

◆◆ LOBBYING WAIVER GUIDELINES ◆◆

To: Louisiana Board of Ethics
From: Kathleen M. Allen
Re: Late Filing of Legislative, Executive, and Local Lobbying Registrations and Reports
Date: ~~April 14, 2016~~ January 8, 2021

The following proposed procedures are for handling waiver requests of late filed lobbying expenditure reports and registrations. 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 lobbyist shall be assessed a \$50 per day late fee, up to a maximum of \$1,500, for each report that is filed late. Lobbyists are required to electronically file an expenditure report by the 25th of each month disclosing expenditures made in the prior month. Registrations must be submitted within 5 days of being employed as a lobbyist or within 5 days of 1st action requiring registration, whichever occurs first.

Staff sends an email reminder notice around 10 days prior to the filing deadline. Also, staff sends an email, as well as a certified letter, the business day after the due date, reminding the filer that the report was not filed on the 25th and late fees are accruing.

WAIVER REQUESTS:

- The staff will docket all waiver requests that are **timely** filed with the Board.
- Rule 1207 of the Board 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 on "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 not within the control of the late filer 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.

A. **RECOMMENDATION TO WAIVE A FINE:**

- ———The staff will consider recommending **waiving the late fee** only if the following criteria are met:

1. The waiver request is timely filed with the Board,
2. The late filer is a first time offender, and
3. There are no expenditures to be reported on the late filed report.

- ———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 reason given meets the statutory definition of “Good Cause,” then the staff will make a recommendation based on the schedule below:

1. If between 1 and 10 days late, **waive the fine.**
2. If between 11 and 20 days late, waive all but \$300.
3. If between 21 and 30 days late, waive all but \$500.

- ———If the filer demonstrates material financial hardship, and there is “Good Cause” for the late filed report, the staff may recommend waiving the entire late fee.

B. **RECOMMENDATION TO SUSPEND A LATE FEE**

- 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 1 other late filing with an assessed fine; and,
3. Good cause is shown in support of the waiver request.

- ———If the reason given meets the statutory definition of “Good Cause”, the staff will make a recommendation based on the schedule below:

1. If between 1 and 10 days late, **suspend the fine.**
2. If between 11 and 20 days late, **suspend all but \$300.**
3. If between 21 and 30 days late, **suspend all but \$500.**

All suspensions are made based on future compliance with the lobbying expenditure/registration filing deadlines. Furthermore, if not suspended in its entirety, payment will be ordered to be made within 230 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 230 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 material financial hardship, and there is “Good Cause” for the late filed report, the staff may recommend suspension of the entire late fee, irrespective of prior late filings. Supporting documentation **shall** be submitted with the waiver request.

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 230 days of ~~the mailing receipt~~ 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-fourteen 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.