

California Issues Final Regulations Governing Charitable Fundraising Platforms

May 1, 2024

What You Need to Know

On March 26th, California issued its [final regulations governing charitable fundraising platforms](#). The regulations administer [the law](#) enacted in 2021 and significantly impact how platforms and platform charities must operate. The regulations also affect organizations that receive charitable donations through these platforms. This article outlines who the new regulations affect, key effective dates, and provides a summary of important new requirements including user/donor disclosures, rules governing donation disbursements, and other new operational requirements.

Who is affected by the regulations?

Charitable Fundraising Platforms (“Platforms”)

Charitable fundraising platforms include any person or entity that uses the internet to provide an internet website, service, or other platform to persons in California, and performs, permits, or otherwise enables acts of solicitation to occur. **The broad definition includes not only technology platforms specifically designed to facilitate online charitable donations, but also applies to many online retail websites and mobile apps that facilitate cause marketing promotions, invite customers to donate at checkout, or offer to make a donation in exchange for a free action taken online.**

Read [this article](#) to learn about the limited exceptions to the definition of “charitable fundraising platform,” and how the new law applies to platforms that meet the definition of more than one regulated fundraising category.

Note that certain requirements vary based on the **Solicitation Type(s)** (defined below) conducted on a platform.

Platform Charitable Organizations (“Platform Charities”)

Platform charities receive donations on platforms that are recommended or advised to be granted to another charitable organization.

Recipient Charitable Organizations (“Recipient Charities”)

Recipient charities are those that are listed within a platform as a potential recipient of donations generated through the platform, and include donations received directly from the platform, or as a recommended donation or grant from a platform charity.

Persons Who are Sent Funds in Peer-to-Peer Charitable Fundraising

A person may be required to register as a trustee with the California Attorney General’s office if they are sent funds from a platform as part of a charitable peer-to-peer fundraising campaign and cannot send the funds to the recipient charity within 10 business days of their receipt of the funds.

REGULATIONS EFFECTIVE AS OF MARCH 26, 2024

1. Section 314 (Definitions)

Key definitions include the following.

a. Conspicuous

The regulation specifies how and where required disclosures must be displayed to platform users, including how disclosures should be displayed when they are in hyperlinks (when permitted), or on smaller screens.

b. Fees

Fees include those that are charged by a platform or platform charity, or by vendors providing services to them, and deducted from donations or recommended donations.

c. Solicitation Type A (General Donations)

Includes soliciting donations, such as micro donations, round-up donations, or donations of any amount, from donors who are platform users by listing or referencing by name one or more recipient charitable organizations to be sent donated funds.

d. Solicitation Type B (Peer-to-Peer Fundraising)

Includes permitting or enabling crowdfunding campaigns created by platform users engaging in peer-to-peer charitable fundraising, or otherwise permitting or enabling platform users to solicit donations made by other platform users for one or more recipient charities.

e. Solicitation Type C (Select-a-Charity CCV + Other User Activities)

Includes performing solicitations through charitable sales promotions (i.e., commercial co-venture promotions or CCVs), cause marketing campaigns, or free action programs. In these solicitations, platform users have the option to select one or more recipient charities to be sent donated funds. The platform or a third party would make the donations based on the purchases made or other activity performed by platform users.

f. Solicitation Type D (Pre-Designated Charity CCV + Other User Activities)

Includes performing solicitations through charitable sales promotions (i.e., CCVs), cause marketing campaigns, or free action programs. In these solicitations, the platform selects one or more recipient charities to send donated funds based on the purchases made or other activity performed by platform users.

g. Solicitation Type E (Private Label/SAAS Platform)

Includes providing a charitable fundraising platform to charities that can be private-labeled or otherwise customized, that is subject to a software as a service license agreement between the charitable fundraising platform and charity, and which allows charities to solicit donations from donors using the platform.

2. Section 316 (Good Standing of Charities)

The statute requires that a platform or platform charity may only facilitate solicitations or the receipt of donations for the benefit of charitable organizations in good standing. "Good standing" means the platform charity or other recipient charity's tax-exempt status has not been revoked by the Internal Revenue Service or the California Franchise Tax Board or is not prohibited from soliciting or operating in

California by the Attorney General (pursuant to the AG’s “May Not Operate or Solicit for Charitable Purposes” List).

The Attorney General’s office will release updates to its May Not Operate List every first and third Wednesday of the month. The regulations provide that if the AG’s [online Registry Search Tool](#) (which must be searched manually) indicates that a recipient charity is in good standing, the platform may send funds to that recipient charity even if it is on the May Not Operate List. While the Registry Search Tool is often more up to date than the May Not Operate List, it is unfortunately not available via an automatic data download. As such, it is not clear how many platforms will use the more updated Registry Search Tool to prevent a charity from being blocked. In our view (and that of many others in the sector, as seen in the public comments submitted to the AG’s office during the Rulemaking process), the additional provisions included in the Regulations provide only limited relief compared to the otherwise draconian effects of this “good standing” requirement, which are more fully described [here](#).

