



Office of the City Clerk

ADMINISTRATIVE POLICY FOR ASSESSING AND WAIVING FINES FOR THE LATE FILING OF FAIR POLITICAL PRACTICES COMMISSION (FPPC) REGULATED DOCUMENTS

PURPOSE

To establish a procedure for assessing and waiving fines for the late filing of Statements of Economic Interests and Campaign Disclosure Statements.

SCOPE

The Political Reform Act mandates specific deadlines for the filing of Statements of Economic Interests and Campaign Disclosure Statements. Anyone filing a Statement after a prescribed deadline may be fined. This procedure provides a guideline for the assessment and/or waiver of fines.

PROCEDURE

A. Statements of Economic Interests

Any person who does not file a Statement of Economic Interests on time incurs a late fine of \$10 for each day the Statement is late, up to a maximum of \$100. (GC §91013)

The City Clerk, as the filing officer, has the authority to fully waive the fine if, on an impartial basis, it is determined that the late filing was not willful. However, no liability may be waived if a Statement is not filed within 30 days after specific written notice of the late filing has been sent.

When considering whether or not to waive a fine, the City Clerk will take into consideration any prior late filings. A filer who repeatedly files late, greatly increases the chance of receiving a fine.

Assessing and Waiving Late Filing Fines:

1. Full fines will be imposed upon the following:
 - a. Persons who do not otherwise qualify for a waiver and who fail to file a statement within 30 days after receiving adequate notice that their Statement is late.
 - b. Persons who fail to file a statement within 30 days after specific written notice is sent.
 - c. Persons who fail to respond within 30 days after receiving notice requesting a justification (waiver) for the late filing.
 - d. Persons who do not qualify for a waiver under Sections 2 and 3.

2. A full waiver may only be issued to persons described below. A stricter standard may be applied to persons who filed late statements within the two years prior to the late filing in question. Full details of the event must be provided in writing.
- a. **Incapacitation for Medical Reasons.** Adequate documentation consists of a doctor's, psychologist's, therapist's, chiropractor's, or other medical provider's statement giving the nature of the incapacitation, the date(s) thereof, and the individual's name. This information may also be provided for an immediate family member's illness.
 - b. **Hospitalization.** Adequate documentation consists of a copy of the hospital bill or doctor's statement showing the patient's name and the date(s) of the hospitalization.
 - c. **Accident Involvement.** If medical attention is provided and results in the late filing, a copy of the hospital bill, emergency room service, or doctor's statement, showing the patient's name and date(s) and time(s) of medical attention, is adequate documentation. If the accident involvement results in delay or vehicle disablement which causes the late filing, adequate documentation consists of a police report showing the individual's name, the date and time of the accident, and, if applicable, whether or not the vehicle was disabled.
 - d. **Loss or Unavailability of Records.** The loss or unavailability of records due to a fire, flood, theft or similar reason. Adequate documentation shall consist of a police, fire or insurance report, containing the date of the occurrence and the extent of the loss or damage.
 - e. **Other Good Cause as Shown.** The City Clerk may waive any late fine for other good cause as shown. Other good cause shall *not* include and the fine will not be waived for reasons such as:
 - Vacation
 - Filer's being too busy
 - Spouse/assistant failed to file the form on behalf of the filer
 - Filer needed additional time to gather information in order to file
 - Filer is waiting for professional assistance from FPPC before filing
 - Filer asserts that he or she has not been late before, but promises to file on time in the future
 - Form was accidentally misplaced on desk, home or in vehicle
 - Filer did not receive a reminder to file
3. In cases in which persons do not have sufficient reasons to justify the late filing, the following guideline will apply:

Persons who received adequate notice of the filing requirement prior to the filing deadline and nevertheless filed late, shall be assessed fines at the rate of \$10 for each day the filing is late, including weekends and holidays.

B. Campaign Disclosure Statements

Any person who files a Campaign Statement or report after the deadline imposed by the Political Reform Act, is liable for a late fine. The fine is \$10 per day, starting with the date after the filing deadline until the statement or report is filed; however, no liability shall exceed the cumulative amount stated in the late statement or report, or \$100, whichever is greater. There are no provisions for granting extensions of the filing deadlines.

When considering whether or not to waive a fine, the City Clerk will take into consideration any prior late filings. A filer who repeatedly files late greatly increases the chance of receiving a fine.

Liability need not be enforced if, on an impartial basis, it is determined that the late filing was not willful. However, the City Clerk shall have no discretion to waive a fine if the statement or report is not filed within 10 days, or 5 days for a second pre-election statement, after specific written notice of the late filing deadline is sent. (GC §91013(a))

A late filing shall not be considered willful only in the event that the filer, because of illness, injury, personal tragedy or similar reasons, found it extremely difficult to file on or before the filing deadline, but filed as soon as possible thereafter. Full details of the emergency must be provided in writing (see A.2).

In cases in which the filer does not have sufficient reason to justify the late filing, or fails to justify the late filing in writing, a full fine will be assessed.

C. Deposit of Late Fines

Late fines shall be deposited into the general fund of the City of Newport Beach.