 4115(a), 31 N.J.R. 3751(b).

Rewrote the section.

Amended by R.2006 d.432, effective December 18, 2006.
See: 38 N.J.R. 2632(a), 38 N.J.R. 5393(a).

In definition "Gross revenue" inserted "and does include pledges when and to the extent recognized under the basis of accounting used by the organization".

Amended by R.2011 d.061, effective February 22, 2011.
See: 42 N.J.R. 1676(a), 43 N.J.R. 439(a).

In definition "Act", substituted "N.J.S.A. 45:17A-18 et seq" for "of 1994, P.L. 1994, c.16"; in definition "Caging agent", substituted "processing contributions" for "depositing any monies received", in definition "Commercial co-venturer", inserted "including, but not limited to, any assignee, subcontractor, independent contractor or successor in interest", a comma following the first occurrence of "who" and "or her" following "his"; substituted definition "Custody, control, possession or access" for definition "Custody, control or access"; rewrote definitions "Custody, control, possession or access" and "Solicitor"; added definition "Department of Education"; in definition "Escrow agent", deleted "all" following "which"; in definition "Fund raising counsel", inserted ", independent contractor" and deleted a comma following "employee"; in definition "Independent paid fund raiser", inserted ", independent contractor", ", or on behalf of," "or she" and a comma following "indirectly", and deleted a comma following "procures" and "employee"; in definition "Local unit", substituted "bylaws" for "by-laws"; deleted definition "Secretary of State"; and in the introductory paragraph of definition "Solicitation", deleted a comma following the first occurrence of "assistance", inserted a comma following the first occurrence of "value", and inserted the first occurrence of "to".

13:48-1.4 Address for all matters related to registration

All matters related to registration should be communicated to:

Division of Consumer Affairs
Office of the Attorney General
Charities Registration Section
PO Box 45021
Newark, N.J. 07101

Amended by R.1999 d.385, effective November 15, 1999.
See: 30 N.J.R. 4115(a), 31 N.J.R. 3751(b).

Changed addressee, and deleted telephone and fax numbers.

SUBCHAPTER 2. FEES

13:48-2.1 Fee schedule

(a) The following fees shall be charged by the Division for registration of charitable organizations (which includes for purposes of this subchapter, federated fund raising organiza-

tions), fund raising counsel, independent paid fund raisers and solicitors, and for filing of contracts and other documents:

1. A charitable organization, that is exempt from the registration requirements of the Act, but pursuant to N.J.A.C. 13:48-3.3(a)7 elects to register by filing a short form registration statement shall pay an annual registration fee of \$30.00. A late fee of \$25.00 shall be incurred by any organization that elects to file a registration statement but fails to submit the complete annual registration filing within 30 days of the annual filing deadline.

2. A charitable organization that is required under the Act to file a short form registration statement shall pay an annual registration fee of \$30.00 with the annual filing, unless a filing extension was granted pursuant to N.J.A.C. 13:48-3.4. A late fee of \$25.00 shall be incurred by any organization that fails to submit a complete annual registration filing along with the applicable annual registration fee within 30 days of the annual filing deadline.

3. A charitable organization that is required under the Act to file a long form registration statement and received gross contributions of not more than \$100,000 during the most recently filed fiscal year of the organization, shall pay an annual registration fee of \$60.00 with the annual filing unless a filing extension was granted pursuant to N.J.A.C. 13:48-3.4. A late fee of \$25.00 shall be incurred by any organization that fails to submit a complete annual registration filing along with the applicable annual registration fee within 30 days of the annual filing deadline.

4. A charitable organization that is required under the Act to file a long form registration statement and received gross contributions of more than \$100,000 but not more than \$500,000 during the most recently filed fiscal year of the organization shall pay an annual registration fee of \$150.00 with the annual filing unless a filing extension was granted pursuant to N.J.A.C. 13:48-3.4. A late fee of \$25.00 shall be incurred by any organization that fails to submit a complete annual registration filing along with the applicable annual registration fee within 30 days of the annual filing deadline.

5. A charitable organization that is required under the Act to file a long form registration statement and received gross contributions of more than \$500,000 during the most recently filed fiscal year of the organization, shall pay an annual registration fee of \$250.00 with the annual filing unless a filing extension was granted pursuant to N.J.A.C. 13:48-3.4. A late fee of \$25.00 shall be incurred by any organization that fails to submit a complete annual registration filing along with the applicable annual registration fee within 30 days of the annual filing deadline.

6. A parent organization that registers local units in accordance with the Act shall pay its own fee and an additional fee of \$10.00 for each local unit.

7. All fund raising counsel and independent paid fund raisers shall pay an annual registration fee of \$250.00, payable upon initial registration and on July 1 of each renewal year thereafter. A partnership or corporation that offers either fund raising counsel or independent paid fund raiser services, or both types of services, shall pay a single annual registration fee, payable upon initial registration and on July 1 of each renewal year thereafter. Any fund raising counsel or independent paid fund raiser that fails to submit a complete annual registration filing along with the applicable annual registration fee within 30 days of July 1 shall pay a late fee of \$25.00.

8. In addition to the registration fee paid by independent paid fund raisers under (a)7 above, an independent paid fund raiser shall pay a registration fee of \$15.00 for each solicitor it registers pursuant to N.J.A.C. 13:48-8.1 upon initial registration and on July 1 of each renewal year thereafter. Upon renewal of registration, failure to submit a complete annual registration filing along with the applicable fee within 30 calendar days of July 1 shall result in a late fee of \$25.00.

9. The fee for filing a contract, or for the renewal or the extension thereof, defined for purposes of this subsection as any written agreement between a charitable organization and a fund raising counsel, independent paid fund raiser or commercial co-venturer, shall be \$30.00 and shall be paid at least 10 days prior to commencement of any solicitation activity in the State set forth in that contract.

10. The fee for filing a contract, or for the renewal or the extension thereof, defined for purposes of this paragraph as any written agreement between fund raising counsel or independent paid fund raiser and any other fund raising counsel or independent paid fund raiser shall be \$30.00 and shall be paid at least 10 days prior to the commencement of any solicitation activity in the State as set forth in that contract.

11. The fee for filing a final report, required to be filed by the charitable organization under N.J.S.A. 45:17A-29b at the conclusion of a charitable sales promotion conducted by a commercial co-venturer on behalf of a charitable organization, shall be \$10.00.

12. The fee for filing a financial report required to be filed by a fund raising counsel or independent paid fund raiser under N.J.S.A. 45:17A-27g(3) for a solicitation campaign, shall be \$10.00.

13. The fee for filing a written commitment, required to be filed by a fund raising counsel or independent paid fund raiser under N.J.S.A. 45:17A-32e(1), confirming a charitable organization's acceptance of donated tickets to an event, shall be \$10.00.

14. The fee for filing a 10-day notice, required to be filed under N.J.S.A. 45:17A-30d(1) by a law officers' organization to provide notice of any campaign involving multiple solicitations, shall be \$10.00.

15. The fees for photocopies of any public record maintained pursuant to the Act shall be in accordance with the "Open Public Records Act," N.J.S.A. 47:1A-1 et seq.

(b) Where the fee imposed is based upon the gross contributions received during the most recently filed fiscal year, and a charitable organization failed to make a required filing which reports gross contributions, the fee shall be based upon the gross contributions received in the prior fiscal year.

(c) A late fee shall be deemed a primary, but not exclusive, remedy for any registration statement or other document which is not filed in a timely fashion. Any failure to file in a timely fashion is a violation of the Act and may be enforced accordingly.

(d) All fee payments shall be in the form of a check or money order made out to "The N.J. Division of Consumer Affairs," and sent to:

Division of Consumer Affairs
Charities Registration Section
PO Box 45021
Newark, NJ 07101

Amended by R.1999 d.385, effective November 15, 1999.

See: 30 N.J.R. 4115(a), 31 N.J.R. 3751(b).

In (a)9, inserted "or for the renewal or the extension thereof," following "contract", inserted "shall be \$30.00 and shall be paid" following "co-venturer", and deleted ", shall be \$30.00" at the end; and in (d), substituted a reference to the Charities Registration Section for a reference to the Regulated Business Section.

Amended by R.2005 d.70, effective February 22, 2005.

See: 36 N.J.R. 4370(a), 37 N.J.R. 618(a).

In (a), substituted "submit a complete annual registration filing" for "submit the annual filing" in 1, substituted "submit a complete annual registration filing along with the applicable" for "pay any" and "pay the" in 2 through 5 and 7 and 8 respectively, and rewrote 14.

Amended by R.2006 d.432, effective December 18, 2006.

See: 38 N.J.R. 2632(a), 38 N.J.R. 5393(a).

Rewrote (a)1; in (a)2, (a)3, (a)4 and (a)5, updated the N.J.A.C. references and substituted "that" for "which" and "which" throughout.

Amended by R.2011 d.061, effective February 22, 2011.

See: 42 N.J.R. 1676(a), 43 N.J.R. 439(a).

Rewrote the introductory paragraph of (a) and (a)7 and (a)8; in (a)1, substituted ", but" for the first occurrence of "and", "may nevertheless" for the first occurrence of "elects to" and "shall pay" for "and paying"; in (a)2, (a)3, (a)4 and (a)5, deleted "a year" preceding "with the annual"; in (a)2, inserted a comma following the first occurrence of "filing"; in (a)3, (a)4 and (a)5, deleted "that" preceding "received"; added new (a)10; recodified former (a)10 through (a)14 as (a)11 through (a)15; in (a)11, substituted "N.J.S.A. 45:17A-29b" for "Section 12b of the Act"; in (a)12, substituted "N.J.S.A. 45:17A-27g(3)" for "Section 10g(3) of the Act"; in (a)13, substituted "N.J.S.A. 45:17A-32e(1)" for "Section 15e(1) of the Act"; and in (a)14, substituted "10-day" for "10 day" and "under N.J.S.A. 45:17A-30d(1)" for "by Section 13d(1) of the Act".