Five Business Day Grace Period

Platforms and platform charities have a five (5) business day grace period in which they may send funds to a recipient charity that is on the AG’s most recent May Not Operate List, so long as that recipient charity was not on the previous May Not Operate List issued two (2) weeks before.

3. Section 317 (Solicitation Disclosures)

a. Disclosures in Peer-to-Peer Fundraising

Platforms must: (1) provide peer-to-peer fundraising participants the option to provide their name and contact information to the recipient charity in certain circumstances; (2) disclose that recipient charities may use funds received on an unrestricted basis, regardless of designations/restrictions made by donors or other participants in the campaign, if the recipient charity has not otherwise consented to such use restrictions; and (3) disclose to persons who are sent donated funds from a platform that the person may not divert or misuse the donated funds, and must either send the donated funds to the recipient charity no later than 10 business days after receipt of the funds or else register as a trustee with the California Attorney General’s office.

b. When a recipient charity may be ineligible to receive donated funds

The platform or platform charity must disclose the most pertinent reasons, if any, under which an organization may be deemed ineligible to be sent donated funds.

c. Timing of Fund Disbursements

Platforms must disclose the maximum time for funds to be disbursed to recipient charities, subject to any minimum threshold amounts as permitted. See additional details in section 320 of the Regulations, summarized below.

d. Disclosure of Fees Charged by the Platform or Platform Charity

The Regulations clarify that information regarding fees charged or retained by a platform may be provided in a hyperlink, a clarification that we believe was necessary to avoid potential violation of charities’ First Amendment rights applicable to charitable solicitation activities.

4. Section 323 (Donations Held by Platform Users in Peer-to-Peer Fundraising Campaigns)

In peer-to-peer fundraising campaigns, when a person conducting the campaign is sent donated funds from a platform or platform charity, the person may not divert or misuse the donated funds, and must send the donated funds to the recipient charity no later than 10 business days after receipt of the funds (or if it cannot transfer the funds within that time, the person must register as a trustee with the California Attorney General’s office).

REGULATIONS EFFECTIVE AS OF JUNE 12, 2024

Section 315: New Registration and Filing Requirements

The new registration and filing requirements applicable to charitable fundraising platforms become operative on June 12, 2024. Prior to that date, the Registry of Charities and Fundraisers' Online Filing Service will become available. The Online Filing Service will be the only way through which charitable fundraising platforms can register, and for charitable fundraising platforms or platform charities to submit other filings.

The new registration and reporting forms include the following:

PL-1

Charitable fundraising platforms must Form PL-1 ("Initial Registration for Charitable Fundraising Platforms") before the platform begins performing, permitting, or enabling solicitations to persons in California through the platform.

PL-2

Beginning in 2025, platforms that have already registered must file the Form PL-2 ("Registration Renewal for Charitable Fundraising Platform") by January 15 of each calendar year.

PL-3

Platform charities must file Form PL-3 ("Notification from Platform Charities") no later than 30 days after the partnership with a platform is entered into, unless notification was previously provided through registration of the platform charity as a trustee, or as part of the registration of the platform.

PL-4

On or before July 15 of each calendar year starting in 2025, the Form PL-4 ("Annual Fundraising Report for Charitable Fundraising Platforms or Platform Charities") must be filed by platforms or platform charities reporting on activities from the previous calendar year.

PDF versions of the registration and reporting forms are [available on the Attorney General's website](#), however, as noted above, registrations can only be filed through the Online Filing Service. Nevertheless, now is a good time to review these forms, so your organization is prepared when the filing requirements come into effect.

REGULATIONS EFFECTIVE AS OF JANUARY 1, 2025

Certain regulations that the Attorney General's office determined may require additional time for fundraising platforms to fully implement have a delayed effective date of January 1, 2025.

1. Section 318 (Charity Consent for Solicitations)

The statute generally requires that a charitable fundraising platform or platform charity obtain the written consent of any recipient charity before using its name in a solicitation but provides that such written consent is not needed if certain circumstances are met. *Read [this article](#) for a summary of those circumstances.*

Assuming written consent is obtained, the agreement between a platform or platform charity and a recipient charity in which the recipient charity provides consent to the platform, platform charity or a partnering platform to use its name in a platform must comply with several requirements outlined in the regulation. The agreement must comply with certain provisions in the statute and regulations (e.g., timing of disbursements, segregation of funds, accounting and reporting of information to the recipient charity). The agreement must allow any consenting recipient charity to review and approve information in the solicitation about the recipient charity, and if not approved, the information may not be used.

Recipient Charity Opt-Out Requests

Platforms and platform charities must promptly verify any request for removal made by a recipient charity. “Promptly” means no later than three business days after a written request for removal is made.

