



STATE OF MAINE
COMMISSION ON GOVERNMENTAL ETHICS
AND ELECTION PRACTICES
135 STATE HOUSE STATION
AUGUSTA, MAINE
04333-0135

To: Commissioners
From: Lorrie Brann, Candidate Registrar
Date: December 6, 2022
Re: Request by Matthea Daughtry Campaign for Waiver of Late-Filing Penalty Due to Late 11-Day Pre-General Report

State Senator Matthea Daughtry was a Maine Clean Election Act (MCEA) candidate running for the Maine Senate, District 23. Sen. Daughtry is an experienced candidate, having served previously in both the Maine House of Representatives and the Maine Senate.

Sen. Daughtry's campaign was required to file the regularly scheduled 11-Day Pre-General Report by 11:59 p.m. on October 28, 2022. The Daughtry campaign filed the report on October 29th, one day late. The preliminary penalty for the late report is \$658.21. Sen. Daughtry's campaign is requesting a waiver of the penalty.

LEGAL REQUIREMENTS

Candidates are required to file the 11-Day Pre-General Report by 11:59 p.m. on the 11th day before an election, which covers financial activity through the 14th day before the election. 21-A M.R.S. § 1017(3-A)(B). If the candidate is late in filing a regularly scheduled campaign finance report, the amount of the penalty is set by a formula which takes into consideration a percentage of the total contributions or expenditures, whichever is greater, the number of prior violations within a two-year period, and the number of days the report is late. 21-A M.R.S. § 1020-A(4-A). The Commission may waive the preliminary penalty in whole or in part under 21-A M.R.S. § 1020-A(2).

DISCUSSION

Prior to the October 28th deadline the Commission's eFiling website sent automatic email reminders of the 11-Day Pre-General Report to all registered users who were scheduled to file it. Registered users include both candidate and treasurer, and any authorized agents

named by the campaign. The automated reminders are sent two weeks, one week, and one day before the deadline if the report has not yet been filed. The Commission also mails report reminder postcards to all candidates prior to the filing deadline. On the afternoon of October 28th, Candidate Registrar Erin Gordon also directly emailed all candidates who had not yet filed, including Sen. Daughtry, to remind them of the report deadline. The email began, “You are receiving this email because you are required to file the 11-Day Pre-General Report and have not yet filed it,” and urged recipients to contact her with any questions. The eFiling website sends an additional email just after the midnight deadline informing registered users if they have failed to file the report on time. Based on the statutory formula for calculating late-filing penalties, the preliminary penalty amount is \$658.21, calculated as follows:

| Report | Deadline | Financial Activity | Penalty Rate | Days Late | Preliminary Penalty |
|---------------------------|-----------------|---------------------------|---------------------|------------------|----------------------------|
| 11-Day Pre-General Report | 10/28/2022 | \$32,910.39 | 2% | 1 | \$658.21 |

Sen. Daughtry sent an email on October 28th at 11:54 p.m. to Commission staff stating her 11-Day Pre-General report had not been filed and she was unable to make contact with Ben Gagnon, an authorized agent for her campaign who has filed all of her reports this election cycle. She sent a follow-up email at 12:08 a.m. on October 29th stating Mr. Gagnon had had an emergency but was filing the report now and apologized for the delay. Sen. Daughtry states in her waiver request she attempted to file the report herself and found she could not because candidates who are participating in the MCEA are prohibited from filing their own reports, according to 21-A M.R.S. § 1125(12-D).

STAFF RECOMMENDATION

Timely campaign finance reports are an integral part of campaign finance transparency and disclosure. It is clear that their timely filing is considered to be of utmost importance, as statute requires late-filing penalties to increase by each day past the due date the report is filed. All campaigns, particularly experienced ones, are expected to pay attention to and meet all reporting deadlines, especially when multiple reminders are sent for each due date.

