

Voluntary Compliance Program for 501(c)(4) Social Welfare Organizations that Have Not Registered as Charitable Organizations with the New Jersey Division of Consumer Affairs

Deadline: October 1, 2020

The Charitable Registration & Investigation Section of the New Jersey Division of Consumer Affairs administers and enforces the Charitable Registration & Investigation Act (“CRIA”). The CRIA requires registration with the Division of Consumer Affairs by certain “charitable organizations,” including “social welfare” organizations exempt from federal taxation under Section 501(c)(4) of the Internal Revenue Code. Although the Division has registered over 900 charitable organizations identified as 501(c)(4) social welfare organizations, the Division believes that compliance with the CRIA’s registration requirements may be lower among 501(c)(4) social welfare organizations than among other charitable organizations. As a result, the Division has been enhancing its efforts to enforce the CRIA’s registration requirements with respect to 501(c)(4) social welfare organizations.

To encourage 501(c)(4) social welfare organizations to comply voluntarily with the CRIA’s registration requirements, the Division is announcing a Voluntary Compliance Program. Under the Voluntary Compliance Program, the Division will forego collection of penalties for past registration violations by certain 501(c)(4) entities that are subject to the CRIA’s registration requirements; that have failed to register as required; and that submit a completed registration statement or the alternative documentation described below by October 1, 2020. Charitable organizations that have violated the CRIA’s registration requirements and that do not take advantage of this Voluntary Compliance Program may face civil penalties of up to \$10,000 for their first violation of the CRIA and up to \$20,000 each for any subsequent violation.

This Voluntary Compliance Program is subject to the following conditions and limitations:

1. **Eligible Charitable Organizations.** Eligibility for this Voluntary Compliance Program is limited to charitable organizations claiming exemption from federal taxation under Section 501(c)(4) of the Internal Revenue Code. Fundraising consultants, professional fund raisers, and organizations claiming exemption from federal taxation under Section 501(c)(3) or other provisions of the Internal Revenue Code are not eligible.

Eligibility is limited to unregistered entities. If an organization previously registered under the CRIA, then failed to comply with the CRIA’s registration requirements for one or more subsequent years, the organization is not eligible for the Voluntary Compliance Program.

As noted, the Division has been enhancing its efforts to enforce the CRIA’s registration requirements with respect to 501(c)(4) social welfare organizations. An organization is not eligible for the Voluntary Compliance Program if the organization has received a subpoena from the Division issued pursuant to the CRIA.

2. **Registration and Payment of Registration Fee.** Subject to the exception concerning audited financial statements which is described in Paragraph 3 below, to be eligible for the

Voluntary Compliance Program, an organization must register with the Division by submitting all required forms and documentation and paying all required registration fees. The organization must submit a long-form registration statement unless the organization is eligible to submit a short-form registration statement.

For organizations that continue to operate or solicit contributions in New Jersey, the period covered by the registration statement is the organization's most recently completed fiscal year. For organizations that no longer operate or solicit contributions in New Jersey, the period covered by the registration statement is the organization's last fiscal year in which the organization operated or solicited contributions in New Jersey.

If the registration statement has not been completed to the satisfaction of the Division of Consumer Affairs, the Division may exercise its discretion as to whether to request additional information or documentation or to impose any penalty for the organization's past failure to register.

3. Audited Financial Statements. Charitable organizations with gross revenue in excess of \$500,000 ordinarily file with their registration statement a financial statement audited by an independent certified public accountant and any management letters prepared by the auditor. See N.J.S.A. 47:17A-24(d)(2) and N.J.A.C. 13:48-5.3. Solely for purposes of this Voluntary Compliance Program, the Division will accept alternative documentation from organizations that no longer operate or solicit contributions in New Jersey and that agree to no longer operate or solicit in New Jersey. In lieu of the documents ordinarily required by N.J.S.A. 47:17A-24(d)(2) and N.J.A.C. 13:48-5.3, the Division will accept the organization's unaudited financial statements and tax filings covering the entirety of the organization's last fiscal year in which the organization operated or solicited, together with a certification, under penalty of perjury, attesting that (1) all information in the unaudited financial statement is true and accurate; and (2) that the organization no longer operates or solicits and will not operate or solicit in New Jersey in the future. Organizations availing themselves of this option will not be deemed registered by the Division, but neither will they be excluded from the Voluntary Compliance Program for their failure to submit a financial statement audited by an independent certified public accountant and any management letters prepared by the auditor.

4. Deadline. To be eligible for the Voluntary Compliance Program, a charitable organization must submit a completed registration statement by October 1, 2020. If a charitable organization submits a registration statement by October 1, 2020, but the registration statement has not been completed to the satisfaction of the Division of Consumer Affairs, the Division may exercise its discretion as to whether to impose any penalty for the organization's past failure to register.

5. Enforcement Discretion. If an organization satisfies the requirements for the Voluntary Compliance Program, the Division will exercise its discretion not to seek penalties from the organization for the organization's past failure to register with the Division. The Division maintains its authority to seek additional information from an organization that participates in the

Voluntary Compliance Program; to seek penalties for future violations of the CRIA's registration requirements; and to seek penalties for past, ongoing, and/or future violations of any other requirement of the CRIA or its implementing regulations, or any other law or regulation.

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Organizations may register with the Division through the Charities Registration Portal available at <https://www.njconsumeraffairs.gov/charities/Pages/charities-registration-information.aspx>.

Through the deadline for registering as part of the Voluntary Compliance Program, organizations that identify themselves as 501(c)(4) organizations when completing an online charities registration form in the normal course will now be asked to indicate whether or not they are registering as part of the Voluntary Compliance Program or are instead filing an ordinary registration statement by checking a box in the registration form. Applicants who click the checkbox for the Voluntary Compliance Program will have their registration statements expedited by Division staff, to facilitate the curing of any deficiencies prior to October 1, 2020. Organizations also should notify the Division of their participation in the Voluntary Compliance Program via e-mail (Charitiesportalsupport@dca.lps.state.nj.us).

For questions or additional information, please contact the Charities Registration Section at (973) 504-6215 or via e-mail (Charitiesportalsupport@dca.lps.state.nj.us).