SUBCHAPTER 3. GENERAL REQUIREMENTS

13:48-3.1 Registration; registration number

(a) A charitable organization, fund raising counsel, independent paid fund raiser or solicitor shall not solicit or counsel solicitation of a resident of this State for a contri-

bution before the Attorney General has been given the opportunity to review the registration statement filed with the Attorney General, unless the Attorney General has determined that the person or organization is exempt from registration after having reviewed the request for an exemption determination filed pursuant to N.J.A.C. 13:48-3.3(b).

(b) A charitable organization shall meet the filing requirements of N.J.A.C. 13:48-4 or 5.

(c) A fund raising counsel shall meet the filing requirements of N.J.A.C. 13:48-7.

(d) An independent paid fund raiser shall meet the filing requirements of N.J.A.C. 13:48-7.

(e) A solicitor shall meet the filing requirements of N.J.A.C. 13:48-8.

(f) A charitable organization shall maintain its registration by filing a renewal statement annually within six months after the close of the charitable organization's fiscal year.

(g) Each registration number issued by the Attorney General remains the property of the State of New Jersey. If the registration of a charitable organization, fund raising counsel, independent paid fund raiser or solicitor lapses for failure to renew or is suspended or revoked, the former registrant shall immediately cease and desist from using the registration number.

New Rule, R.1999 d.385, effective November 15, 1999.
See: 30 N.J.R. 4115(a), 31 N.J.R. 3751(b).

Former N.J.A.C. 13:48-3.1, Extensions of time for annual filing of the renewal statement and financial report, recodified to N.J.A.C. 13:48-3.4. Amended by R.2006 d.432, effective December 18, 2006.
See: 38 N.J.R. 2632(a), 38 N.J.R. 5393(a).

Section was "Registration". Added (g).

13:48-3.2 When registration deemed accepted; failure to satisfy registration requirements; notice and hearing

(a) If the Attorney General determines that the registration requirements established by the Act or these rules are not satisfied, the Attorney General shall notify the filing party or registrant in writing within 10 business days of receipt of the registration. If notification is not sent by the Attorney General within 10 business days to a filing party or registrant, the registration shall be deemed accepted.

(b) Upon receipt of notification that the requirements have not been satisfied, the charitable organization, fund raising counsel, independent paid fund raiser, or solicitor, has 10 business days in which to satisfy the requirements or request a hearing pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq.

(c) If the Attorney General determines that the registration requirements of this Act or these rules have not been satisfied and the person or organization does not request a hearing as set forth in (b) above, the registration application shall be

denied. This does not prohibit the person or organization from registering at a future date.

(d) Acceptance of a registration shall not foreclose the Attorney General from denying an application, enforcing the registration or contract requirements of the Act or taking other appropriate action.

New Rule, R.1999 d.385, effective November 15, 1999.
See: 30 N.J.R. 4115(a), 31 N.J.R. 3751(b).
Amended by R.2011 d.061, effective February 22, 2011.
See: 42 N.J.R. 1676(a), 43 N.J.R. 439(a).
Rewrote (d).

13:48-3.3 Organizations exempt from registration

(a) The registration requirements of these rules shall not apply to:

1. Any religious corporation, trust, foundation, association or organization incorporated under the provisions of Title 15 or 16 of the Revised Statutes or Title 15A of the New Jersey Statutes or established for religious purposes;
2. Any agency or organization incorporated or established for charitable purposes and engaged in effectuating one or more charitable purposes, which is affiliated with, operated by or supervised or controlled by a corporation, trust, foundation, association, or organization incorporated or established for religious purposes, or any other religious agency or organization;
3. Any educational institution, the curricula of which in whole or in part are registered or approved by the Department of Education or the New Jersey Commission on Higher Education, either directly or by acceptance of accreditation by an accrediting body recognized by these agencies;
4. An educational institution confining its solicitation to its student body, alumni, faculty and trustees, and their families;
5. A library registered by the Department of Education, provided that the annual financial report of that library shall be filed with the Department of Education, where it shall be open for public inspection;
6. A local unit registered by a parent organization in accordance with N.J.A.C. 13:48-6; or
7. A charitable organization engaged in charitable fund raising that did not receive gross contributions in excess of \$10,000 during its most recent fiscal year, if all of its functions, including fund raising activities, are carried on by persons who are not compensated for soliciting contributions. But a charitable organization not otherwise required to register under this paragraph that receives gross contributions in excess of \$10,000 during a fiscal year whether or not the money is actually received during that fiscal year shall register with the Attorney General as required by N.J.A.C. 13:48-3.1 within 30 days after the date on which gross contributions exceed \$10,000. A chari-

table organization that is exempt from the requirement to register pursuant to this paragraph may nevertheless elect to register by filing a short form registration statement.

(b) Nothing in this section shall preclude the Attorney General from requiring an entity or organization claiming an exemption from registration to demonstrate that it meets the requirements of (a) above or from taking other appropriate action.

New Rule, R.1999 d.385, effective November 15, 1999.

See: 30 N.J.R. 4115(a), 31 N.J.R. 3751(b).

Amended by R.2006 d.432, effective December 18, 2006.

See: 38 N.J.R. 2632(a), 38 N.J.R. 5393(a).

In (a)5, deleted "or" at the end; in (a)6, substituted "; or" for the period at the end; and added (a)7.

Amended by R.2011 d.061, effective February 22, 2011.

See: 42 N.J.R. 1676(a), 43 N.J.R. 439(a).

In (a)3, deleted "State" and inserted "New Jersey"; in (a)5, substituted "by" for the first occurrence of "with" and "Department of Education" for "Secretary of State" twice; and in (b), deleted "based on information which may be subsequently discovered" following "action".

13:48-3.4 Extensions of time for annual filing of the renewal statement and financial report

(a) The annual filing of the renewal statement and financial report shall be due no later than six months after the close of an organization's fiscal year unless the organization has been granted an extension of time as set forth below.

(b) For good cause shown, the Attorney General, in his or her discretion, may extend the time for the annual filing of the renewal statement and financial report for a period not to exceed 180 days, during which time the previous registration shall remain in effect.

(c) For purposes of this section the petitioner shall set out in full the facts which constitute "good cause" and shall append thereto any documents supporting the request for an extension.

(d) The written request for an extension shall be accompanied by the full payment of the fee due for the annual filing, and shall be sent to the Attorney General at the address set forth in N.J.A.C. 13:48-1.4. The request must be received by the Attorney General before the filing deadline.

(e) The request shall be signed by an officer of the charitable organization who shall certify that the organization has filed the previous year's report; that the charitable organization has paid all fees and penalties due and owing to the Division, if any; and that the request for an extension contains complete and accurate information.

(f) Subsections (b) and (c) notwithstanding, the Attorney General shall deny an application for an extension if:

1. The charitable organization has not filed the previous year's report;
2. The charitable organization has not paid all fees and any penalties owing to the Division of Consumer Affairs; or

3. The extension request does not contain full and accurate information.

(g) An application for an extension of time shall be deemed approved unless an applicant is notified by certified mail, return receipt requested, within 15 business days that the extension has been denied.

(h) A charitable organization that is not required to file a registration statement, but elects to do so under N.J.A.C. 13:48-3.3(a)7, shall not be granted an extension of the time to file.

Recodified from N.J.A.C. 13:48-3.1 and amended by R.1999 d.385, effective November 15, 1999.

See: 30 N.J.R. 4115(a), 31 N.J.R. 3751(b).

Rewrote the section.

Amended by R.2006 d.432, effective December 18, 2006.

See: 38 N.J.R. 2632(a), 38 N.J.R. 5393(a).

Added (h).

Amended by R.2011 d.061, effective February 22, 2011.

See: 42 N.J.R. 1676(a), 43 N.J.R. 439(a).

In (b), inserted a comma following "General" and "discretion", and deleted a comma following "report"; and in (e), deleted "of Consumer Affairs" following "Division", and substituted a semicolon for a comma following "any".

Case Notes

Professional solicitor was entitled to preliminary injunction preventing enforcement. *Telco Communications, Inc. v. Barry*, D.N.J.1990, 731 F.Supp. 670.

13:48-3.5 Forms

Forms for filing information required by the Act are available upon request from the Division at the address set forth in N.J.A.C. 13:48-1.4 or on the Division's website at www.njconsumeraffairs.gov/ocp/charities.htm.

New Rule, R.1999 d.385, effective November 15, 1999.

See: 30 N.J.R. 4115(a), 31 N.J.R. 3751(b).

Amended by R.2011 d.061, effective February 22, 2011.

See: 42 N.J.R. 1676(a), 43 N.J.R. 439(a).

Substituted "at the address set forth in N.J.A.C. 13:48-1.4 or on the Division's website at www.njconsumeraffairs.gov/ocp/charities.htm" for "of Consumer Affairs".

13:48-3.6 Notification of change of address; service of process

(a) A registrant shall notify the Attorney General in writing of any change of address currently filed with the Attorney General. Such notice shall be mailed to the Attorney General at the address set forth in N.J.A.C. 13:48-1.4 by certified mail, return receipt requested, not later than 10 days following the change of address.

(b) Failure to notify the Attorney General of any change of address pursuant to (a) above shall be a violation of the Act and these rules.

(c) Service of an administrative complaint or other process at the registrant's address currently on file with the Attorney General shall be deemed adequate notice for the commencement of any enforcement action.

New Rule, R.1999 d.385, effective November 15, 1999.

See: 30 N.J.R. 4115(a), 31 N.J.R. 3751(b).

Amended by R.2011 d.061, effective February 22, 2011.

See: 42 N.J.R. 1676(a), 43 N.J.R. 439(a).

In (a), inserted "at the address set forth in N.J.A.C. 13:48-1.4".