During 2018-2022, the Commission has waived late-filing penalties against candidates downward to a range of \$300 - \$400, for example:

- from \$2,991.36 to \$300 – late 24-Hour Report by Danny Costain (8/29/2018)
- from \$3,744.00 to \$400 – late 24-Hour Report by Cathleen Nichols (3/16/2019)
- from \$529.50 to \$350 – late 42-Day Post-Primary Report by Mark Lawrence (10/16/2020)
- from \$423.54 to \$300 – late 24-Hour Report by Stephen Hanrahan (11/30/22)
- from \$368.12 to \$300 – late 11-day Pre-General Report by Danielle Fienberg (11/30/2022)

The Commission has generally declined to waive preliminary penalties that were already below \$300:

- \$235.03 – late 42-Day Post-General Report by James LeBrecque (3/6/2019)
- \$84.00 – late 42-Day Post-Primary Report by Brian Redmond (10/16/2020)
- \$132.00 – late 42-Day Post-Primary Report by Mark Andre (10/16/2020)
- \$109.54 – late 11-Day Pre-General Report by Scott Gaiason (1/27/2021)

In her waiver request, Sen. Daughtry does not provide a reason why Mr. Gagnon was not available to file the report on time. She also states the report was filed 13 minutes after the deadline so there was limited-to-no public harm. Sen. Daughtry does not explain why she did not contact her campaign's treasurer, Rebecca Shepherd. However, even if she had, Ms. Shepherd has never logged into Sen. Daughtry's eFiling account and may not have been able to file the report by the 11:59 p.m. deadline.

The Commission is allowed to consider a valid emergency as a mitigating factor to waive a penalty in whole or in part. 21-A M.R.S. § 1020-A(2)(A). This factor may or not apply to the Daughtry campaign. However, the preliminary penalty of \$658.21 is disproportionately high, the report was filed only 13 minutes late and there was an effort by Sen. Daughtry to see that the report was filed on time. The Commission staff recommends reducing the penalty to \$300, with perhaps a further reduction being appropriate pending information concerning Mr. Gagnon's unavailability. Thank you.



STATE OF MAINE
COMMISSION ON GOVERNMENTAL ETHICS
AND ELECTION PRACTICES
135 STATE HOUSE STATION
AUGUSTA, MAINE
04333-0135

October 31, 2022

Hon. Matthea Elisabeth Larsen Daughtry
40 Federal Street
Brunswick, ME 04011

Re: Notice of Violation and Penalty for Late-Filed 11-Day Pre-General Report

Dear Senator Daughtry:

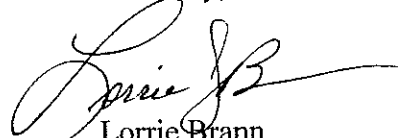
You were required to file the 11-Day Pre-General Report on October 28, 2022 by 11:59 p.m. (21-A M.R.S. § 1017 (3-A)(B)), but the report was not filed until October 29, 2022. Under the Commission's statutes, the late filing of a report triggers an enforcement process (21-A M.R.S. § 1020-A(4-A)). The Commission staff has made a preliminary finding of violation and determined the preliminary penalty for filing the report late is **\$658.21**. Please see the next page for the penalty calculation.

You may request the Commission waive the penalty in whole or in part or find there was no violation. *The request must be made within 14 calendar days of your receipt of this notice.* The request must be in writing and contain a full explanation of the reasons the report was filed late. Upon receiving your request, the Commission staff will schedule your request to be heard at an upcoming Commission meeting. You or your designee will have an opportunity to be heard at the meeting or you may submit a sworn statement to the Commission explaining the mitigating circumstances for its consideration.

The Commission may waive or reduce the penalty or find there was no violation if it determines the report was late due to mitigating circumstances, which are defined as (1) a valid emergency; (2) an error made by the Commission staff; or (3) relevant evidence that a bona fide effort was made to file the report on time. (21-A M.R.S. § 1020-A(2)) The Commission may also consider whether the penalty is disproportionate to the size of the candidate's campaign, the level of experience of the candidate, treasurer or campaign staff, or the harm to the public caused by the late disclosure.

The staff requests you pay the preliminary penalty within 14 days of the date of your receipt of this notice if you do not intend to request a waiver. Please use the payment statement on the next page when paying by mail. You may also make a payment online at www.maine.gov/ethics by clicking the "Penalty Payment" link. Please contact me at (207) 287-4727 or lorrie.j.brann@maine.gov if you have any questions.

