

SUBCHAPTER I. CHARITABLE CONTRIBUTIONS

Sec. 659.131. DEFINITIONS.

In this subchapter:

(1) "Campaign manager" means a local campaign manager or state campaign manager.

(2) "Charitable organization" means an organization that:

(A) is organized for charitable purposes under the Texas Non-Profit Corporation Act (Article 1396-1.01 et seq., Vernon's Texas Civil Statutes) or holds a certificate of authority issued under that Act;

(B) is exempt from taxation under Section 501(a) of the Internal Revenue Code of 1986 as an organization described in Section 501(c)(3) of that code and to which contributions are deductible for income tax purposes under Section 170 of that code;

(C) complies with all applicable federal nondiscrimination law, including Chapter 21, Title 42, United States Code;

(D) complies with all state statutes and rules relating to charitable organizations; and

(E) is not a private foundation.

(3) "Direct services" means providing funds or programs for health and human services that directly benefit the recipients.

(4) "Eligible charitable organization" means a charitable organization eligible to participate in the state employee charitable contribution campaign as provided by Section 659.146.

(5) "Federated community campaign organization" means a federation or fund that:

(A) has demonstrated expertise in conducting workplace charitable campaigns; and

(B) distributes funds raised through a cooperative community campaign to at least five agencies that provide direct services to residents of the campaign area.

(6) "Federation or fund" means a fund-raising entity that:

(A) is a charitable organization;

(B) acts as an agent for at least five charitable organizations;

(C) is not organized exclusively to solicit contributions from state employees; and

(D) is supported by voluntary contributions by the public and is:

(i) incorporated in this state and has an established physical presence in this state in the form of an office or service facility that is staffed at least 20 hours a week; or

(ii) incorporated outside this state, includes at least 10 affiliated charitable organizations, has existed at least three years, and participates in state employee charitable campaigns in at least 10 other states.

(7) "Health and human services" means services provided by a charitable organization that:

(A) benefit residents of this state, including children, youth, adults, elderly individuals, ill or infirm individuals, or individuals with a mental or physical disability; and

(B) consist of:

(i) human care, medical or other research in the field of human health,

education, social adjustment, or rehabilitation;

(ii) relief for victims of natural disaster or other emergencies; or

(iii) assistance to impoverished individuals in need of food, shelter, clothing, or other basic needs.

(8) "Indirect services" means services that:

(A) enable, augment, or otherwise support the direct delivery of health and human services; and

(B) demonstrably benefit residents of this state.

(9) "Institution of higher education" has the meaning assigned by Section 61.003, Education Code.

(10) Repealed by Acts 2003, 78th Leg., ch. 1310, Sec. 121(9).

(11) "Local campaign area" means the county or counties in which a local campaign manager conducts a state employee charitable campaign.

(12) "Local campaign manager" means the local campaign manager selected by the local employee committee as provided by Section 659.144.

(13) "Local charitable organization" means a charitable organization that:

(A) provides direct or indirect health and human services; and

(B) is accessible to state employees in the local campaign area by maintaining:

(i) a publicly identified office with a professional or volunteer staff within the local campaign area that is open at least 20 hours a week during normal working hours; and

(ii) a locally listed telephone number.

(14) "Local employee committee" means a local state employee charitable campaign committee selected as provided by Section 659.143.

(15) "State advisory committee" means the state employee charitable campaign advisory committee appointed under Section 659.142.

(16) "State agency" means a department, commission, board, office, institution of higher education, or other agency of state government.

(17) "State campaign manager" means the state campaign manager selected by the state policy committee under Section 659.140(e)(2).

(18) "State employee" means an employee of a state agency.

(19) "State employee charitable campaign" means an annual campaign conducted in communities or areas in which state employees solicit contributions to an eligible charitable organization.

(20) "State policy committee" means the state employee charitable campaign policy committee appointed under Section 659.140.

(21) "Statewide charitable organization" means a federation or fund and its affiliated agencies that:

(A) provide direct or indirect health and human services to residents of two or more noncontiguous standard metropolitan statistical areas of this state; and

(B) have demonstrated the federation or fund is accessible to state employees by maintaining:

(i) a staff or volunteer representative residing in this state who is accessible at least 20 hours a week during normal working hours; and

(ii) a toll-free long-distance telephone

number.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.17(a), eff. Sept. 1, 1995. Amended by Acts 2003, 78th Leg., ch. 1310, Sec. 35, 121(9), eff. June 20, 2003.