SUBCHAPTER 4. REGISTRATION OF CHARITABLE ORGANIZATIONS—SHORT FORM REGISTRATION

13:48-4.1 Short form registration

(a) Prior to operating or commencing solicitation activities in this State, the following charitable organizations, except those exempt from registration pursuant to N.J.A.C. 13:48-3.3, or those required to file a long form registration pursuant to N.J.A.C. 13:48-5, shall file a short form registration statement with the Attorney General:

1. Charitable organizations or organizations engaging in a charitable fund raising campaign that receive gross contributions of at least \$10,000, but not in excess of \$25,000 during a fiscal year, if all of their fund raising activities are performed by volunteers, members, officers or persons who are not compensated for soliciting contributions. However, if gross contributions should exceed \$25,000, whether or not the money is actually received by the charitable organization within the fiscal year, the organization shall, within 30 days of reaching that figure, notify the Division in writing that the organization will file a long form at the end of the next fiscal year, as required by N.J.A.C. 13:48-5;

2. Fraternal, patriotic, social or alumni organizations, historical societies, and similar organizations organized under the provisions of Title 15 of the Revised Statutes or Title 15A of the New Jersey Statutes, when solicitation of contributions is confined to their membership and solicitation is performed by members of that organization;

3. Persons requesting any contributions for the relief of any individual, specified by name at the time of the solicitation, if all of the contributions collected, without any deductions whatsoever, are turned over to the named beneficiary; and

4. Any local post, camp, chapter or similarly designated element, or a county unit of that element, of a bona fide veterans' organization, which issues charters to the local elements throughout this State, or to any veterans' organization chartered under Federal law or to any service foundation of such an organization recognized in its bylaws.

(b) Information required for the initial and renewal short form registration statement shall include the following:

1. The name and street address of the organization;

2. The name of any independent paid fund raiser, fund raising counsel or commercial co-venturer the charitable organization engaged during the most recent fiscal year;

3. The purpose for which the charitable organization is organized, as stated in the charitable organization's charter, articles of organization, agreement of association, instrument of trust, constitution or any other organizational instrument or bylaws;

4. The purposes for which the funds are raised;

5. A copy of the organization's Internal Revenue Service Form 1023 filed by the charity and the Internal Revenue Service Determination Letter;

6. The reason the charitable organization is eligible to file a short form registration;

7. A complete copy of the charitable organization's most recent Internal Revenue Service filing(s), including, but not limited to, Form 990, Form 990EZ, Form 990PF and Form 990T (with schedule A) if the organization filed any one or more of these forms during the most recent fiscal year being reported. All schedules and statements shall be included;

8. A completed financial report;

9. A statement whether the charitable organization has ever been denied registration or had its registration revoked in this or any other jurisdiction along with a list of those jurisdictions;

10. The name, street address and telephone number of each officer, director and trustee and each principal salaried executive staff employee and whether the person has been adjudged liable in an administrative or civil action, or convicted in a criminal action, involving theft, fraud or deceptive business practices. For the purposes of this paragraph:

- i. A plea of guilty, non vult, nolo contendere or any similar disposition of alleged criminal activity shall be deemed a conviction;

- ii. "Each principal salaried executive staff employee" shall be limited to no more than the five most highly compensated employees in the organization; and

- iii. A judgment of liability in an administrative or civil action shall include, but not be limited to, any finding or admission that the officer, director, trustee or principal salaried executive staff employee engaged in an unlawful practice or practices related to the solicitation of contributions or the administration of charitable assets, regardless of whether that finding was made in the context of an injunction, a proceeding resulting in the denial, suspension or revocation of an organization's registration, consented to in an assurance of voluntary compliance or any similar order or legal agreement with any state or Federal agency;

11. A statement whether:

i. The charitable organization is authorized by any other state to solicit contributions and, if so, a listing of the states in which authorization has been obtained;

ii. The charitable organization is or has ever been enjoined or ordered to cease and desist in any jurisdiction from soliciting contributions or has been found to have engaged in unlawful practices in the solicitation of contributions or the administration of charitable assets together with a listing of all such jurisdictions;

iii. The organization's registration has been denied, suspended or revoked by any jurisdiction, together with a listing of those jurisdictions and the reasons for that denial, suspension or revocation; and

iv. The organization has voluntarily entered into an assurance of voluntary compliance agreement or any similar order or legal agreement with any jurisdiction or Federal agency or officer together with an identification of the jurisdiction or Federal agency or officer;

12. Photocopies of any and all written documentation (such as a court order, administrative order, judgment, formal notice, or written assurance) supporting an affirmative response to (b)10 and 11 above; and

13. Any other information as may be requested of the applicant.

(c) Any material change in any information filed with the Attorney General shall be reported in writing to the Attorney General within 10 business days of the change.

(d) In addition to the information required in (b) above, a parent organization filing registrations for local units shall include in its initial filing the information required by N.J.A.C. 13:48-6.

(e) A registrant who is eligible to file a short form shall renew its registration at the end of each fiscal year pursuant to N.J.A.C. 13:48-4.2.

(f) A short form registration shall be signed by two authorized officers, including the chief fiscal officer of the organization, who shall certify that all information contained in the registration statement is correct.

Amended by R.2006 d.432, effective December 18, 2006.

See: 38 N.J.R. 2632(a), 38 N.J.R. 5393(a).

In the introductory paragraph of (a), inserted "operating or"; in (a)1, substituted "that" for "which do not" preceding "receive" and inserted "of at least \$10,000, but not"; in (b)1, inserted "street"; rewrote (b)2; in (b)9, deleted "and" from the end; added (b)10 through (b)12; and recodified former (b)10 as (b)13.

Amended by R.2011 d.061, effective February 22, 2011.

See: 42 N.J.R. 1676(a), 43 N.J.R. 439(a).

In (a)4, inserted a comma following the first occurrence of "organization" and substituted "bylaws" for "by-laws"; in (b)2, (b)6, (b)9, (b)11i and (b)11ii, inserted "charitable"; rewrote (b)3, (b)5 and (b)7; in (b)11ii, inserted "or ordered to cease and desist"; in (b)11iv, substituted "Federal" for "federal" and "or Federal" for "of federal"; and in (f), deleted the last sentence.

13:48-4.2 Short form renewal

(a) A charitable organization that has filed an initial short form registration shall file a short form for renewal of its registration within six months after the close of its fiscal year provided the organization continues to meet the requirements of N.J.A.C. 13:48-4.1(a).

(b) If an extension for filing the short form renewal was requested, a copy of the request shall accompany the short form renewal.

Amended by R.2011 d.061, effective February 22, 2011.

See: 42 N.J.R. 1676(a), 43 N.J.R. 439(a).

In (a), substituted "A charitable" for "An" and "that" for "which".

13:48-4.3 Financial reports

(a) A charitable organization filing a short form registration or a short form renewal shall file an accompanying annual financial report on a form prescribed by the Attorney General. The financial report form shall include the following:

1. The name, address, telephone number, e-mail and web address, if available, of the charitable organization and the New Jersey charitable registration number;

2. Gross contributions, through direct and indirect public support;

3. Government grants, if any;

4. Other support;

5. Total expenses including:

i. Program expenses;

ii. Management and general expenses;

iii. Fund-raising expenses, if any; and

iv. Any other costs;

6. Revenues over/under expenses for the year;

7. Whether the charitable organization has engaged the services of an independent paid fund raiser, fund raising counsel or commercial co-venturer; the identity of any independent paid fund raiser or fund raising counsel; and the dates of any solicitation campaign or charitable sales promotion conducted in whole or in part on its behalf during the fiscal year;

8. A complete copy of the charitable organization's most recent Internal Revenue Service filings including, but not limited to, Form 990, Form 990EZ, Form 990PF, and Form 990T (with schedule A), if the organization filed any one or more of these forms during the most recent fiscal year. All schedules and statements shall be included; and

9. Any other information as may be requested of the applicant.

Amended by R.2011 d.061, effective February 22, 2011.
See: 42 N.J.R. 1676(a), 43 N.J.R. 439(a).

In (a)1, substituted a comma for "and" following the first occurrence of "address", and inserted ", e-mail and web address, if available" and the first occurrence of "charitable"; and rewrote (a)7 and (a)8.

SUBCHAPTER 5. REGISTRATION OF CHARITABLE ORGANIZATIONS—LONG FORM REGISTRATION

13:48-5.1 Long form registration

(a) Prior to operating or commencing solicitation activities in this State a charitable organization, except those exempt from registration pursuant to N.J.A.C. 13:48-3.3 or those qualified to file a short form pursuant to N.J.A.C. 13:48-4, shall file a long form registration statement with the Attorney General.

(b) Information required for the initial and renewal long form registration statement shall include the following:

1. The name of the charitable organization and any other name or names under which it intends to solicit contributions in this State;

2. The purposes for which the charitable organization has been organized as stated in the charitable organization's charter, articles of organization, agreement of association, instrument of trust, constitution or other organizational instrument or bylaws;

3. The name, street address and telephone number of each officer, director and trustee and each principal salaried executive staff employee;

4. A statement whether any officer, director, trustee or principal salaried executive staff employee has been adjudged liable in an administrative or civil action involving theft, fraud, or deceptive business practices, or convicted in a criminal action, involving theft, fraud, or deceptive business practices. For purposes of this paragraph:

i. A plea of guilty, non vult, nolo contendere or any similar disposition of alleged criminal activity shall be deemed a conviction;

ii. "Each principal salaried executive staff employee" shall be limited to no more than the five most highly compensated employees in the organization; and

iii. A judgment of liability in an administrative or civil action shall include, but not be limited to, any finding or admission that the officer, director, trustee or principal salaried executive staff employee engaged in an unlawful practice or practices related to the solicitation of contributions or the administration of charitable assets, regardless of whether that finding was made in the context of an injunction, a proceeding resulting in the denial, suspension or revocation of an organization's

registration, consented to in an assurance of voluntary compliance or any similar order or legal agreement with any state or Federal agency;

5. A complete copy of the charitable organization's most recent Internal Revenue Service filings including, but not limited to, Form 990, Form 990EZ, Form 990PF, and Form 990T (with schedule A) if the organization filed any one or more of these forms during the most recent fiscal year being reported. All schedules and statements shall be included;

6. A clear description of the specific programs and charitable purpose for which contributions will be used and a statement whether such programs are planned or are in existence;

