

Charitable Solicitation Regulation

Nonprofit Organizations Fundamentals Workshop
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Overview

1. What Activity is Regulated?
2. Constitutional Framework for Fundraising Regulation
3. Overview of State Fundraising Regulation
4. Key Fundraising and Reporting Issues Scrutinized by State Regulators
5. Internet & Social Media Fundraising Regulation

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What Activity Is Regulated?

A “solicitation” is any direct or indirect request for a contribution of money or property, whether express or implied, through any medium.

- ✓ asking for a gift
- ✓ selling goods or services to benefit a charity

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Constitutional Framework

- ▶ The solicitation of charitable contributions is fully protected activity under the First Amendment of the United States Constitution.
- ▶ The First Amendment protections do not prevent states from imposing appropriately tailored registration requirements.
- ▶ Ongoing tension exists between federal constitutional protections on the one hand, and the state’s legitimate interest in preventing fraud on potential donors.

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State Registration and Reporting

- 45* states plus DC have some sort of statutory scheme to regulate charitable solicitations and the use of nonprofit assets within their borders.
- Registration and reporting requirements are imposed on charities, fundraising counsels, professional fundraisers, and commercial co-venturers.
- Each group is required to file annual registrations and/or financial reports and/or a copy of its IRS Form 990.

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Charitable Organizations

- Primarily Section 501(c)(3) and (c)(4) organizations
- Could include individuals and other types of entities
 - Most state statutes do not limit their definition of “charitable organization” based on tax-exempt status or classification
- 41* states plus DC require charities to register prior to soliciting charitable contributions

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