Sec. 659.1311. PUBLIC JUNIOR COLLEGES.

(a) For purposes of this subchapter, a public junior college is considered to be an institution of higher education and employees of the public junior college are considered to be state employees during a state fiscal year unless an affirmative decision not to participate under this subchapter is made by the governing board of the public junior college not later than April 1 of the preceding state fiscal year.

(b) An employee of a public junior college that elects not to participate in the state employee charitable contribution program may authorize a deduction from the employee's salary or wage payment for a charitable contribution as provided by the policy of the governing board of the public junior college.

(c) Participation by an employee of a public junior college under this section is voluntary.

Added by Acts 1997, 75th Leg., ch. 1253, Sec. 1, eff. Sept. 1, 1997.

Sec. 659.132. DEDUCTION AUTHORIZED.

(a) A state employee may authorize a deduction each pay period from the employee's salary or wage payment for a charitable contribution as provided by this subchapter.

(b) Except as provided by Subsections (c), (d), and (e), a state employee may authorize a deduction only during a state employee charitable campaign.

(c) A state employee who begins working for the state when a campaign is not being conducted may authorize a deduction according to the comptroller's requirements.

(d) A state employee who works for a state agency that does not allow deduction authorizations under Subsection (i) may authorize a deduction that is effective with the

first full payroll period after the agency is converted to a system in which uniform statewide payroll procedures are followed.

(e) A state employee who works for a state agency that does not allow deduction authorizations under Subsection (i) may authorize a deduction after transferring from that agency to:

(1) a state agency that allows deduction authorizations even though it may prohibit them under Subsection (i); or

(2) a state agency not covered by Subsection (i).

(f) A state employee who authorized a deduction while working for a state agency may continue the deduction after transferring to another state agency if the comptroller's rules for continuing the deduction are followed.

(g) An authorization must direct the comptroller to distribute the deducted funds to a participating federation or fund and a local campaign manager as prescribed by rule.

(h) A deduction under this subchapter must be in the form prescribed by the comptroller.

(i) A state agency other than an institution of higher education is not required to permit an employee to authorize a deduction under this subchapter until the first full payroll period after the agency converts to a system in which uniform statewide payroll procedures are followed.

(j) The comptroller by rule may establish a reasonable minimum deduction for each pay period.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.17(a), eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 1035, Sec. 36, eff. June 19, 1997.

Sec. 659.133. VOLUNTARY PARTICIPATION.

(a) Participation by a state employee in a state employee charitable campaign is voluntary. Each campaign manager, local employee committee, charitable organization, state employee, and state agency shall inform state employees that deductions are voluntary.

(b) The comptroller shall adopt rules establishing a process for hearing employee complaints regarding coercive activity in a state employee charitable campaign.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.17(a), eff. Sept. 1, 1995.

Sec. 659.134. DESIGNATION OF AN ELIGIBLE CHARITABLE ORGANIZATION.

(a) A state employee may designate in the authorization an eligible charitable organization to receive the deductions.

(b) If a state employee does not designate an eligible charitable organization, the employee's deductions shall be distributed to each participating federation or fund and eligible local charitable organization in the proportion that the deductions designated for that charitable organization bear to the total of designated deductions in the local state employee charitable campaign.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.17(a), eff. Sept. 1, 1995.

Sec. 659.135. CONFIDENTIALITY.

(a) Except as necessary to administer this subchapter or on written authorization of the employee, the following information is confidential:

(1) whether a state employee has authorized a deduction under this subchapter;

(2) the amount of the deduction; and

(3) the name of a federation or fund or local charitable organization that a state employee has designated to receive contributions.

(b) The designation of a charitable organization by a state employee is not confidential if the employee executes a written pledge card or other document indicating that the employee wishes to receive an acknowledgement from the charitable organization.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.17(a), eff. Sept. 1, 1995.

Sec. 659.136. REVOCATION OR CHANGE OF AUTHORIZATION.

(a) A state employee may revoke or change an authorization by giving notice to the employing state agency. A state employee may not change the eligible charitable organization designated to receive the employee's deductions.

(b) The notice must be in the form and manner prescribed by the comptroller.

(c) A revocation or change takes effect on the date designated by the comptroller by rule.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.17(a), eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 1035, Sec. 37, eff. June 19, 1997.

Sec. 659.137. DURATION OF DEDUCTION.

(a) A deduction under this subchapter begins on the date designated by the comptroller by rule.