7. A statement disclosing whether, and giving pertinent information about, any of the charitable organization's above-listed officers, directors, trustees or principal salaried executive staff employees who:

i. Are related by blood, marriage or adoption to each other or to any officers, agents or employees of any fund raising counsel or independent paid fund raiser under contract to the charitable organization; are related by blood, marriage or adoption to any chief executive, employee; to any other employee of the charitable organization with a direct financial interest in the transaction; to any partner, proprietor, director, officer or trustee of the charitable organization; or to any shareholder of the charitable organization with more than a two percent interest in any supplier or vendor providing goods or services to the charitable organization and, if so, the name and business and home address and telephone number of each related party; or

ii. Have a financial interest in any activity engaged in by a fund raising counsel or independent paid fund raiser under contract to the charitable organization or any supplier or vendor providing goods or services to the charitable organization and, if so, the name and business address and telephone number of each interested party;

8. The amount of any grant or financial assistance from any agency of government in its preceding fiscal year;

9. A statement setting forth the place where and the date when the charitable organization was legally established and the form of the organization;

10. The principal street address and telephone number of the organization and the street address and telephone number of each office in this State, unless the organization does not maintain an office in this State, in which case the name and street address of the individual having custody of its financial records pertaining to operations or solicitations in this State shall be disclosed;

11. The name, street address and telephone number of each affiliate which shares in the contributions or other revenue raised in this State;

12. The date when the charitable organization's fiscal year ends;

13. A statement whether:

i. The charitable organization is authorized by any other state to solicit contributions and, if so, a listing of the states in which authorization has been obtained;

ii. The charitable organization is or has ever been enjoined or ordered to cease and desist in any jurisdiction from soliciting contributions or has been found to have engaged in unlawful practices in the solicitation of contributions or the administration of charitable assets together with a listing of all such jurisdictions;

iii. The organization's registration has been denied, suspended or revoked by any jurisdiction, together with a listing of those jurisdictions and the reasons for that denial, suspension or revocation; and

iv. The organization has voluntarily entered into an assurance of voluntary compliance agreement or any similar order or legal agreement with any jurisdiction or Federal agency or officer with an identification of the jurisdiction or Federal agency or officer;

14. Whether the organization intends to solicit contributions from the general public and the dates of any solicitation campaign or charitable sales promotion conducted in whole or in part on its behalf during the fiscal year;

15. A statement setting forth the charitable organization's tax exempt status along with copies of Federal or State tax exemption determination or exemption ruling letters and a copy of the Internal Revenue Form 1023 filed by the charitable organization and the Internal Revenue Service Determination Letter;

16. Photocopies of any and all written documentation (such as a court order, administrative order, judgment, formal notice, or written assurance) supporting an affirmative response to (b)4 and 13ii, iii and iv above; and

17. Any other information as may be requested of the applicant.

(c) A charitable organization may incorporate by reference any information reported by the organization on Internal Revenue Service Form 990, Form 990EZ, Form 990PF, and Form 990T (with Schedule A).

(d) Upon initial registration only, every charitable organization required to file a long form registration shall include a copy of the charitable organization's charter, articles of organization, agreement of association, instrument of trust, constitution or other organizational instrument and bylaws.

(e) All long form registrations shall be signed by two authorized officers, including the chief fiscal officer of the organization, who shall certify that all information contained in the registration statement is correct.

(f) In addition to the information required in (b) through (e) above, a parent organization filing registrations for local units shall include in its initial registration and renewal statement the information required by N.J.A.C. 13:48-6.

Amended by R.2006 d.432, effective December 18, 2006.
See: 38 N.J.R. 2632(a), 38 N.J.R. 5393(a).

In (a), inserted "operating or"; in (b)3, inserted "street"; in (b)4i, deleted "and" from the end; in (b)4ii, inserted "and" at the end; added (b)4iii; rewrote (b)7; in (b)8, deleted "and" from the end; added (b)9 through (b)15; recodified former (b)9 as (b)16; rewrote (d)2; deleted (d)3 through (d)6; recodified former (d)7 and (d)8 as new (d)3 and (d)4; and in (d)3, substituted "(b)4 and 13i, ii and iii" for "(d)6ii, iii and iv".

Amended by R.2011 d.061, effective February 22, 2011.
See: 42 N.J.R. 1676(a), 43 N.J.R. 439(a).

In (b)1, (b)7i, (b)7ii, (b)13i and (b)13ii, inserted "charitable" preceding "organization" throughout; rewrote (b)2, (b)5, and (b)14; in the introductory paragraph of (b)7 and in (b)12, inserted "charitable" preceding "organization's" in the introductory paragraph of (b)7; deleted a comma following "trustees"; in (b)7i, deleted a comma following "agents" and "officer"; in (b)13ii, inserted "or ordered to cease and desist"; in (b)13iv, substituted "Federal" for "federal" twice; added new (b)15; recodified former (b)15 and (b)16 as (b)16 and (b)17; in (c), inserted "Form 990EZ, Form 990PF," and substituted "Form 990T (with Schedule A)" for "Schedule (A) 990"; rewrote (d); and in (e), deleted the last sentence.

13:48-5.2 Long form renewal

(a) A charitable organization, which has filed an initial long form registration shall file a renewal of its registration within six months after the close of its fiscal year.

(b) If an extension was requested, a copy of the request shall accompany the long form renewal.

Amended by R.2011 d.061, effective February 22, 2011.
See: 42 N.J.R. 1676(a), 43 N.J.R. 439(a).

In (a), substituted "A charitable" for "An", and inserted a comma following "organization".

13:48-5.3 Financial reports; audits

(a) A charitable organization filing a long form registration shall file an annual financial report with the Attorney General.

(b) Information required for the financial report shall include the following:

1. A statement of financial position;
2. A statement of activities, revenue, gains and other support, expenses and losses and changes in net assets;
3. A statement of functional expenses classified into:
 - i. Program expenses;
 - ii. Management and general expenses; and
 - iii. Fund raising;
4. A statement of cash flows.

(c) The annual financial report of every charitable organization that received more than \$500,000 in gross revenue

during its most recently completed fiscal year shall be accompanied by:

1. A financial statement prepared in accordance with generally accepted accounting principles or other comprehensive basis of accounting principles consisting of the modified cash basis or regulatory basis, which has been audited in accordance with generally accepted auditing standards by an independent certified public accountant licensed by the jurisdiction in which he or she practices; and

2. All management letters prepared by the auditor in connection with the audit commenting on the internal accounting controls or management practices of the charitable organization.

(d) The annual financial reports of all charitable organizations that receive more than \$25,000 but less than \$500,000, shall be certified by the charitable organization's president or other authorized officer of the organization's governing board. If the Attorney General requests an audit, the charitable organization shall be notified in writing. In response, the charitable organization shall, within 120 days of the Attorney General's notification, submit:

1. A financial statement prepared in accordance with generally accepted accounting principles or other comprehensive basis of accounting principles consisting of the modified cash basis or regulatory basis, which has been audited in accordance with generally accepted auditing standards by an independent certified public accountant licensed by the jurisdiction in which he or she practices; and

2. All management letters prepared by the auditor in connection with the audit commenting on the internal accounting controls or management practices of the charitable organization.

(e) For the purpose of determining if an audit is required pursuant to (d) above, a charitable organization's gross revenue shall not include one-time bequests, fund raising campaigns for capital property in a single fiscal year, the value of services performed by volunteers, or items purchased by other entities for the use of the charitable organization where ownership of the item is retained by the original purchaser.

(f) An independent member agency of a federated fund raising organization shall independently comply with the provisions of this section.

(g) The Attorney General will accept a copy of a current audit performed for a State agency such as the New Jersey Department of Community Affairs or the New Jersey Department of Education, an A-133 audit performed for the United States government, or an audit performed for another state agency or officer in compliance with the laws of that state, provided that the audit is substantially similar in content and scope to the audit required by this section.

Amended by R.2006 d.432, effective December 18, 2006.

See: 38 N.J.R. 2632(a), 38 N.J.R. 5393(a).

Rewrote (c) and (d).

Amended by R.2011 d.061, effective February 22, 2011.

See: 42 N.J.R. 1676(a), 43 N.J.R. 439(a).

Rewrote (c) and (d).

SUBCHAPTER 6. REGISTRATION OF LOCAL UNITS BY PARENT ORGANIZATIONS

13:48-6.1 Registration of local units by parent organizations

(a) A parent organization may, but is not required to, register any or all of its local units. If a parent organization elects to register one or more of its local units, it shall follow the procedures set out in this subchapter.

(b) A local unit shall register if it has not been registered by its parent organization pursuant to this subchapter or if it does not meet the requirements of (c) below. Each local unit shall be responsible to determine if it has been registered by the parent organization.

(c) A local unit of a parent organization which meets all of the following requirements shall be considered registered:

1. The parent organization is registered pursuant to the Act;

2. All solicitations on behalf of the local unit are performed by members of the local unit or volunteers;

3. The local unit does not employ a fund raising counsel or independent paid fund raiser or utilize paid staff in the preparation of materials or records concerning or related to the solicitations; and

4. The local unit:

i. Does not receive gross contributions in excess of \$25,000 during the fiscal year; or

ii. Is an organization that limits membership to persons who are, or formerly were, employed as officers statutorily authorized to enforce the criminal laws of this State.

(d) The parent organization also shall provide all of the following information:

1. Upon initial registration, a copy of the parent organization's charter, articles of organization, agreement of association, instrument of trust, constitution or other organizational instrument and bylaws.

2. Upon initial registration and annual renewal, a separate statement that provides the following:

i. The name, street address and phone number of all local units within this State that it is registering;

ii. The amount of gross contributions received by each such unit and the purpose or purposes for which these funds were raised in the preceding fiscal year; and

iii. A statement asserting that each such local unit has provided the parent organization with a written statement reporting the information included on its behalf and asserting that the local unit meets all of the requirements set forth in this subchapter.

Amended by R.2011 d.061, effective February 22, 2011.

