

**TREASURY-GENERAL**

**OFFICE OF THE STATE TREASURER**

**Public Employee Charitable Fund-Raising Campaign  
Organization Eligibility; Appeal Procedure; Application Procedure**

**Proposed Amendments: N.J.A.C. 17:28-2.5, 2.7, 2.8, 3.1, 3.2 and 3.3**

Authorized By: Bradley Abelow, State Treasurer

Authority: N.J.S.A. 52:14-15.9c13 and 52:18A-30

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number: PRN 2007-67

Submit written comments by May 4, 2007 to:

Kaitlyn Adams  
Office of the State Treasurer  
PO Box 002  
Trenton, New Jersey 08625-0002

The agency proposal follows:

## Summary

The proposed amendments clarify the eligibility requirements of a charitable organization to participate in the public employee Charitable Fund-Raising Campaign (Campaign) or the Campaign Steering Committee of the Campaign and the appeals process in the event that an initial determination is made by the Campaign Steering Committee that the organization is not eligible to participate. When the existing rules address eligibility, they refer to the relevant section of the Public Employee Charitable Fund-Raising Act, N.J.S.A. 52:14-15.9c7. That 1985 statute in turn requires a charity to be subject to the Charitable Fund Raising Act of 1971, P.L. 1971, c. 469. However, the 1971 cross-referenced law was repealed and superseded by the Charitable Registration and Investigation Act, P.L. 1994, c. 16 (CRI), which has since been amended by P.L. 2005, c. 283, effective July 9, 2006. Before these amendments, the CRI provided disclosure, recordkeeping requirements and enforcement authority not found in the repealed law, and after the recent amendments, the CRI provides enhanced disclosure requirements (for example, annual disclosure of organizational information, rather than at the initial registration), prohibitions against misleading prospective donors, and enhanced enforcement authority by the Attorney General. With these statutory changes, it is necessary to clarify to charitable organizations that to be eligible to participate in the Campaign or the Campaign Steering Committee requires compliance with a statute, the CRI, which requires much more than the initial registration of a charitable organization with the Attorney General. The proposed amendments address CRI compliance at N.J.A.C. 17:28-2.5 (eligibility of charitable fund-raising organizations to participate in Steering Committee), 2.8

(statement of compliance added to application requirements), 3.1 (eligibility of charitable agency to participate in Campaign) and 3.3 (statement of compliance added to application requirements).

There are also amendments proposed for N.J.A.C. 17:28-2.7 and 3.2 addressing the appeals process for determinations on membership in the Campaign Steering Committee and on eligibility to participate in the Campaign. The current rules dictate the composition of the special appeal panel convened by the State Treasurer, which must have a representative of the three constituent groups forming the Campaign Steering Committee. Ideal though this composition may be, it has not always proved practicable for State Treasurer to obtain such representation, and therefore, the proposed amendments provide a measure of flexibility in the composition of the panel by requiring representation of the constituent groups to the extent practicable, while retaining the goal that the composition of the panel be representative of such groups.

The State Treasurer has provided a 60-day comment period for this notice of proposal. Therefore, this notice is excepted from the rulemaking calendar requirement pursuant to N.J.A.C. 1:30-3.3(a)5.

### **Social Impact**

The proposed amendments to N.J.A.C. 17:28 affect all charitable organizations seeking to participate in the Campaign or become a member of the Campaign Steering Committee, the operational unit of the Campaign. The amendments clarifying that eligibility for participation in the Campaign or membership in the Campaign Steering Committee requires compliance with the CRI will benefit the public and the State employees through the increased organizational and financial disclosures and safeguards against fraud. Without this clarification of compliance requirements, the Campaign found it necessary to publish a disclaimer in the Campaign Code Book distributed to State employees that not all the charities participating were in full compliance with the CRI. In the event

that charitable organizations do not understand the link between the Campaign and full compliance with the CRI, the amendments offer the positive social impact of clear guidance. Moreover, the proposed amendments to the appeals procedures benefit charities seeking to participate and administrators of the Campaign by potentially expediting appeals while, at the same time, retaining the goal of a representative appeals panel.

### **Economic Impact**

The proposed amendments may have a positive economic impact of stimulating increased confidence and, consequently, contributions, by the State employees in the charities participating in the Campaign. Charities applying to participate in the Campaign or the Campaign Steering Committee are not expected to incur administrative or other costs resulting from these amendments that they would not otherwise incur in complying with the CRI and completing an application to participate in the Campaign or Campaign Steering Committee. It is possible, but not known, that the clarification of the requirement to comply with the CRI will lead fewer charities to seek participation. It is also possible that through the contractor administering the Campaign for the State, the State may incur some small increase in cost for the monitoring of full compliance with the CRI. On the other hand, that administrative burden may be countered by the possible expediting of the appeals process.

### **Federal Standards Statement**

A Federal standards analysis is not required because there are no Federal laws or standards applicable to the proposed amendments.

### **Jobs Impact**

The State Treasurer believes that the proposed amendments will neither increase nor decrease the number of jobs in the State.

### **Agriculture Industry Impact**

The proposed amendments will not have any impact on the agriculture industry in the State.

