

ParaReg Headnotes

1000-1299 General Law Principles

- 1000-1 Generally, all trusts are revocable (Prob. C.15400)
- 1000-2 Oral trust of personal property must be established by clear and convincing evidence (Prob. C. 15207)
- 1000-3 Establishing CUTMA; irrevocability; vesting in minor (Prob. C. 3909(a)(2), 3911(b))
- 1000-3A CUTMA custodian may give to, or pay for, the minor as much of the custodial property as he/she sees fit, even if no court order, and regardless of whether the minor or others responsible for the minor have, or do not have, assets (Prob. C. 3914(a))
- 1000-4 Resulting trusts (Witkin, Summary of California Law)
- 1000-5 *Totten* trusts (Prob. C. 5301(c); *Estate of Wilson*)
- 1000-6 Involuntary trustees (Civ. C. 2223, 2224)
- 1001-1 Earnings of spouse and minor children while living apart from spouse are separate property (Fam. C. 771)
- 1001-2 Tracing permitted when community and separate property commingled (Fam. C. 2640)
- 1001-3 Separate property acquired by gift, bequest, devise, descent (Fam. C. 770)
- 1001-4 Deeds, transfers of real property (Civ. C. 1091; Witkin, Summary of California Law)
- 1001-4A Real property can be transferred only by operation of law, or by a writing (Civ. C. 1091, 1624(a))
- 1001-5 Transfers of property can be made orally; when effective (Civ. C. 1052-1055)
- 1001-7 Ownership of property under California law (Civ. C. 654, 679)
- 1001-8 Transfer of property without consideration is usually a gift; "consideration" defined (Civ. C. 1146, 1605)
- 1100-1 Correctly addressed, properly mailed letter presumed received (Evid. C. 641)
- 1100-2 Party who does not produce good evidence in his/her possession should have weaker evidence actually presented viewed with distrust (Evid. C. 412)
- 1100-3 Trier of facts may determine genuineness of handwriting (Evid. C. 1417)
- 1100-4 Definition of inference (Evid. C. 600(b); *Traxler v. Thompson*)
- 1100-5A Secondary Evidence Rule, replacing Best Evidence Rule (Evid. C. 1520, 1521, 1523, 1530, 1550; Witkin, California Evidence, 4th Edition, Vol. 2)
- 1100-6 Direct evidence defined; one witness' direct evidence sufficient to prove fact (Evid. C. 410,411)
- 1100-7 Evidence Code rule as to determination of credibility (Evid. C. 780)
- 1100-8 Trier of fact may consider failure to explain or deny facts (Evid. C. 413)
- 1100-9 Hearsay evidence defined (Evid. C. 1200(a))
- 1100-10 Hearsay exception: statement made by party or party's representative (Evid. C. 1220)
- 1100-11 Hearsay exception: adoptive admission (Evid. C. 1221)
- 1100-12 Hearsay exception: declaration against interest (Evid. C. 1230)
- 1100-13 Hearsay exception: business records (Evid. C. 1271)
- 1100-14 Hearsay exception: absence of entry in business record (Evid. C. 1272)
- 1100-15 Hearsay exception: official records (Evid. C. 1280)