See: 42 N.J.R. 1676(a), 43 N.J.R. 439(a).

In (d)1, substituted "bylaws" for "by-laws"; and in (d)2i, inserted "street", and deleted a comma following "address".

SUBCHAPTER 7. REGISTRATION OF FUND RAISING COUNSEL AND INDEPENDENT PAID FUND RAISER

13:48-7.1 General requirements

(a) A fund raising counsel, independent paid fund raiser or any assignee, subcontractor or other successor in interest shall, before commencing performance of any service or any solicitations within this State:

1. Register annually with the Attorney General; and
2. File contracts or service agreements pursuant to N.J.A.C. 13:48-9.1.

(b) The registration statement shall be on a form prescribed by the Attorney General, which shall contain the following information:

1. The business name, address, Federal tax identification number, and telephone number of the fund raising counsel or independent paid fund raiser;
2. The name, address, and home telephone number of the principal executive officer and the principal financial officer, if any, of the fund raising counsel or independent paid fund raiser;
3. A statement whether the fund raising counsel or independent paid fund raiser has or intends to have custody, control, possession or access to any charitable organization's money or other thing of value;
4. A statement whether:
 - i. The fund raising counsel or independent paid fund raiser is authorized or permitted by any other state to solicit contributions, and if so, a listing of the states in which authorization has been obtained.
 - ii. The fund raising counsel or independent paid fund raiser or any of its present officers, directors, executive personnel or trustees have been convicted of any criminal offense committed in any jurisdiction in connection with the performance of activities regulated

under the Act or these regulations, or any criminal offense involving untruthfulness or dishonesty, or any criminal offense relating adversely to the registrant's fitness to perform activities regulated by the Act or these regulations and a listing of the jurisdictions. For the purpose of this subparagraph, a plea of guilty, non vult, nolo contendere or any other similar disposition of alleged criminal activity shall be deemed a conviction.

iii. The fund raising counsel or independent paid fund raiser has been enjoined or ordered to cease and desist in any jurisdiction from soliciting contributions or have been found to have engaged in unlawful practices in the solicitation of contributions or the administration of charitable assets and a listing of those jurisdictions.

iv. The fund raising counsel's or independent paid fund raiser's registration has been denied, suspended or revoked by any jurisdiction, together with the reasons for that denial, suspension, or revocation and a listing of those jurisdictions.

v. The fund raising counsel or independent paid fund raiser has voluntarily entered into an assurance or voluntary discontinuance or agreement with any jurisdiction or Federal agency or officer and a listing of those jurisdictions;

5. Photocopies of any and all written documentation (such as a court order, administrative order, judgment, formal notice or written assurance) supporting an affirmative response to (b)4ii, iii, iv and v above;

6. A list of all the charitable organizations that have engaged or retained the services of the fund raising counsel or independent paid fund raiser within the past five years to plan or conduct solicitation activities in the State of New Jersey; and on renewal, a list of all campaigns it conducted in whole or in part during the fiscal year for or on behalf of the charitable organization; and

7. Any other information as may be requested of the applicant.

(c) The accuracy and completeness of all information contained in the registration statement shall be signed and sworn to by the principal executive officer.

(d) The registration statement shall be accompanied by the fee specified in N.J.A.C. 13:48-2.1.

(e) Any material change in any information, including registration information required by N.J.A.C. 13:48-9.1, filed with the Attorney General shall be reported in writing to the Attorney General within 10 business days after the change.

(f) The registration of each fund raising counsel or independent paid fund raiser shall expire annually on June 30.

Amended by R.2011 d.061, effective February 22, 2011.

See: 42 N.J.R. 1676(a), 43 N.J.R. 439(a).

In (b)3, inserted "possession" and "or other thing of value"; in (b)4iii, inserted "or ordered to cease and desist"; rewrote (b)6; and in (d), deleted the last sentence.

13:48-7.2 Bond requirements for fund raising counsel and independent paid fund raisers

(a) A fund raising counsel or independent paid fund raiser who has or intends to have custody, control, possession or access to a charitable organization's money or other thing of value shall, at the time of making application for registration, file with the Attorney General a bond in which it shall be the principal obligor for the sum of \$20,000 for the initial registration.

(b) The bond shall provide for one or more sureties whose liability in the aggregate shall equal at least \$20,000.

(c) The fund raising counsel or independent paid fund raiser shall maintain the bond in effect during the entire period of registration.

(d) The bond shall be payable to the Attorney General for the benefit of any person who may have a cause of action against the principal obligor of the bond for any violation of the Act or for the purpose of satisfying any assessment against the principal obligor of the bond for any such violations.

(e) If at any time, the Attorney General receives information from any state or Federal agency or notice from a court of competent jurisdiction that a surety on any bond is not acceptable, the Attorney General shall provide notice to the fund-raising counsel or the independent paid fund raiser by certified mail, return receipt requested, whereupon a new bond shall be provided, or a request for a hearing made, to the Attorney General within 10 days following the registrant's receipt of the notice.

1. If the registrant fails to provide a new bond after the registrant has been given notice and an opportunity for a hearing, the Attorney General may revoke or suspend the fund raising counsel's or independent paid fund raiser's registration.

2. The Attorney General may rely upon a determination by any state or Federal agency or notice from a court of competent jurisdiction in assessing the adequacy of a surety.

(f) If the surety wishes to cancel the bond, the surety shall give 60 days advance written notice by certified mail to the Attorney General before the surety may cancel. The 60 days shall begin to run on the day following the Attorney General's receipt of the notice. A provision regarding this notice of withdrawal shall appear in the bond.

(g) If a surety gives notice pursuant to (f) above, a fund raising counsel or independent paid fund raiser shall replace the bond before the expiration of the existing bond or cease fundraising activities.

Amended by R.2005 d.70, effective February 22, 2005.
See: 36 N.J.R. 4370(a), 37 N.J.R. 618(a).

In (a), deleted the last sentence.

Amended by R.2011 d.061, effective February 22, 2011.
See: 42 N.J.R. 1676(a), 43 N.J.R. 439(a).

In (a), inserted "possession" and "or other thing of value"; and in (d), inserted "or for the purpose of satisfying any assessment against the principal obligor of the bond for any such violations".

13:48-7.3 Requirements for effective registration of fund raising counsel and independent paid fund raisers; failure to comply

(a) A fund raising counsel or independent paid fund raiser shall not be deemed registered pursuant to the Act unless the fund raising counsel or the independent paid fund raiser has met all of the requirements of the Act, has obtained the requisite bond and has made all of the filings with the Attorney General as required by this subchapter.

(b) It shall be a violation of the Act for any fund raising counsel or independent paid fund raiser to take custody, control or possession of, or to have access to, a charitable organization's money or other thing of value prior to filing a bond with the Attorney General and accomplishing registration in accordance with the Act and this chapter.

Amended by R.2011 d.061, effective February 22, 2011.
See: 42 N.J.R. 1676(a), 43 N.J.R. 439(a).

In (b), substituted a comma for "or" following "custody" and "this chapter" for "these regulations", and inserted "or possession" and "or other thing of value".

SUBCHAPTER 8. REGISTRATION OF SOLICITORS**13:48-8.1 General requirements**

(a) Each solicitor for an independent paid fund raiser shall register or be registered by an independent fund raiser annually with the Attorney General.

(b) The registration shall be signed by both the solicitor and the independent paid fund raiser on a form prescribed by the Attorney General, which shall contain the following information:

1. The name and street address of the solicitor;

2. The name, address, registration number and telephone number of the independent paid fund raiser who employs the solicitor; and

3. Any other information as may be requested of the applicant.

(c) The registration shall be accompanied by the fee specified in N.J.A.C. 13:48-2.1(a)8.

(d) Any material change in any information filed with the Attorney General including, but not limited to, a change in the independent paid fund raiser by whom the solicitor is retained shall be reported in writing by the solicitor or the independent paid fund raiser to the Attorney General within 10 business days of the change.

(e) The registration of each solicitor shall expire annually on June 30.

Amended by R.2011 d.061, effective February 22, 2011.
See: 42 N.J.R. 1676(a), 43 N.J.R. 439(a).

In the introductory paragraph of (b), inserted "both" and "and the independent paid fund raiser"; in (b)1, inserted "street"; and in (b)2, deleted a comma following the first occurrence of "number", and substituted "raiser" for "raisers" and "employs" for "employ".

SUBCHAPTER 9. CONTRACTS; CHARITABLE SALES PROMOTIONS REPORTS

13:48-9.1 Contract, service agreement and report requirements for fund raising counsel and independent paid fund raiser

(a) All fund raising counsel and independent paid fund raisers shall file with the Attorney General a copy of any contract with a charitable organization, together with a contract filing form supplied by the Division, at least 10 days prior to the performance of any service within this State. An additional copy of the contract shall be filed by the charitable organization, which obligation cannot be delegated to the fund raising counsel or independent paid fund raiser.

(b) Every contract shall contain a description of the relationship between the charitable organization and the fund raising counsel or the independent paid fund raiser and shall include the following information:

1. A statement of the respective obligations of the fund raising counsel or independent paid fund raiser and the charitable organization;
2. A clear statement of the fees or rate that will be paid to the fund raising counsel or independent paid fund raiser;
3. The projected commencement and termination dates of the solicitation campaign;
4. A statement as to whether the fund raising counsel or independent paid fund raiser will have or intends to have custody, control, possession or access to contributions;
5. A statement as to the guaranteed minimum percentage of the net proceeds from contributions that will be retained by the charitable organization, if any, or if the solicitation involves the sale of goods, services or tickets to a fund raising event, the percentage of the purchase price, if any, that will be retained by the charitable organization. Any stated percentage shall exclude any amount that the charitable organization is to pay as fund raising costs; and
6. A statement as to the percentage of the gross revenue from which the fund raising counsel or independent paid fund raiser will be compensated. If the compensation of the fund raising counsel or independent paid fund raiser is a flat fee, which is not contingent upon the number of contributions or the amount of revenue received, the com-

pensation shall be expressed as a reasonable estimate of the percentage of the anticipated gross revenue and the contract shall clearly disclose the assumptions upon which the estimate is based. If the compensation of the fund raising counsel or independent paid fund raiser is calculated on the basis of a rate and time, the statement shall include a reasonable estimate of the total fee and the contract shall clearly disclose the assumptions upon which the estimate is based. The stated assumptions shall be based upon all of the relevant facts known to the fund raising counsel or independent paid fund raiser regarding the solicitation to be conducted on behalf of the charitable organization.