Sincerely,



Lorrie Brann
Candidate Registrar

Penalty Calculation

The penalty for filing a campaign finance report late is based on a percentage of the total contributions or expenditures for the reporting period, whichever is greater, multiplied by the number of days late. The percentage is based on your history of past violations: 2% for the first violation, 4% for the second violation, and 6% for the third and each subsequent violation. Violations for late-filed reports accumulate in the two-year period beginning on January 1st of each even-numbered year. A penalty accrues daily beginning on the day following the filing due date. Any penalty of less than \$10 is automatically waived.

How Your Penalty Was Calculated

| | | | |
|---|-------------|----------------------------|-----------------|
| Filer: Matthea Elisabeth Larsen Daughtry | | | |
| Late-Filed Report: 11-Day Pre-General Report | | | |
| Contributions | \$10,950.00 | Penalty Base Amount | \$32,910.39 |
| Expenditures | \$32,910.39 | Percentage | 2% |
| Due Date | 10/28/2022 | Daily Accrual Rate | \$658.21 |
| Date Filed | 10/29/2022 | Days Late | 1 |
| Previous Violations | 0 | Your Total Penalty | \$658.21 |

Payment Statement and Payment Options

From: Matthea Elisabeth Larsen Daughtry

Penalty Amount: \$658.21

Amount Enclosed: _____

Check/M.O. #: _____

BY MAIL: Enclose this payment statement with your payment.

Please make check or money order payable to: Treasurer, State of Maine

Mail to: Maine Ethics Commission
135 State House Station
Augusta, Maine 04333-0135

ONLINE: Go to www.maine.gov/online/ethics/penalties.

From: [Matthea Daughtry](#)
To: [Brann, Lorrie J](#); [Burke, Emma](#)
Subject: Re: Filing
Date: Saturday, October 29, 2022 12:07:42 AM

EXTERNAL: This email originated from outside of the State of Maine Mail System. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Lorrie and Emma:

I was just able to get a hold of Ben. There was an emergency. He is filing right now.

Apologies for the delay!

Best,
Mattie

////////////////////////////////////
Matthea Daughtry
Assistant Senate Majority Leader
State Senator — Senate District 24
Representing Brunswick, Freeport, Harpswell, North Yarmouth, and Pownal

Pronouns: She/Her/Hers

www.mattiedaughtry.com
www.facebook.com/mattieformaine
<https://twitter.com/MattieforMaine>

40 Federal Street
Brunswick, ME 04011

cell: 207-522-0913
home: 207-370-9871

Note: Legislative correspondence is considered a public record and may be subject to a request under the Maine Freedom of Access Act. Information that you wish to keep confidential should not be included in email correspondence.

On Oct 28, 2022, at 11:53 PM, Matthea Daughtry
<matthea@mattheadaughtry.com> wrote:

Hi Lorrie and Emma,

I'm reaching out because it appears my report hasn't been filed. I've been trying to get ahold of Ben and he has not answered. When we spoke this evening he was in the process of filing the report. I'm concerned because I've been unable to get

ahold of him!

Best,
Mattie

//

Matthea Daughtry
Assistant Senate Majority Leader
State Senator — Senate District 24
Representing Brunswick, Freeport, Harpswell, North Yarmouth, and Pownal

Pronouns: She/Her/Hers

www.mattiedaughtry.com
www.facebook.com/mattieformaine
<https://twitter.com/MattieforMaine>

40 Federal Street
Brunswick, ME 04011

cell: 207-522-0913
home: 207-370-9871

Note: Legislative correspondence is considered a public record and may be subject to a request under the Maine Freedom of Access Act. Information that you wish to keep confidential should not be included in email correspondence.

November 14, 2022

Lorrie Brann

Lorrie.J.Brann@maine.gov

RE: Notice of Violation and Penalty for Late-Filed 11-Day Pre-General Report

Dear Lorrie Brann,

In accordance with 21-A M.R.S §1020-A(2), I respectfully request that the Commission waive or reduce the penalty for the late filing of the 11-Day Pre-General Report.


A campaign volunteer, Benjamin Coolidge Gagnon, assists me with all campaign compliance, bookkeeping, and campaign finance filing activities. In this capacity he is an authorized agent for the campaign's eFiling account.