(b) A deduction under this subchapter is effective for a maximum of one campaign year and, unless revoked or changed under Section 659.136, ends on the date designated by the comptroller by rule.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.17(a), eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 1035, Sec. 38, eff. June 19, 1997.

Sec. 659.138. TIME OF CAMPAIGN.

A state employee charitable campaign shall be conducted each autumn.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.17(a), eff. Sept. 1, 1995.

Sec. 659.139. FAIR AND EQUITABLE MANAGEMENT OF CAMPAIGN.

A state employee charitable campaign must be managed fairly and

equitably in accordance with this subchapter and the policies and procedures established by the state policy committee.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.17(a), eff. Sept. 1, 1995.

Sec. 659.140. STATE EMPLOYEE CHARITABLE CAMPAIGN POLICY COMMITTEE.

(a) The state employee charitable campaign policy committee consists of not more than 10 members.

(b) The governor may appoint not more than four members. The lieutenant governor and the comptroller may appoint not more than three members each.

(c) Each member of the state policy committee must be a state employee. The membership must represent employees at different levels of employee classification.

(d) Appointments shall be made to the state policy committee to ensure that the committee reflects the race, ethnicity, and national origin of the residents of this state.

(e) The state policy committee shall:

(1) establish local campaign areas based on recommendations by the state advisory committee;

(2) select as the state campaign manager:

(A) a federated community campaign organization;

or

(B) in the absence of an application by an organization described by Paragraph (A), a charitable organization determined by the state policy committee to have demonstrated the capacity to conduct a state campaign;

(3) determine the eligibility of a federation or fund and its affiliated agencies for statewide participation in the state employee charitable campaign;

(4) approve the recommended campaign plan, budget,

and generic materials to be used by campaign managers;

(5) oversee the state employee charitable campaign to ensure that all campaign activities are conducted fairly and equitably to promote unified solicitation on behalf of all participants; and

(6) perform other duties prescribed by the comptroller's rules.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.17(a), eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 1319, Sec. 1, eff. Sept. 1, 1997.

Sec. 659.141. STATE CAMPAIGN MANAGER.

The state campaign manager shall:

(1) develop a campaign plan;

(2) prepare a statewide campaign budget in cooperation with local campaign managers;

(3) prepare generic materials to be used by campaign managers;

(4) coordinate and facilitate campaign services to state employees throughout the state;

(5) ensure that all state employee charitable campaign activities are conducted fairly and equitably to promote unified solicitation on behalf of all participants; and

(6) perform other duties prescribed by the comptroller's rules.

(7)

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.17(a), eff. Sept. 1, 1995.

Sec. 659.142. STATE EMPLOYEE CHARITABLE CAMPAIGN ADVISORY COMMITTEE.

(a) The state employee charitable campaign advisory committee consists of eight members appointed by the governor.

(b) Four members must represent campaign managers. Four members must represent federations or funds that are not campaign managers.

(c) The governor shall appoint members to the state advisory committee to ensure that the committee reflects the race, ethnicity, and national origin of the residents of this state.

(d) With the advice of the state advisory committee, the comptroller shall adopt rules for the administration of this subchapter.

(e) The state advisory committee shall:

(1) advise the comptroller and state policy committee in adopting rules and establishing procedures for the operation and management of the state employee charitable campaign;

(2) recommend the number, not to exceed 50, and geographic scope of local campaign areas to the state policy committee; and

(3) review and submit the recommended campaign plan, budget, and generic materials to be used by campaign managers.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.17(a), eff. Sept. 1, 1995.

Sec. 659.143. LOCAL STATE EMPLOYEE CHARITABLE CAMPAIGN COMMITTEE.

(a) The state policy committee shall appoint the presiding officer of a local state employee charitable campaign committee in each local campaign area.

(b) The presiding officer of a local employee committee shall recruit at least five but not more than 10 additional members. The members must represent different levels of employee classification.

(c) Each member of a local employee committee may vote on matters before the committee.

(d) Appointments shall be made to a local employee committee to ensure that the committee reflects the race, ethnicity, and national origin of the residents of the local campaign area.

(e) The local employee committee shall:

(1) select as the local campaign manager:

(A) a federated community campaign organization;

or

(B) in the absence of an application by an organization described by Paragraph (A), a charitable organization determined by the local employee committee to have demonstrated the capacity to conduct a local campaign;

(2) determine the eligibility of local charitable organizations to participate in the state employee charitable campaign;

(3) in consultation with the local campaign manager, approve the recommended campaign plan, budget, and generic materials to be used by campaign managers;

(4) oversee the local state employee charitable campaign to ensure that all local campaign activities are conducted fairly and equitably to promote unified solicitation on behalf of all participants; and

(5) perform other duties prescribed by the comptroller's rules.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.17(a), eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 1319, Sec. 2, eff. Sept. 1, 1997.