(c) Every contract shall be signed by two authorized officers of the charitable organization, one of whom must be a member of the organization's governing body, and the authorized contracting officer of the fund raising counsel or independent paid fund raiser.

(d) Every contract filed by the fund raising counsel or independent paid fund raiser shall be accompanied by the fee specified in N.J.A.C. 13:48-2.1(a)9.

(e) If the fund raising counsel or independent paid fund raiser at any time has or intends to have custody, control, possession or access to the charitable organization's solicited contributions, the contract shall also include:

1. A statement as to the guaranteed minimum percentage of the gross receipts from contributions that will be remitted to the charitable organization, if any, or if the solicitation involves the sale of goods, services or tickets to a fund raising event, the percentage of the purchase price, if any, that will be remitted to the charitable organization. Any stated percentage shall exclude any amount that the charitable organization is to pay as fund raising costs;
2. The bank branch, address and each account number where all monies will be deposited;
3. The mailing address or addresses that will receive any contributions;
4. The name and address of any caging agent or escrow agent retained in connection with the performance of the contract; and
5. The names of the individuals who will be authorized signatories for the accounts where all the monies are deposited.

(f) A fund raising counsel or an independent paid fund raiser that at any time has or intends to have custody, control, possession or access to a charitable organization's solicited contributions shall file a report on forms prescribed by the Attorney General as follows:

1. The report shall be filed within 40 days after the expiration of the contract;

2. For campaign contracts lasting more than 12 months, the report must be filed within 40 days of the end of each of the charitable organization's fiscal years;

3. Upon the completion of a campaign contract lasting more than 12 months, a final report shall be filed within 40 days after the expiration of the contract or service agreement;

4. Any financial campaign report filed pursuant to this subchapter shall contain the following information:

- i. Gross revenues;
- ii. An itemization of all expenses incurred;
- iii. The mailing address or addresses to which the contributions were directed;
- iv. The name and address of any company or any individuals who picked up any contributions;
- v. The bank branch, address and account numbers where all monies were deposited;
- vi. The names of the individuals who are or were signatories on the accounts where all monies were deposited; and
- vii. Any other information as may be requested of the fund raising counsel or independent paid fund raiser.

5. This report shall be signed by an authorized official from the fund raising counsel or independent paid fund raiser;

6. In addition, the report shall be reviewed and signed by an authorized official from the charitable organization; and

7. The financial campaign report shall be accompanied by the fee specified in N.J.A.C. 13:48-2(a)11.

(g) A fund raising counsel or independent paid fund raiser that is not required to file a report pursuant to (f) above, shall file with the Division the information it receives or obtains from the charitable organization that is used to calculate the independent paid fund raiser's or fund raising counsel's compensation for the charitable campaign. The information submitted shall include the gross amount taken in by the charitable campaign and the net amount retained by the charitable organization and shall comply with the following requirements on a form prescribed by the Division:

1. The information shall be filed within 40 days after the expiration of the contract;

2. For campaign contracts lasting more than 12 months, the information must be filed within 40 days of the end of each of the charitable organization's fiscal years during which the campaign was conducted;

3. Upon the completion of a campaign contract lasting more than 12 months, the information must be filed within 40 days after the expiration of the contract or service agreement;

4. This report shall be signed by an authorized officer from the independent paid fund raiser or fund raising counsel;

5. The report shall be reviewed and signed by an authorized officer from the charitable organization; and

6. The financial campaign report shall be accompanied by the fee specified in N.J.A.C. 13:48-2.1(a).

Amended by R.2011 d.061, effective February 22, 2011.
See: 42 N.J.R. 1676(a), 43 N.J.R. 439(a).

Section was "Contract, service agreement, and report requirements for fund raising counsel and independent paid fund raiser". Rewrote (a), (b)5 and (b)6; in the introductory paragraph of (b) and in (c) and (d), substituted "Every" for "The"; in the introductory paragraph of (b), inserted "the" preceding "independent"; in (b)1, substituted "fund raising counsel or independent paid" for "professional"; in (b)2, substituted "that" for "which" and inserted "paid"; in (b)4, inserted "or intends to have" and "possession"; deleted (b)7 through (b)10; in (c), substituted "officers" for "officials"; added new (e) and (g); recodified former (e) as (f); in the introductory paragraph of (f), inserted "that at any time has or intends to have custody, control, possession or access to a charitable organization's solicited contributions"; and in (f)4iii, inserted "to" and "were directed", and deleted "received" following "which".

13:48-9.2 Contracts with commercial co-venturers; sales promotion report

(a) A charitable organization that permits a charitable sales promotion to be conducted on its behalf shall obtain a written contract from the commercial co-venturer and shall file a copy of the agreement with the Attorney General at least 10 business days prior to the initiation of that charitable sales promotion, solicitation or venture agreement.

(b) The charitable sales promotion contract shall include, but is not limited to, the following information:

1. A description of the charitable sales promotion, solicitation, or venture undertaken, and dates to be commenced and terminated;

2. The name and address of the charitable organization and of the commercial co-venturer;

3. The dollar amount or percent per unit of goods or services purchased or used that will benefit the charitable organization or purpose. If the actual dollar amount or percent cannot reasonably be determined prior to the final date of the charitable sales promotion, the commercial co-venturer shall disclose an estimated dollar amount or percent. Any such estimate shall be reasonable and shall be based upon all of the relevant facts known to the commercial co-venturer and the charitable organization regarding the charitable sales promotion;

4. A requirement that the commercial co-venturer provide the charitable organization with the gross amount of income received by the commercial co-venturer attributable to the charitable sales promotion, solicitation or venture undertaken; and

5. A provision clearly and conspicuously stating that the parties are subject to the Act and the rules of this chapter.

(c) The contract filing shall include the fee set forth in N.J.A.C. 13:48-2.1(a)9.

(d) A charitable organization shall file a charitable sales promotions report, on forms provided by the Attorney General, with the Division within 40 days after the expiration of the contract or service agreement. For campaign contracts lasting more than 12 months, a charitable organization shall file an interim report within 40 days of the end of each of the charitable organization's fiscal years. The charitable organization may file the final report within 40 days after the expiration of the contract or service agreement or at the end of the last fiscal year of the contract.

(e) A charitable sales promotion campaign report shall contain the following information:

1. A description of the charitable sales promotion, solicitation, or venture undertaken and the dates it commenced and terminated;

2. A certification from an officer or principal of the commercial co-venturer, attesting to the gross amount of income received by the commercial co-venturer attributable to the charitable sales promotion, solicitation or venture;

3. The amount of money or other contribution remitted to the charitable organization covering each event or portion of an extended charitable sales promotion, solicitation or venture. If the contribution is other than money, a list of the donated goods or a description of the services donated, as well as their dollar value, must be attached to the report;

4. A copy of each advertisement, publication, solicitation or other material used as part of the charitable sales promotion to directly or indirectly induce a contribution; and

5. Any other information as may be requested of the charitable organization.

(f) This filing shall include the fee set forth in N.J.A.C. 13:48-2.1(a) 10.

Amended by R.2011 d.061, effective February 22, 2011.

See: 42 N.J.R. 1676(a), 43 N.J.R. 439(a).

In (a), substituted "that" for "which", and deleted a comma following "solicitation"; in (b)3, deleted "and" from the end; in (b)4, substituted "provide" for "provides" and "; and" for a period at the end; added (b)5; in (e)2, substituted "A certification from an officer or principal of" for "As reported to the charitable organization by", and inserted "attesting to"; in (e)3, inserted a comma following the second occurrence of "donated" and "value", and deleted "and" from the end; added new (e)4; and recodified former (e)4 as (e)5.

13:48-9.3 Contract, service agreement and report requirements for contracts between fund raising counsel or independent paid fund raiser and any other fund raising counsel or independent paid fund raiser

(a) Every fund raising counsel or independent paid fund raiser shall file with the Attorney General a copy of any contract with another fund raising counsel or independent paid fund raiser, together with a contract filing form supplied by the Division at least 10 days prior to the performance of any service within this State.

(b) Every contract shall comply with the content and filing requirements of N.J.A.C. 13:48-9.1. Reports shall be filed consistent with the requirement of N.J.A.C. 13:48-9.1 and be accompanied by the fee specified in N.J.A.C. 13:48-2.1(a).

New Rule, R.2011 d.061, effective February 22, 2011.

See: 42 N.J.R. 1676(a), 43 N.J.R. 439(a).

Former N.J.A.C. 13:48-9.3, Failure to satisfy contract requirements; notice and hearing, recodified to N.J.A.C. 13:48-9.4.

13:48-9.4 Failure to satisfy contract requirements; notice and hearing

(a) If the Attorney General determines that the contract requirements established by the Act or these rules are not satisfied, the Attorney General shall notify the filing party or registrant within 10 business days of receipt of the contract. If notification is not sent by the Attorney General within 10 business days to the filing party or registrant, then performance may begin on the contract.

(b) Within 10 business days after receipt of notification that the requirements have not been satisfied, the charitable organization, fund raising counsel, independent paid fund raiser, commercial co-venturer or solicitor may satisfy the requirements or request a hearing pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

(c) If the Attorney General determines that the contract requirements of the Act or these rules have not been satisfied and the person or organization does not request a hearing as set forth in (b) above, the contract shall be disapproved. This does not prohibit the organization from filing at a future date.

(d) Acceptance of a registration statement or any other required filing shall not foreclose the Attorney General from taking appropriate action.

Recodified from N.J.A.C. 13:48-9.3 and amended by R.2011 d.061, effective February 22, 2011.

