

§1062-A. Failure to file on time

1. Registration. A political action committee required to register under section 1052-A, 1053-A or 1053-B or a ballot question committee required to register under section 1053-A that fails to do so or that fails to provide the information required by the commission for registration may be assessed a fine of no more than \$2,500. In assessing a fine, the commission shall consider, among other things, whether the violation was intentional, the amount of campaign and financial activity that occurred before the committee registered, whether the committee intended to conceal its campaign or financial activity and the level of experience of the committee's volunteers and staff.

[PL 2023, c. 405, Pt. A, §47 (AMD).]

2. Campaign finance reports. A campaign finance report is not timely filed unless a properly signed or electronically submitted copy of the report, substantially conforming to the disclosure requirements of this subchapter, is received by the commission by 11:59 p.m. on the date it is due. Except as provided in subsection 6, the commission shall determine whether a required report satisfies the requirements for timely filing. The commission may waive a penalty in whole or in part if it is disproportionate to the level of experience of the person filing the report or to the harm suffered by the public from the late disclosure. The commission may waive the penalty in whole or in part if the commission determines the failure to file a timely report was due to mitigating circumstances. For purposes of this section, "mitigating circumstances" means:

A. A valid emergency of the committee treasurer determined by the commission, in the interest of the sound administration of justice, to warrant the waiver of the penalty in whole or in part; [PL 1999, c. 729, §9 (AMD).]

B. An error by the commission staff; or [PL 1999, c. 729, §9 (AMD).]

C. Other circumstances determined by the commission that warrant mitigation of the penalty, based upon relevant evidence presented that a bona fide effort was made to file the report in accordance with the statutory requirements, including, but not limited to, unexplained delays in postal service or interruptions in Internet service. [PL 2007, c. 443, Pt. A, §38 (AMD).]

[PL 2009, c. 190, Pt. A, §29 (AMD).]

3. Basis for penalties. The penalty for late filing of a report required under this subchapter is a percentage of the total contributions or expenditures for the filing period, whichever is greater, multiplied by the number of calendar days late, as follows:

A. For the first violation, 2%; [IB 2015, c. 1, §9 (AMD).]

B. For the 2nd violation, 4%; and [IB 2015, c. 1, §9 (AMD).]

C. For the 3rd and subsequent violations, 6%. [IB 2015, c. 1, §9 (AMD).]

Any penalty of less than \$25 is waived.

Violations accumulate on reports with filing deadlines in a 2-year period that begins on January 1st of each even-numbered calendar year. Waiver of a penalty does not nullify the finding of a violation.

A report required to be filed under this subchapter that is sent by certified or registered United States mail and postmarked at least 2 days before the deadline is not subject to penalty.

[PL 2023, c. 324, §16 (AMD).]

4. Maximum penalties. The maximum penalty under this subchapter is \$10,000 for reports required under section 1053-A or 1059, except that if the dollar amount of the financial activity that was not timely filed or did not substantially conform to the reporting requirements of this subchapter exceeds \$50,000, the maximum penalty is 100% of the dollar amount of that financial activity.

[PL 2023, c. 405, Pt. A, §48 (AMD).]

5. Request for a commission determination. If the commission staff finds that a committee has failed to file a report required under this subchapter, the commission staff shall mail a notice to the treasurer of the committee within 3 business days following the filing deadline informing the treasurer that a report was not received. If a committee files a report required under this subchapter late, a notice of preliminary penalty must be forwarded to the treasurer of the committee whose report is not received by 11:59 p.m. on the deadline date, informing the treasurer of the commission staff finding of violation and preliminary penalty calculated under subsection 3 and providing the treasurer with an opportunity to request a determination by the commission. A request for determination must be made within 14 calendar days of receipt of the commission's notice. A principal officer or treasurer requesting a determination may either appear in person or designate a representative to appear on the principal officer's or treasurer's behalf or submit a sworn statement explaining the mitigating circumstances for consideration by the commission. A final determination by the commission may be appealed to the Superior Court in accordance with Title 5, chapter 375, subchapter 7 and the Maine Rules of Civil Procedure, Rule 80C.

[PL 2019, c. 563, §20 (AMD).]

6. Final notice of penalty. After a commission meeting, notice of the final determination of the commission and the penalty, if any, imposed pursuant to this subchapter must be sent to the principal officer and the treasurer of the committee.

If a determination is not requested, the preliminary penalty calculated by the commission staff is final. The commission staff shall mail final notice of the penalty to the principal officer and to the treasurer of the committee. A detailed summary of all notices must be provided to the commission.

[PL 2019, c. 563, §21 (AMD).]

7. List of late-filing committees. The commission shall prepare a list of the names of committees that are late in filing a report required under section 1059, subsection 2, paragraph B, subparagraph (1) or section 1059, subsection 2, paragraph C or D within 30 days of the date of the election and shall make that list available for public inspection.

[PL 2019, c. 563, §22 (AMD).]

8. Failure to file. A person who fails to file a report as required by this subchapter within 30 days of the filing deadline is guilty of a Class E crime, except that, if a penalty pursuant to subsection 8-A is assessed and collected by the commission, the State may not prosecute a violation under this subsection.

[PL 2003, c. 628, Pt. A, §8 (AMD).]

8-A. Penalties for failure to file report. The commission may assess a civil penalty for failure to file a report required by this subchapter. The maximum penalty for failure to file a report required under section 1059 is \$10,000 or the amount of financial activity not reported, whichever is greater.

[PL 2023, c. 405, Pt. A, §49 (AMD).]

9. Enforcement. A penalty assessed pursuant to this section that has not been paid in full within 30 days after issuance of a notice of the final determination may be enforced in accordance with section 1004-B.

[PL 2009, c. 302, §10 (RPR).]

SECTION HISTORY

PL 1995, c. 483, §21 (NEW). PL 1999, c. 426, §34 (AMD). PL 1999, c. 729, §9 (AMD). PL 2003, c. 628, §§A7-9 (AMD). PL 2007, c. 443, Pt. A, §§38-41 (AMD). PL 2009, c. 190, Pt. A, §§28-31 (AMD). PL 2009, c. 302, §§8-10 (AMD). PL 2011, c. 389, §49 (AMD). PL 2013, c. 334, §§30, 31 (AMD). IB 2015, c. 1, §§9-11 (AMD). PL 2019, c. 323, §25 (AMD). PL 2019, c. 563, §§18-22 (AMD). PL 2023, c. 324, §16 (AMD). PL 2023, c. 405, Pt. A, §§47-49 (AMD).

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