✦✦ Campaign Finance Waiver Guidelines ✦✦

To: Louisiana Board of Ethics
From: Jennifer Land
Re: Late Filing of Campaign Finance Reports
Date: April 14, 2016

The following proposed procedures are for handling waiver requests of late filed campaign finance disclosure reports. These procedures will outline how the staff handles the waiver requests as well as the how the staff will come to a recommendation of a waiver or suspension of any late fees assessed.

LATE FEE ASSESSMENTS:

A candidate, treasurer or chairman or a political committee, or other person required to file a campaign finance disclosure report may be assessed late fees in the following amounts:

Major Office Candidate:	$100 per day, $2,500 maximum
District Office Candidate:	$60 per day, $2,000 maximum
Any Other Office Candidate:	$40 per day, $1,000 maximum
Political Committee Officers:	$200 per day, $3,000 maximum
Other person:	Based on level of office of the candidate they support or oppose
Recall/proposition:	$40 per day, $1,000 maximum

Staff sends a certified letter within 4 business days of the reporting due date, reminding the filer that the report has not been filed.

WAIVER REQUESTS:

➔ The staff will docket all waiver requests that are **timely** filed with the Board.

➔ Rule 1207 of the Boards Rules indicates that waivers are considered timely if they are received by the staff, in writing, within 20 days of the late filer's receipt of the late fee order.

➔ §1157A(1)(b) of the Louisiana Code of Governmental Ethics provides authority for the Board's waiver of late filing fees based upon "Good Cause."

"Good Cause" is defined in §1157A(1)(b) as follows: *"**any actions or circumstances which**, in the considered judgment of the Board, **were <u>not within the control of the late filer</u>** and which were the direct cause of the late filing."*

➔ If the report that is the subject of the late fee order has **not** been filed, the staff

will recommend to **decline** to waive the late and to advise the late filer that the Board will not consider a re-consideration of the waiver unless the report has been filed.

➔ Discretion remains with the Board to waive part or all of a late filing fee assessed in connection with a campaign finance disclosure report.

A. **RECOMMENDATION TO *SUSPEND* A FINE:**

- The staff will consider recommending a **suspension of the late fees,** for those persons who meet the following criteria:

  1. The waiver request is timely filed with the Board;
  2. The late filer has no more than one other late filing with an assessed fine;
  3. $1,000 or less in expenditures/contributions was disclosed on the report; and,

- If the filer meets the requirements above, the staff will then look at the specific reason given for the late filing to determine if it merits "Good Cause."

- If the filer meets the statutory definition of "Good Cause," the staff will make a recommendation based on the schedule below:

  1. Suspend all but $100 for Any Other Office candidates/other persons
  2. Suspend all but $200 for District Office candidates/other persons
  3. Suspend all but $300 for Major Office candidates/other persons
  4. Suspend all but $500 for District Office candidates/other persons

All suspensions are made based on future compliance with the disclosure requirements under the CFDA. Furthermore, if not suspended in its entirety, payment will be ordered to be made within 30 days of receipt of the new Late Fee Order, unless financial hardship supports a recommendation of a payment plan. Failure to pay the portion not suspended within 30 days of receipt of the new Late Fee Order or pursuant to the terms of an executed payment plan results in the original late fee assessed becoming due and owing.

- If the filer demonstrates a material financial hardship, the staff may recommend the waiver or suspension of up to the entire late fee, irrespective of prior late filings. Supporting documentation **shall** be submitted with the waiver request.

B. **SPECIAL CONSIDERATIONS:**

- If the late filer was required to electronically file the report, but failed to press the "submit" button, and it is the late filer's first time electronically filing, a

recommendation will be made to ***suspend*** the late fee conditioned on future compliance if the report was filed within 10 days of the due date.

- If the late filer was required to electronically file the report, but timely filed the report via mail, hand-delivery, or facsimile, and it is the late filer's first time electronically filing, a recommendation will be made to ***waive*** the late fee.

- If the late filer filed a report, but labeled it incorrectly (ie: filed a 30-P instead of a 10-P), but all of the information was submitted timely, a recommendation will be made to ***waive*** the late fee.

- If the staff mailed the notice of delinquency to the wrong address or failed to mail the notice, a recommendation will be made to ***suspend*** all but four days of the late fee conditioned on future compliance and payment of the late fee within 30 days.

C. **WAIVER RECONSIDERATION REQUESTS:**

- The staff will consider *waiver reconsideration requests* that are filed with the Board if they are:

  1. Filed, in writing, within 30 days of the mailing of the Board's decision of the initial waiver request, and
  2. Present new facts and/or documentation regarding the late filing, and

- The staff will only consider **one** waiver reconsideration request per late filing penalty.

- The staff will then make a recommendation based upon its established waiver guidelines as outlined above.

D. **AUTHORITY TO RESCIND BASED ON RULE 1205B:**

Rule 1205B of the Rules of the Louisiana Board of Ethics provides that an automatic late fee shall not be assessed, or if assessed shall be rescinded by the staff, if the person required to file the report did not file the report for any of the following reasons which **occurred on the due date or during the seven days prior to the date the report was due**. The staff is authorized to rescind such late fee if one of the following reasons occurred during the time the notice of delinquency was received:

1. Death of a person required to file or the person regularly responsible, or a death in their immediate family, as defined by R.S. 42:1102(13);
2. Serious medical condition, in the considered judgment of the staff, which prevented the person required to file or the person regularly responsible from

filing the report timely; or

3. A natural disaster, an act of God, force majeure, a catastrophe, or such other similar occurrence.