2. Section 319 (Tax Donation Receipts)

Platforms or platform charities engaging in Solicitation Types A or B must “promptly” send a donation receipt to donors, which means no later than five (5) business days after the donation is made. If the donation is made directly to a recipient charity instead of to a platform charity, the platform must obtain authorization from the recipient charity to send a donation receipt on its behalf.

3. Section 320 (Sending of Donations to Charities)

a. Solicitation Types A or B (General Donations and Peer-to-Peer Fundraising)

Donations or grants of recommended donations must be sent to recipient charities as follows:

i. For Consenting Recipient Charities

No later than 30 days after the end of the month in which the donation was made (unless the recipient charity is ineligible to be sent funds).

ii. For Non-Consenting Recipient Charities

No later than 45 days after the end of the month in which the donation was made (unless the recipient charity is ineligible to be sent funds).

iii. Alternate Charities

A platform or platform charity must determine whether a recipient charity is eligible to be sent donated funds within the time period for when donated funds must be sent (as outlined above). If it is determined the recipient charity is ineligible, the platform or platform charity must notify donors in writing (electronic notice is permitted) no later than 30 days after the determination of eligibility and ask them to recommend an alternate charity. Donors have 30 days from the date of notification to recommend an alternate charity.

- If an alternate charity is timely recommended and determined to be eligible, the platform or platform charity must send the donated funds no later than 30 days from the last date donors could timely recommend an alternate.
- If an alternate charity is timely recommended and determined to be not eligible, the charitable fundraising platform or platform charity must select another alternate charity and send the donated funds to the alternate no later than 30 days from the last date donors could timely recommend an alternate.
- If an alternate charity is not timely recommended, the charitable fundraising platform or platform charity must select an alternate charitable organization and send the donated funds to the alternate no later than 30 days from the last date donors could timely recommend an alternate.

b. Solicitation Types C and D (CCV and other User Activities)

Donated funds must be sent on a quarterly basis or more frequently but may be subject to minimum threshold amounts before they are sent, not to exceed \$10.00. “Quarterly basis” means sending funds based on purchases or other activity performed by platform users no later than 30 days after the end of a 90-day period established as a quarter by the platform or platform charity. If the minimum threshold amount is not reached after four consecutive quarters, the donated funds must be sent to the recipient charity no later than 30 days after the fourth quarter ends, unless the recipient charity is not eligible to be sent the funds.

If it is determined (within the time period for when donated funds must be sent) that a recipient charity is not eligible to be sent funds, the platform or platform charity must select an alternate charity and send the donated funds to the alternate no later than 30 days after the determination of eligibility.

4. Section 321 (Accounting of Donations to Charities)

For Solicitation Types A or B (General Donations and Peer-to-Peer Fundraising)

Information that must be provided includes: (i) the total number of donations made and the time period in which the donations were made; (ii) upon request, the date of each donation or recommended donation; the total amount of all donations made before fees were imposed, and the total amount of fees imposed; (iii) upon request, a per-donation breakdown of fees; (iv) the name and email address of donors and persons engaged in peer-to-peer fundraising who chose to share their information, unless the recipient charity did not give written consent to use its name in a solicitation; and (v) when donors or persons engaging in peer-to-peer fundraising specified restrictions or designated a preference on how donations or recommended donations may be used by the recipient charity, these use designations must be provided to the recipient charity.

For Solicitation Types C or D (CCV and Other User Activities)

Information that must be provided includes: (i) a description of the purchasing or other activity performed by platform users who caused a donation or grant of a recommended donation to be sent to the recipient charity, along with the time period when the purchase/activity was performed; and (ii) the amount of each donation, with an accounting of how it was calculated, including the number of purchases made or other activities performed, the donation amount per purchase or other activity, and any fees that were imposed.

For Solicitation Type E (Private Label/SAAS Platform)

The platform must provide the recipient charity with the date each donation was made, the date each donation was sent, the amount of each donation before fees were imposed, and the fees imposed for each donation.

5. Section 322 (Information for Donors Regarding Donations Sent)

Platforms must provide donors the ability to find out (in the case of Solicitation Type A or B) whether their donations or recommended donations were sent to a recipient charity or alternate charity, or (in the case of Solicitation Type C or D) if the donated funds sent to the recipient charity or alternate charity included funds based on their purchases or other activity.

Want to know more?

Previous articles covering the new California law governing charitable fundraising platforms provide additional information on its requirements.

[California Enacts New Law to Regulate Charitable Fundraising Platforms](#)

[Key Provisions of California Assembly Bill 488 Regulating Charitable Fundraising Platforms Take Effect January 1, 2023](#)

[How Does California's New Fundraising Platform Law Affect Cause Marketing?](#)

[Has Your Organization been Blocked by Charitable Fundraising Platforms? It is likely due to California's new "Good Standing" requirement.](#)

This article is for informational purposes only and is not intended to be an exhaustive summary of the new requirements. Any persons or entities affected by the current law and regulations should consult with their legal counsel to ensure compliance with the new requirements.