### **Regulatory Flexibility Analysis**

As defined under the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq., the term “small business” may apply to some charitable agencies wishing to participate in the Campaign. However, the proposed amendments impose no recordkeeping, recording or compliance requirements on such entities not already imposed by compliance with the CRI. The only requirements imposed on such agencies related to the application process, the documentation for which should be maintained by the agency in the normal course of operation. Besides the minor administrative costs of application, the State Treasurer anticipates no cost need be expended or professional services engaged by small businesses to comply with these amendments. Although the rules may be somewhat burdensome to small businesses, it is essential that the rules be in full compliance with the Charitable Registration and Investigation Act in order to protect the public from fraud and deceptive practices by making available information concerning charitable fund raising activities of charitable organizations, professional fund raisers, commercial co-venturers and solicitors. Therefore, no lesser or differing standards are possible for small businesses.

### **Smart Growth Impact**

The State Treasurer does not believe that the proposed amendments will have an impact on the achievement of smart growth or the implementation of the State Development and Redevelopment Plan.

**Full text** of the proposal follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

## **SUBCHAPTER 2. CHARITABLE FUND-RAISING CAMPAIGN STEERING COMMITTEE**

### **17:28-2.5 Eligibility of charitable fund-raising organizations**

- (a) The requirements for eligibility of a charitable fund-raising organization are set forth in N.J.S.A. 52:14-15.9c7. N.J.S.A. 52:14-15.9c7d, in turn, cross-references and requires compliance with the statute repealed and superseded by the Charitable Registration and Investigation Act, N.J.S.A. 45:17A-18 et seq. This means that the charitable fund-raising organization shall be in full compliance with the Charitable Registration and Investigation Act, N.J.S.A. 45:17A-18 et seq., and implementing rules at N.J.A.C. 13:48 including, but not limited to, registration, reporting, solicitation, record-keeping, and continuing disclosure requirements.

- (b) (No change.)

### **17:28-2.7 Appeal procedure**

- (a) (No change.)

- (b) Within 45 days of receipt of any additional information, the State Treasurer shall convene a special appeal panel consisting of the Chair of the Campaign Steering Committee, and, to the extent practicable, representatives of other groups composing the Campaign Steering Committee, such as the representative of the various labor unions representing State employees and the representative of the executive branch of State government, to review the charitable fund-raising organization's appeal and any additional documentation or information submitted by the charitable fund-raising organization.
- (c) (No change.)

#### **17:28-2.8 Application form for charitable fund-raising organizations**

- (a) (No change.)
- (b) In addition to the completed application form, the applicant must submit:
- 1.-5. (No change.)

6. A statement affirming that the organization is currently in full compliance with the Charitable Registration and Investigation Act, N.J.S.A. 45:17A-18 et seq. and implementing rules at N.J.A.C. 13:48-1.1 and has been for the fiscal year preceding and to the date of when its application is submitted;

Recodify existing 6.-9. as 7.-10. (No change in text.)

[10.]#11. A statement affirming that the charitable fund-raising organization will give funds to at least 15 affiliated charitable agencies in the Campaign and that each of the organization's affiliated charitable agencies is:

- i. Registered pursuant to the provisions of Title 15 of the Revised Statutes or Title 15A of the New Jersey Statutes and in full compliance with the Charitable Registration and

Investigation Act, N.J.S.A. 45:17A-18 et seq., except for an agency exempt from registration under the law; and

ii. (No change.)

[11.]#12. (No change in text.)

(c)-(e) (No change.)

### **SUBCHAPTER 3. CHARITABLE FUND-RAISING CAMPAIGN**

#### **17:28-3.1 Eligibility**

(a) (No change.)

(b) A charitable agency shall be eligible to participate in the Campaign if:

1. (No change.)

2. The charitable agency meets the requirements of N.J.S.A. 52:14-15.9c7a through e. N.J.S.A. 52:14-15.9c7, in turn, cross-references and requires compliance with the statute superseded and repealed by the Charitable Registration and Investigation Act, N.J.S.A. 45:17A-18 et seq. This means that the charitable agency shall be in full compliance with the Charitable Registration and Investigation Act, N.J.S.A. 45:17A-18 et seq., and implementing rules at N.J.A.C. 13:48, including, but not limited to, registration, reporting, solicitation, record-keeping, and continuing disclosure requirements.

(c) (No change.)

#### **17:28-3.2 Application procedure for unaffiliated agencies**

(a) (No change.)

(b) The application procedure for charitable agencies is as follows:

1.-3. (No change.)

4. Within 45 days of receipt of any additional information the State Treasurer shall convene a special appeal panel consisting of the Chair of the Campaign Steering Committee, and, to the extent practicable, representatives of other groups composing the Campaign Steering Committee, such as the representative of the various labor unions representing State employees and the representative of the executive branch of State government, to review the charitable agency's appeal and any documentation or information submitted by the charitable agency.

5. (No change.)

**17:28-3.3 Application form; unaffiliated charitable agency**

(a) (No change.)

(b) In addition to the completed application form, the applicant must submit:

1.-4. (No change.)

5. A statement that the agency is currently in full compliance with the Charitable Registration and Investigation Act, N.J.S.A. 45:17A-18 et seq. and implementing rules at N.J.A.C. 13:48 and has been for the fiscal year preceding and to the date when its application is submitted.

Recodify existing 5.-8. as 6.-9. (No change in text)

(c)-(f) (No change.)