See: 42 N.J.R. 1676(a), 43 N.J.R. 439(a).

In (d), deleted "later" preceding and "the" following "taking", and "based on information that may be subsequently discovered" following "action".

SUBCHAPTER 10. RECORDKEEPING REQUIREMENTS

13:48-10.1 General requirements

(a) Every charitable organization, unless exempt from registration pursuant to N.J.A.C. 13:48-3.3, and every fund raising counsel, independent paid fund raiser and commercial co-venturer subject to the provisions of the Act shall keep complete and accurate records of its activities in this State as required by the Act.

1. The records shall be in such form as will enable them to accurately provide the information required by the Act or these regulations.

2. The records shall be made available for inspection and copying upon demand by the Attorney General.

(b) The records of every charitable organization, unless exempt from registration pursuant to N.J.A.C. 13:48-3.3, every fund raising counsel, every independent paid fund raiser and every commercial co-venturer shall be maintained for a period of at least three years after the end of the period of time to which they relate.

(c) All tickets for events sold by a charitable organization, fund raising counsel, independent paid fund raiser, or commercial co-venturer shall be numbered, shall identify the specific time of the event and the identity and location of the facility where the event will take place.

13:48-10.2 Records of fund raising counsel and independent paid fund raiser

(a) Every fund raising counsel and independent paid fund raiser that has or intends to have custody, control, possession or access to a charitable organization's monies shall also maintain during each solicitation campaign, and for not less than three years after the completion of such campaign, the following records, which shall be available for inspection upon demand by the Attorney General:

1. The name, home address and telephone number of each employee, solicitor or other person involved in the solicitation;

2. Records of all revenue received and expenses incurred in the course of the solicitation campaign;

3. Records of all contributions, including the name and address of each contributor and the date and amount of the contribution, except that recordkeeping with regard to donations of goods and services in kind shall be limited to the dollar value received by or accruing to the charitable organization. In the case of vehicle donations, records shall include the vehicle identification number and model of the vehicle, the expenses related to the disposition of the vehicle and the net proceeds to the charity, unless the vehicle itself became the charitable organization's property;

4. The name, location and account number of each bank or other financial institution in which the fund raising

counsel or independent paid fund raiser has deposited revenue from the solicitation campaign;

5. Records of the name, address and telephone number of each contributor donating tickets and the number of tickets donated, and of the name, address and telephone number of each organization receiving donated tickets for use by others, including the number of tickets for use by others, if a fund raising counsel or an independent paid fund raiser sells tickets to an event and represents that tickets will be donated for use by another; and

6. A copy of each advertisement, publication, solicitation or other material used as part of the charitable sales promotion to directly or indirectly induce a contribution.

(b) An independent paid fund raiser or fund raising counsel who does not have custody, control, possession or access to a charitable organization's funds shall also maintain for a period of three years the report it receives or obtains from the charity in accordance with N.J.A.C. 13:48-9.1(f).

(c) A fund raising counsel or an independent paid fund raiser who performs services for a charitable organization exempt from registration requirements pursuant to N.J.A.C. 13:48-3.3 shall nonetheless be subject to the requirements of this section.

Amended by R.2011 d.061, effective February 22, 2011.
See: 42 N.J.R. 1676(a), 43 N.J.R. 439(a).

In the introductory paragraph of (a), substituted "that" for the first occurrence of "which", and inserted "possession"; in (a)3, substituted "services in kind" for "personal property" and a period for a semicolon following "organization", and inserted the last sentence; in (a)4, deleted "and" from the end; in (a)5, substituted "; and" for a period at the end; added (a)6 and new (b); and recodified former (b) as (c).

SUBCHAPTER 11. FUND RAISING PRACTICES

13:48-11.1 Fund raising counsel and independent paid fund raiser; deposit of funds

(a) A fund raising counsel or an independent paid fund raiser shall deposit or require the deposit of each contribution received pursuant to a solicitation, in its entirety and within five business days of its receipt, in an account at a bank or other Federally insured financial institution.

(b) The account shall be in the name of the charitable organization, and the charitable organization shall have the sole control of the account and all withdrawals.

13:48-11.2 Disclosures to the public; solicitations; receipts and confirmations; notice

(a) Prior to soliciting any contribution (except for an in-person solicitation) either telephonically, electronically or in writing, a charitable organization, unless exempt from registration pursuant to N.J.A.C. 13:48-3.3 and all independent paid fund raisers, commercial co-venturers and solicitors shall clearly and conspicuously disclose the following:

1. The name of the individual making the solicitation;
2. Whether or not the individual making the solicitation is paid or is a volunteer;
3. The name of any fund raising counsel, independent paid fund raiser, or commercial co-venturer employing the individual making the solicitation; and
4. The name of the charitable organization which will receive the contribution.

(b) Any oral or written statement made by a charitable organization or on behalf of a charitable organization by persons including, but not limited to, commercial co-venturers, fund raising counsels, independent paid fund raisers, or solicitors shall be truthful.

(c) If a contribution or pledge results from an oral or written solicitation, including a telephone solicitation but excluding any in-person solicitation, a written confirmation or receipt or written reminder shall, upon request of the contributor, be sent to the contributor. Every confirmation, receipt or reminder shall include the clear and conspicuous disclosure of the following:

1. The name of the individual making the solicitation;
2. Whether or not the individual making the solicitation is paid or a volunteer;
3. The name of any fund raising counsel, independent paid fund raiser, or commercial co-venturer employing the individual making the solicitation; and
4. The name of the charitable organization which will receive the contribution.

(d) Every printed solicitation, written confirmation, receipt or written reminder shall include the following statement which shall be conspicuously printed:

INFORMATION FILED WITH THE ATTORNEY GENERAL CONCERNING THIS CHARITABLE SOLICITATION AND THE PERCENTAGE OF CONTRIBUTIONS RECEIVED BY THE CHARITY DURING THE LAST REPORTING PERIOD THAT WERE DEDICATED TO THE CHARITABLE PURPOSE MAY BE OBTAINED FROM THE ATTORNEY GENERAL OF THE STATE OF NEW JERSEY BY CALLING 973-504-6215 AND IS AVAILABLE ON THE INTERNET AT <http://www.state.nj.us/lps/ca/charfm.htm>. REGISTRATION WITH THE ATTORNEY GENERAL DOES NOT IMPLY ENDORSEMENT.

Amended by R.2006 d.432, effective December 18, 2006.
See: 38 N.J.R. 2632(a), 38 N.J.R. 5393(a).

Rewrote the statement in (d).

Amended by R.2011 d.061, effective February 22, 2011.
See: 42 N.J.R. 1676(a), 43 N.J.R. 439(a).

Rewrote the introductory paragraph of (a).

13:48-11.3 Disclosures to the public; canisters; honor boxes; public vending machines

(a) All canisters, honor boxes and public vending machines used to raise funds for charitable organizations required to be registered under the Act shall clearly and conspicuously disclose the following:

1. The name, address and registration number of the charitable organization, as registered with the Attorney General, or the organization's name and address, if exempt; and
2. The charitable purpose of the organization.

(b) In addition to the requirements in (a) above, all canisters, honor boxes and public vending machines shall include the following statement which shall be conspicuously printed and displayed:

INFORMATION FILED WITH THE ATTORNEY GENERAL CONCERNING THIS CHARITABLE SOLICITATION MAY BE OBTAINED FROM THE ATTORNEY GENERAL OF THE STATE OF NEW JERSEY BY CALLING (973) 504-6215. REGISTRATION WITH THE ATTORNEY GENERAL DOES NOT IMPLY ENDORSEMENT.

Amended by R.2011 d.061, effective February 22, 2011.
See: 42 N.J.R. 1676(a), 43 N.J.R. 439(a).

In (a)1, substituted ", address and registration number" for "and address" and "address, if exempt" for "registration number".

SUBCHAPTER 12. STANDARDS AND SUPERVISION

13:48-12.1 Charitable organization's responsibility for fund-raising activities

(a) A charitable organization shall establish and exercise control over fund raising activities conducted for its benefit and assure that the fund raising activities are conducted without coercion. The fund raising activities over which the charitable organization shall establish and exercise control include, but are not limited to:

1. Review and approval of all written contracts and agreements;
2. Submission to the Attorney General of all information required to be filed with the Attorney General;
3. The collection and disbursement of all contributions made to the charitable organization;
4. The procedure to report to its independent paid fund raisers who do not have custody, control, possession or access to a charitable organization's contributions the gross amount received during the charitable campaign and the net amount it retains;

5. The activities of its officers, employees and volunteers in the performance of any fund raising duties done for the benefit of the charitable organization or any administrative and reporting activities for the charitable organization as required by the Act or these rules;

6. The script or other statements used in telephone solicitations;

7. Review of all printed solicitation or pledge documents for accuracy;

8. Establishment of a procedure to ensure that all requests for written information or educational literature are honored;

9. Knowledge and approval of the process by which contributions are collected; and

10. Knowledge and approval of the pledge reminder process.

(b) Failure of an independent paid fund raiser to supervise and exercise control over solicitors and other employees to ensure compliance with the Act shall constitute a violation of the Act and these rules.

(c) Failure of a fund raising counsel to supervise and exercise control over employees to ensure compliance with the Act shall constitute a violation of the Act and these rules.

Amended by R.2011 d.061, effective February 22, 2011.
See: 42 N.J.R. 1676(a), 43 N.J.R. 439(a).

Added new (a)4; and recodified former (a)4 through (a)9 as (a)5 through (a)10.

13:48-12.2 Duty to cooperate in investigative inquiries

A charitable organization, fund raising counsel, or independent paid fund raiser shall cooperate in any inquiry, inspection or investigation conducted by, or on behalf of, the Attorney General into a charitable organization's, fund raising counsel's, independent paid fund raiser's compliance with all provisions of the Act and these rules. A charitable organization's, fund raising counsel's, or independent paid fund raiser's failure to cooperate, absent good cause shown, may be deemed by the Attorney General to constitute misconduct and a violation of the Act and these rules and thus subject the charitable organization, fund raising counsel or independent paid fund raiser to appropriate administrative or civil action.

