

**CHAPTER 48**  
**CHARITABLE FUND RAISING**

**Authority**

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

**Source and Effective Date**

R.1999 d.339, effective September 9, 1999.  
See: 31 N.J.R. 1899(a), 31 N.J.R. 2892(a).

**Chapter Expiration Date**

In accordance with N.J.S.A. 52:14B-5.1c, Chapter 48, Charitable Fund Raising, expires on March 8, 2005. See: 36 N.J.R. 4370(a).

**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Chapter 48 was repealed and new Chapter 48, Charitable Fund Raising was adopted as R.1994 d.494, effective September 19, 1994.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: Source and Effective Date.

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“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, depositing any monies received 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.

## SUBCHAPTER 1. GENERAL PROVISIONS

## 13:48-1.1 Director

(a) 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, 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 Charitable Registration and Investigation Act of 1994.

(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, or letter sent to the address set forth in N.J.A.C. 13:48-1.4.

## 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 of 1994, P.L. 1994, c.16.

“Commercial co-venturer” means any person, 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 pur-

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

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;
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; or
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.

“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 all 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 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 com-

pensated 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.

“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 or any successor in interest, who for compensation performs for 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 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 by-laws.

“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.

“Secretary of State” means the Secretary of State of the State of New Jersey.

“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 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, and who is subject to the control of an independent paid fund raiser. The term “control” means the direct management, direction and supervision of performance of a solicitor’s activities in connection with the solicitation of contributions by the independent paid fund raiser.

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.

### 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 fees charged by the Division of Consumer Affairs for registration of charitable organizations (which shall be read to include, for the purposes of this subchapter, federated fund raising organizations), fund raising counsel, independent paid fund raisers, and solicitors, and for filing of contracts and other documents, shall be the following:

1. A charitable organization, which is required under the Act to file a short form registration statement and which received gross contributions of not more than \$10,000 during the most recently filed fiscal year of the organization, shall not be required to pay an annual registration fee. A late fee of \$25.00 shall be incurred by any organization that fails to submit the annual filing within 30 days of the annual filing deadline.

2. A charitable organization, which is required under the Act to file a short form registration statement and which received gross contributions in excess of \$10,000 during the most recently filed fiscal year of the organization, shall pay an annual registration fee of \$30.00 a year with the annual filing unless a filing extension was granted pursuant to N.J.A.C. 13:48-3.1(c). A late fee of \$25.00 shall be incurred by any organization that fails to pay any annual registration fee within 30 days of the annual filing deadline.

3. A charitable organization, which is required under the Act to file a long form registration statement and which 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 a year with the annual filing unless a filing extension was granted pursuant to N.J.A.C. 13:48-3.1(c). A late fee of \$25.00 shall be incurred by any organization that fails to pay any annual registration fee within 30 days of the annual filing deadline.

4. A charitable organization, which is required under the Act to file a long form registration statement and which 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 a year with the annual filing unless a filing extension was granted pursuant to N.J.A.C. 13:48-3.1(c). A late fee of \$25.00 shall be incurred by any organization that fails to pay any annual registration fee within 30 days of the annual filing deadline.

5. A charitable organization, which is required under the Act to file a long form registration statement and which 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 a year with the annual filing unless a filing extension was granted pursuant to N.J.A.C. 13:48-3.1(c). A late fee of \$25.00 shall be incurred by any organization that fails to pay any 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

which 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. Upon renewal of registration, failure to pay the fee within 30 calendar days of July 1 shall result in a late fee of \$25.00.

8. In addition to the fee paid by independent paid fund raisers, a solicitor shall pay a registration fee of \$15.00, payable upon initial registration and on July 1 of each renewal year thereafter. Upon renewal of registration, failure to pay the 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 final report, required to be filed by the charitable organization under Section 12b of the Act at the conclusion of a charitable sales promotion conducted by a commercial co-venturer on behalf of a charitable organization, shall be \$10.00.

11. The fee for filing a financial report required to be filed by a fund raising counsel or independent paid fund raiser under Section 10g(3) of the Act for a solicitation campaign, shall be \$10.00.

12. The fee for filing a written commitment, required to be filed by a fund raising counsel or independent paid fund raiser under Section 15e(1) of the Act, confirming a charitable organization's acceptance of donated tickets to an event, shall be \$10.00.