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- 1101-1 Party asserting affirmative of issue has burden of proof (*Cornell v. Reilly*)
- 1101-2 Burden of producing evidence defined; initially on party with burden of proof (Evid. C. 110, 550)
- 1101-3 Burden of proof defined (Evid. C. 115)
- 1101-4 County has burden of going forward (22-073.36)
- 1102-1 Person without understanding has no power to contract (Civ. C. 38)
- 1102-2 Contract defined; determination of validity of contract (Civ. C. 1549, 1550)
- 1103-1 Every word in statute has a meaning (*Woodmansee v. Lowery*)
- 1103-2 In construing statutes, look to language of statute first, but if this would lead to absurd result, look to intent of the law as a whole (*Larson v. California State Personnel Board*)
- 1103-3 Harmonize statutory provisions; when not possible, more recently enacted, or specific rather than general, governs (*Kaiser Aluminum and Chemical Corp. v. Bonjorno*)
- 1103-4 Generally no retroactive effect given to changes in law (*Rosasco v. Comm. on Judicial Performance, Evangelatos v. Superior Court*)
- 1103-4A Statute not to be given retroactive effect unless the legislature so provides, particularly when the right affected is a vested right (*Canfield v. Prod*)
- 1103-5 Words in statute have same meaning as in everyday speech unless the word has an established legal meaning (*Savnik v. Hall; Arnett v. Dal Cielo*)
- 1103-6 Law related to public assistance is to be fairly and equitably construed (W&IC 11000)
- 1110-1 Regulation defined (Handbook 17-001.1; Gov. C. §11342)
- 1110-2 Handbook defined (Handbook 17-001.2)
- 1110-3 Explanation of Manual Letters (Handbook 17-001.3)
- 1110-4 Explanation of ACLs (Handbook 17-001.4)
- 1110-5 Explanation of ACINs (Handbook 17-001.5)
- 1200-1 No regulation valid which is inconsistent or in conflict with statute (Gov. Code 11342.2)
- 1200-2 Regulations valid if authorized by and consistent with controlling statutes (*Morris v. Williams*)
- 1200-3 Director should not enforce invalid regulations in fair hearings (*Woods v. Superior Court*)
- 1200-4 Administrative agency cannot declare a statute unenforceable or unconstitutional on basis of federal law (Cal. Const., Art. III, 3.5)
- 1200-5 U.S. Supreme Court analysis of abuse of discretion (*Motor Vehicle Mfrs. Ass'n v. State Farm Mutual.*)
- 1200-6 Review standards for abuse of discretion in California (Asimow, Michael, 42 UCLA L.R. 1157)
- 1201-1 Persons who have right to state hearing (W&IC 10950)
- 1201-2 LCSA has responsibility for enforcing child support obligations (Fam. C. 17400(a) and 17500(a))
- 1201-2A LCSA has a complaint resolution process and Department of Child Support has a hearing process (Fam. C. 17800 and 17801)
- 1201-3 Referral to SIU, investigation by SIU, and SIU referral to DA, not subject to state hearing (*Madrid v. McMahon*)

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- 1201-4 County shall determine conditions of employment of county employees, and hearings as to employment are conducted by county hearing officer of OAH (Gov. Code 25300, 27720, 27727)
- 1201-5 Administration of public social services is county function (W&IC 10800)
- 1202-1 Collateral estoppel (*Teitelbaum Furs v. Dominion Insurance Company, Ltd.*)
- 1202-2 Res Judicata and collateral estoppel (*Frommhagen v. Board of Santa Cruz County*)
- 1202-3 Finality required for collateral estoppel after administrative decision (*Long Beach Unified School District v. State of California; Abelson v. Nat. Union Fire Ins. Co.*)
- 1202-4 Small claims court decision, or Superior Court decision under Small Claims Act, is not entitled to collateral estoppel (*Craig-Casey v. Rosse*)
- 1202-5 Collateral estoppel does not preclude CDSS or counties from seeking to recover a greater AFDC overpayment than imposed by a judge as a part of the restitution in the criminal case (*Shor v. DSS*)
- 1202-6 No collateral estoppel in civil case after conviction following guilty plea (*Pease v. Pease*)
- 1202-7 When administrative hearing process is from an agency acting in a judicial capacity, it may preclude subsequent litigation on same issue (*Castillo v. City of Los Angeles*)
- 1203-1 No authority within state hearing process to award damages or issue injunction (*Ramos v. Madera*)
- 1203-2 Compliance required; aid must be issued even if rehearing granted (*Taylor v. McKay; Blackburn v. Sarsfield*; W&IC 10963)
- 1203-6 Unpublished opinions are generally not citable; exceptions (Cal. Rules of Court §977)
- 1204-1 Residence of minor, how determined (W&IC 17.1)
- 1204-2 Residence of minor declared free of parental custody (W&IC 17.1(e))
- 1204-3 Age of majority is 18, effective 1972 (Fam. C. 6502)
- 1205-1 Citizenship of person born abroad of alien parent and citizen parent (8 USC 1401(g))
- 1205-2 When alien parents become U.S. citizens, noncitizen child also becomes a U.S. citizen (8 USC 1432(a)(1))
- 1210-1 State minimum wage amounts (Labor C. 11040; ACIN I-114-01)
- 1210-1A State minimum wage amounts for 2007-2008 (Labor C. 1182.12; ACIN I-99-06)
- 1210-2 General rules regarding overpayments dischargeable in bankruptcy (ACIN I-65-86)