Sec. 659.144. LOCAL CAMPAIGN MANAGER.

(a) A local employee committee shall select a federated community campaign organization to be the local campaign manager.

(b) A local campaign manager must have demonstrated expertise to:

(1) provide effective campaign counsel and management; and

(2) serve as fiscal agent for the eligible local charitable organizations.

(c) A local campaign manager shall:

(1) in consultation with the local employee committee, develop a cooperative plan, budget, and local campaign materials for the local state employee charitable campaign;

(2) manage the local state employee charitable campaign in the campaign area and provide for the effective involvement of each participating federation or fund;

(3) ensure that all local state employee charitable campaign activities are conducted fairly and equitably to promote unified solicitation on behalf of all participants; and

(4) perform other duties prescribed by the comptroller's rules.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.17(a), eff. Sept. 1, 1995.

Sec. 659.145. TERMS OF COMMITTEE MEMBERS; COMPENSATION.

(a) A member of the state advisory committee, the state policy committee, or a local employee committee serves a two-year term.

(b) A member of the state advisory committee, the state policy committee, or a local employee committee may not receive compensation for serving on the committee and is not entitled to reimbursement from state funds for expenses incurred in performing functions as a member of the committee.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.17(a), eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 1319, Sec. 3, eff. Sept. 1, 1997.

Sec. 659.146. ELIGIBILITY OF CHARITABLE ORGANIZATIONS IN GENERAL; ELIGIBILITY OF FEDERATIONS AND FUNDS FOR STATEWIDE PARTICIPATION.

(a) To be eligible to participate in a state employee charitable campaign, a charitable organization must:

(1) be governed by a voluntary board of citizens that meets at least twice each year to set policy and manage the affairs of the organization;

(2) if the organization's annual budget:

(A) does not exceed \$100,000, provide a completed Internal Revenue Service Form 990 and an accountant's review that offers full and open disclosure of the organization's internal operations; or

(B) exceeds \$100,000, be audited annually in accordance with generally accepted auditing standards of the American Institute of Certified Public Accountants; and

(3) not spend more than 25 percent of its annual revenue for administrative and fund-raising expenses.

(b) Repealed by Acts 2003, 78th Leg., ch. 1310, Sec. 121(10).

(c) A federation or fund that seeks statewide participation in a state employee charitable campaign must apply on behalf of itself and its affiliated agencies to the state policy committee during the annual eligibility determination period specified by the committee. The state policy committee shall review each application and may approve a federation or fund for statewide participation only if the federation or fund qualifies as a statewide charitable organization. The state policy committee may approve an affiliated charitable organization for statewide participation only if the organization qualifies as a statewide charitable organization.

(d) The state policy committee may use outside expertise and resources available to it to assess the eligibility of a charitable organization that seeks to participate in a state employee charitable campaign.

(e) An appeal from a decision of the state policy committee shall be conducted in the manner prescribed by

the committee. The appeals process must permit a charitable organization that is not approved for statewide participation to apply for participation in a local state employee charitable campaign.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.17(a), eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 1035, Sec. 41, eff. June 19, 1997; Acts 2003, 78th Leg., ch. 1310, Sec. 36, 121(10), eff. June 20, 2003.

Sec. 659.147. ELIGIBILITY OF CHARITABLE ORGANIZATIONS FOR LOCAL PARTICIPATION.

(a) A charitable organization that seeks local participation in a state employee charitable campaign must apply to the appropriate local employee committee during the annual eligibility determination period specified by the state policy committee.

(b) The local employee committee shall review each application and may approve a charitable organization for local participation only if the organization qualifies as a local charitable organization and is:

(1) an unaffiliated local organization; or

(2) a federation or fund or an affiliate of a federation or fund that is not approved for statewide participation.

(c) An affiliated organization of an eligible federation or fund that does not qualify as a statewide charitable organization under Section 659.146 because it does not provide services in two or more noncontiguous standard metropolitan statistical areas may apply to a local employee committee for participation in a local state employee charitable campaign.

(d) An appeal from a decision of a local employee committee shall be conducted in the manner prescribed by the state policy committee.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.17(a), eff. Sept. 1, 1995.