13. The fee for filing a 10 day notice, required to be filed by Section 13d(1) of the Act by a law officers' organization to provide notice of any campaign involving multiple solicitations, shall be \$10.00.

14. The fees for photocopies of any public record maintained pursuant to the Act shall be in accordance with N.J.S.A. 47:1A-2, specifically:

First page to tenth page	\$0.75 per page
Eleventh page to 20th page	\$0.50 per page
All pages over 20	\$0.25 per page

(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.

### SUBCHAPTER 3. GENERAL REQUIREMENTS

#### 13:48-3.1 Registration

(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 contribution 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.

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.

#### 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 statement shall not foreclose the Attorney General from later taking appropriate action based on information that may be subsequently discovered.

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

#### 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 State Department of Education or the 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;

(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.

(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 by-laws.

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

i. The name, 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.

**SUBCHAPTER 6. REGISTRATION OF CHARITABLE ORGANIZATIONS—REGISTRATION OF LOCAL UNITS BY PARENT ORGANIZATIONS**

**Authority**

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

**Source and Effective Date**

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

**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.

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

**Authority**

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

**Source and Effective Date**

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

**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, or access to any charitable organization's money;

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 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 which have engaged or retained the services of the fund raising counsel or independent paid fund raiser within the last five years to plan or conduct solicitation activities in the State of New Jersey; 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. A fund raising counsel or independent paid fund raiser which is a partnership or corporation shall pay a single fee.

(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.

#### **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, or access to a charitable organization's money 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. If a fund raising counsel or independent paid fund raiser holds a nonconforming bond on November 15, 1999, that bond shall be replaced with a conforming one prior to the expiration of that bond or May 13, 2000, whichever comes first.

(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.

(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.

**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 or control of, or to have access to, a charitable organization's money prior to filing a bond with the Attorney General and accomplishing registration in accordance with the Act and these regulations.

**SUBCHAPTER 8. REGISTRATION OF SOLICITORS**

**Authority**

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

**Source and Effective Date**

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

**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 the solicitor on a form prescribed by the Attorney General, which shall contain the following information:

1. The name and address of the solicitor;
2. The name, address, registration number, and telephone number of the independent paid fund raisers who employ 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.

**SUBCHAPTER 9. CONTRACTS; CHARITABLE SALES PROMOTIONS REPORTS**

**Authority**

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

**Source and Effective Date**

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

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

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

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

1. A statement of the respective obligations of the professional fund raiser and the charitable organization;
2. A clear statement of the fees or rate which will be paid to the fund raising counsel or independent 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 custody, control or access to contributions;
5. A statement as to the guaranteed minimum percentage of the gross receipts from contributions which 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 which will be remitted to the charitable organization, if any. Any stated percentage shall exclude any amount which the charitable organization is to pay as fund raising costs;

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 compensation shall be expressed as a reasonable estimate of the percentage of anticipated gross revenue, 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 by the independent paid fund raiser;

7. The bank branch, address, and each account number where all monies will be deposited;

8. The mailing address or addresses which will receive any contributions;

9. The name and address of any caging or escrow agent retained in connection with the performance of the contract; and

10. The names of the individuals who will be authorized signatories for the accounts where all monies are deposited.

(c) The contract shall be signed by two authorized officials 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) Each 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) A fund raising counsel or independent paid fund raiser 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 which received the contributions;
- 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.

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

(a) A charitable organization which 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; and

**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 and address of the charitable organization, as registered with the Attorney General, or the organization's name and registration number; 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.

SUBCHAPTER 12. STANDARDS AND SUPERVISION

**Authority**

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

**Source and Effective Date**

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

**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 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;

5. The script or other statements used in telephone solicitations;
6. Review of all printed solicitation or pledge documents for accuracy;
7. Establishment of a procedure to ensure that all requests for written information or educational literature are honored;
8. Knowledge and approval of the process by which contributions are collected; and
9. 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.

**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

**Authority**

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

**Source and Effective Date**

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

**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 state-

ment 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 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;

8. 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;

9. 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;

10. 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

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

### **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:

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

7. 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.

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.

**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 14. PENALTIES**

**Authority**

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

**Source and Effective Date**

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

**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 \$7,500 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 \$15,000;

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 \$15,000 for each additional violation;

**SUBCHAPTER 15. CRIMINAL LAW ENFORCEMENT ORGANIZATIONS**

**Authority**

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

**Source and Effective Date**

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

**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.