SUBCHAPTER 13. VIOLATIONS

13:48-13.1 Unregistered practice

(a) It shall be a violation of the Act for any charitable organization or person required to file a registration statement in accordance with the Act and the rules set forth in this chapter to fail to do so.

(b) It shall be a violation of the Act for any charitable organization or person that has filed an initial registration statement to engage in solicitation or fund raising activities before the Attorney General has been given the opportunity to review the registration statement pursuant to N.J.S.A. 45:17A-22 and the rules set forth in this chapter.

(c) Solicitation activities on behalf of an unregistered charitable organization, whether conducted by the charitable organization or by any other person, shall be a violation of the Act and considered misconduct by both the charitable organization and the other person.

13:48-13.2 Unlawful acts and practices; misconduct

(a) The following acts and practices are declared unlawful as applied to the planning, conduct, or execution of any solicitation or charitable sales promotion and shall be considered misconduct:

1. To misrepresent by words or conduct any material fact to any person including, but not limited to, the purpose or nature of the charitable institution or the purpose or beneficiary of a solicitation; to solicit contributions for a purpose other than the charitable purpose expressed in the statement of the charitable organization or expend contributions in a manner inconsistent with that purpose, or to fail to disclose any material fact;

2. To violate or fail to comply with any of the applicable provisions of the Act or the rules adopted under authority of the Act;

3. To violate or fail to comply with any of the applicable provisions of the Consumer Fraud Law (N.J.S.A. 56:8-1 et seq.) or the rules adopted pursuant to that Law;

4. To utilize a name, symbol or statement so closely related or similar to that used by another charitable organization and registered by that organization with the United States Patent and Trademark Office or registered pursuant to N.J.S.A. 56:2-1 et seq., that its use would tend to confuse or mislead a solicited person or to solicit contributions in a manner or through representations that falsely imply or are likely to create the mistaken belief that the contributions are solicited by or on behalf of another charitable organization;

5. To lead any person to believe that registration constitutes or implies an endorsement or approval by the State;

6. To distribute honorary membership or courtesy cards or cards of a similar nature identifying the organization in connection with or in any manner related to the solicitation of funds or contributions for or on behalf of the organization in the case of any charitable organization that limits its membership to persons who are or formerly were employed as officers statutorily authorized to enforce the criminal laws of this State or that is a parent organization that includes local units that so limit membership;

7. To utilize information, statements or communication that, although literally true, are presented in a manner that has the capacity to mislead the average consumer;

8. To enter into any contract with any person who:

i. Is required to have registered and failed to do so; or

ii. Have had their registration denied, suspended, or revoked;

9. To commence activity pursuant to a contract before the Attorney General has been given the opportunity to review the contract pursuant to N.J.S.A. 45:17A-22;

10. To permit a charitable sales promotion to be conducted on behalf of a charitable organization unless the charitable organization has obtained a written contract from the commercial co-venturer and given the Attorney General the opportunity to review the contract pursuant to N.J.S.A. 45:17A-22;

11. To make a solicitation which represents that tickets to an event will be donated for a charitable purpose, unless the following requirements have been met:

i. The fund raising counsel or independent paid fund raiser has obtained commitments, in writing and notarized, from charitable organizations stating that they will accept donated tickets and specifying the number of tickets they are willing to accept and for which they are able to provide transportation; copies of such written commitments shall be filed with the Attorney General;

ii. The independent paid fund raiser has taken measures to prevent solicitation of contributions for donated tickets in excess of the number of ticket commitments received from charitable organizations; and

iii. The number of tickets sold will not be greater than the number of seats available at the facility for each event or performance; or

12. To conduct a solicitation on behalf of, or in the name of, a charity without the knowledge or consent of the charity.

Amended by R.2005 d.70, effective February 22, 2005.

See: 36 N.J.R. 4370(a), 37 N.J.R. 618(a).

In (a), added a new 7 and recodified former 7 through 11 as 8 through 12.

13:48-13.3 Grounds for denial, suspension or revocation of any registration

(a) After notice and an opportunity for a hearing pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1, any registration may be denied, suspended or revoked upon a finding that the registrant or any officer, director, trustee or principal salaried executive staff employee of a registrant or any other person subject to the Act:

1. Has filed a registration statement containing false or misleading facts or omitting material facts;

2. Has violated or failed to comply with any of the provisions of the Act or the rules adopted under authority of the Act;

3. Has engaged in the use or employment of dishonesty, fraud, deception, misrepresentation, false promise or false pretense;

4. Has been convicted of any criminal offense committed in connection with the performance of activities regulated under the Act or any criminal offense involving untruthfulness or dishonesty or any criminal offense relating adversely to the registrant's fitness to perform activities regulated by the Act. For the purposes of this paragraph, a plea of guilty, non vult, nolo contendere or any other similar disposition of alleged criminal activity shall be deemed a conviction;

5. Has had the authority to engage in charitable activities denied, revoked or suspended by New Jersey or any other state or jurisdiction;

6. Has been adjudged liable in an administrative or civil proceeding involving theft, fraud or deceptive business practice including, but not limited to, any finding of unlawful practice or practices related to the solicitation of contributions or the administration of charitable assets, regardless of whether that finding was made in the context of an injunction, a proceeding resulting in penalties, consented to in an assurance of voluntary compliance or any similar order or legal agreement with any state or Federal agency;

7. Has engaged in other forms of misconduct as may be determined by these rules; or

8. Has filed a registration, contract, financial statement or other required filing that fails to satisfy the requirements of the Act or the rules set forth in this chapter.

Amended by R.2011 d.061, effective February 22, 2011.

See: 42 N.J.R. 1676(a), 43 N.J.R. 439(a).

In the introductory paragraph of (a), inserted "or any officer, director, trustee or principal salaried executive staff employee of a registrant or any other person subject to the Act"; added new (a)6; and recodified former (a)6 and (a)7 as (a)7 and (a)8.

SUBCHAPTER 14. PENALTIES

13:48-14.1 Civil penalties; alternative remedies

(a) When a finding is made of a violation of the Act or these rules, after notice and an opportunity for a hearing pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1, in addition or as an alternative to revocation or suspension of a registration, a person may be ordered to:

1. Pay civil penalties in accordance with the Act as follows:

i. Any person who has not previously been found to have violated the Act shall, in addition to any other relief authorized by the Act or any other law, be liable for a civil penalty of not more than \$10,000 for the first violation;

ii. For a second violation, or if a person is found liable for more than one violation within a single proceeding, the liability for the second violation shall not exceed a civil penalty in the amount of \$20,000;

iii. For a third violation, or if a person is found liable for more than two violations within a single proceeding, the liability for a third or any succeeding violation shall not exceed a civil penalty in the amount of \$20,000 for each additional violation;

2. Cease and desist from any act or practice in violation of the Act or these rules or take necessary affirmative corrective action with regard to any unlawful act or practice; or

3. Restore to any person aggrieved by an unlawful act or practice any money or property, real or personal, acquired by means of any unlawful act or practice, except that the Attorney General shall not order restoration in a dollar amount greater than those monies received by the registrant or his agent or any other person violating the Act or these rules.

Amended by R.2011 d.061, effective February 22, 2011.
See: 42 N.J.R. 1676(a), 43 N.J.R. 439(a).

In (a)1i, substituted "\$10,000" for "\$7,500"; and in (a)1ii and (a)1iii, substituted "\$20,000" for "\$15,000".

13:48-14.2 Private actions

In addition to any other action or remedy available under the Act, a charitable organization aggrieved by a violation of N.J.S.A. 45:17A-32(c)(4) or N.J.A.C. 13:48-13.2(a)4, may initiate a civil action or assert a counterclaim in any court of competent jurisdiction against the violator. Upon establishing the violation, the charitable organization shall recover treble its damages or treble the violator's profits whichever is greater. In all actions under this subsection the court shall award reasonable attorney's fees, filing fees and reasonable costs of suit.

13:48-14.3 Accountability of parent organization and local unit

(a) Notwithstanding any other provision of this section to the contrary, a parent organization may be held accountable for actions related to information filed on behalf of a local unit only if the parent organization knew or should have known that it has filed information knowing that the

information is false or misleading or knowing that material facts are omitted.

(b) Notwithstanding any other provision of this section to the contrary, any local unit which has provided to its parent organization timely, truthful and complete information and otherwise conducted itself in compliance with the provisions of the Act, shall not be held accountable for the misconduct of a parent organization, including, but not limited to, the failure of the parent organization to file timely reports on behalf of the local unit.

SUBCHAPTER 15. CRIMINAL LAW ENFORCEMENT ORGANIZATIONS

13:48-15.1 Organizations of law enforcement officers

(a) In addition to all other requirements imposed by the Act and these rules, a charitable organization which limits its membership to persons who are or formerly were employed as officers statutorily authorized to enforce the criminal laws of this State or which is a parent organization which includes local units that so limit membership shall:

1. At least 10 days prior to initiating any solicitation campaign involving multiple solicitations, give written notice describing the nature, purpose and the proposed dates and location of the solicitations.

i. Local criminal law enforcement charitable organizations shall file completed Notices of Intent to Solicit Funds with the Attorney General and the county prosecutor of any county in which the solicitation will be made.

ii. A parent criminal law enforcement charitable organization with local units in more than one county shall file a completed Notice of Intent for each local unit to solicit Funds with the Attorney General and the Attorney General shall notify the appropriate county prosecutors.

iii. Notice of Intent to Solicit Funds forms are available upon request from the Division of Consumer Affairs at the address set forth in N.J.A.C. 13:48-1.4.

iv. The parent or local unit shall pay a filing fee for the 10-day notice in the amount set forth in N.J.A.C. 13:48-2.1(a)13.

2. Upon request, the criminal law enforcement charitable organization shall make any records required by the Act and these rules available for inspection or provide an audited financial statement of financial records concerning the organization's fund raising activities to the Attorney General.