Sec. 659.148. FEES.

(a) A campaign manager may not charge a fee to the comptroller, a state agency, or a state employee for the services the campaign manager provides in connection with a state employee charitable campaign.

(b) A campaign manager may charge a reasonable and necessary fee for actual campaign expenses to the participating charitable organizations in the same proportion that the contributions to that charitable organization bear to the total of contributions in the state employee charitable campaign.

(c) A fee under Subsection (b) must be based on the combined expenses of the state campaign manager and each local campaign manager and may not exceed 10 percent of the total amount collected in the state employee charitable campaign unless the state policy committee approves a higher amount to accommodate reasonable documented costs.

(d) Except as provided by this subsection, the comptroller shall charge an administrative fee to cover costs incurred by the comptroller and employing state agencies in the implementation of this subchapter to the charitable organizations participating in the first state employee charitable campaign conducted under this subchapter in the same proportion that the contributions to that charitable organization bear to the total of contributions in that campaign. Except as provided by this subsection, the comptroller shall charge an administrative fee to cover costs incurred by the comptroller and employing state agencies in the administration of this subchapter to the charitable organizations in each subsequent state employee charitable campaign in the same proportion that the contributions to that charitable organization bear to the total of contributions in that campaign. The comptroller may decline to charge an administrative fee if the comptroller determines the costs that would be covered by the fee are insignificant. The comptroller shall determine the most efficient and effective method of collecting the administrative fee and shall adopt rules for the implementation of this section.

(e) An institution of higher education that is authorized to operate a payroll system reimbursable from the state treasury shall charge an administrative fee to the participating charitable organizations to cover the actual costs incurred in the administration of this subchapter.

The fee shall be assessed and collected annually and shall be charged in the same proportion that the contributions to the charitable organization bear to the total contributions in that campaign.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.17(a), eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 1035, Sec. 39, eff. June 19, 1997.

Sec. 659.149. FUND-RAISING PRACTICES.

The fund-raising practices of a participating charitable organization must:

- (1) be truthful and consumer-oriented;
- (2) clearly identify and distinguish community-based organizations from statewide and international organizations; and
- (3) ensure protection against:
 - (A) unauthorized use of a list of contributors to the organization;
 - (B) payment of commissions, kickbacks, finder fees, percentages, bonuses, or overrides for fund-raising;
 - (C) mailing of unordered merchandise or tickets with a request for money in return; and
 - (D) general telephone solicitation of the public.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.17(a), eff. Sept. 1, 1995.

Sec. 659.150. LIMITATION ON THE USE OF CONTRIBUTIONS.

(a) A participating charitable organization may use contributions under this subchapter only to provide health and human services or to fund a charitable organization that provides health and human services.

(b) A participating charitable organization may not use contributions under this subchapter to:

- (1) directly or indirectly fund litigation; or
- (2) make expenditures that would require the organization to register under Chapter 305 if the organization were not an entity exempt from registration under that chapter.
- (3)

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.17(a), eff. Sept. 1, 1995. Amended by Acts 2003, 78th Leg., ch. 1310, Sec. 37, eff. June 20, 2003.

Sec. 659.151. MISAPPLICATION OF CONTRIBUTIONS; AUDIT.

(a) The state policy committee may request the comptroller or state auditor to audit a participating charitable organization, a campaign manager, or a local employee committee that the state policy committee reasonably believes has misapplied contributions under this subchapter.

(b) If an audit under this section reveals gross negligence or intentional misconduct on the part of a campaign manager or a local employee committee, the state policy committee shall remove the campaign manager or local employee committee. A person removed under this subsection is not eligible to serve in the capacity from which the person was removed before the fifth anniversary of the date the person was removed.

(c) If an audit under this section reveals intentional misconduct on the part of a campaign manager or a local employee committee, the state policy committee shall forward its findings to the appropriate law enforcement agency.

(d) The attorney general may bring an action to recover misapplied contributions.

(e) If an investigation or lawsuit results in a recovery of misapplied contributions and there is not a judgment distributing the amounts recovered, the state policy committee shall instruct the comptroller as to the manner of refunding contributions to the appropriate state employees.

1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 15.01, eff. Sept. 1, 1997.

Sec. 659.153. LEGAL REPRESENTATION.

The attorney general shall represent the state policy committee and each local employee committee in all legal matters.

Added by Acts 1997, 75th Leg., ch. 1319, Sec. 4, eff. Sept. 1, 1997.