I believe that the following factors argue for a lower or waived penalty:

- As has been standard practice, Ben had performed the laborious work ahead of time of recording the majority of the campaign's activities into the Commission's eFiling system. All that needed to be done was clicking the file button. This demonstrates an intent to file on time.
- Once I realized the report had not been filed early in the 11 o'clock hour, I made several unsuccessful attempts to get ahold of Ben and attempted to file the report myself, a feature that appears to no longer be available to candidates. At 11:53pm I informed Lorrie Brann and Emma Burke of my failed attempts to file and the possibility that the report will be late.
- I was able to reach Ben at 12:03am and he immediately realized his error in not filing. He spent 10 minutes ensuring the reports accuracy, reconciling the report with our invoices and bank account, and adding additional transactions.
- The report was filed 13 minutes late at 12:13 a.m.. The 13 minute time period when the report details were unavailable to the public occurred while most people were asleep and occurred for a minimal period of time. Therefore, the harm to the public was negligible.

I take timely public disclosure of campaign finances very seriously and my team and I have always seen our compliance obligations as highly important. I look forward to responding to any questions you may have.

Sincerely,


Matthea Daughtry



Commission on Governmental Ethics and Election Practices
Mail: 135 State House Station, Augusta, Maine 04333
Office: 45 Memorial Circle, Augusta, Maine
Website: www.maine.gov/ethics
Phone: 207-287-4179
Fax: 207-287-6775

2022 CAMPAIGN FINANCE REPORT

FOR MCEA CANDIDATES

| COMMITTEE | | TREASURER | |
|--|------------|--|--|
| Hon. Matthea Elisabeth Larsen Daughtry 40 Federal St Brunswick, ME 04011 PHONE:(207) 522-0913 EMAIL: matthea@mattheadaughtry.com | | Rebecca Shepherd 106 Union Street Brunswick, ME 04011 PHONE: EMAIL: becky@wildoatsbakery.com | |
| REPORT | DUE DATE | REPORTING PERIOD | |
| 11-Day Pre-General Report | 10/28/2022 | 09/21/2022 - 10/25/2022 | |

FINANCIAL ACTIVITY SUMMARY

| CASH ACTIVITY | | |
|---|------------------|--------------------|
| | TOTAL FOR PERIOD | TOTAL FOR CAMPAIGN |
| 1. CASH BALANCE FROM LAST REPORT | \$23,457.87 | |
| 2. SEED MONEY CONTRIBUTIONS | \$0.00 | \$3,000.00 |
| 3. MAINE CLEAN ELECTION ACT PAYMENTS & AUTHORIZATIONS | \$10,950.00 | \$45,925.00 |
| 4. SALE OF CAMPAIGN PROPERTY (SCHEDULE E, PART 2) | \$0.00 | \$0.00 |
| 5. OTHER CASH RECEIPTS (INTEREST, ETC.,) | \$0.00 | \$0.00 |
| 6. <i>MINUS</i> EXPENDITURES (SCHEDULE B) | \$32,910.39 | \$47,427.52 |
| 7. CASH BALANCE AT CLOSE OF PERIOD | \$1,497.48 | |
| OTHER ACTIVITY | | |
| 8. IN-KIND SEED MONEY CONTRIBUTIONS | \$0.00 | \$0.00 |
| 9. TOTAL UNPAID DEBTS AT CLOSE OF PERIOD (SCHEDULE D) | \$0.00 | |

I, Benjamin Coolidge Gagnon, CERTIFY THAT THE INFORMATION CONTAINED IN THIS REPORT IS TRUE, ACCURATE, AND COMPLETE TO THE BEST OF MY KNOWLEDGE.

REPORT FILED BY: Benjamin Coolidge Gagnon
REPORT FILED ON: 10/29/2022 12:13:09 AM
LAST MODIFIED:
COMMITTEE ID: 425171

**SCHEDULE A
CASH CONTRIBUTIONS**

- For contributors who gave more than \$50, the names, address, occupation, and employer must be reported. If "information requested" is listed instead of occupation and employer, the candidate is waiting to receive that information.
- Cash contributions of \$50 or less can be added together and reported as a lump sum.
- Contributor Types

1 = Individual

9 = Candidate / Candidate Committee

2 = Candidate/ Spouse/ Domestic Partner

10 = General Treasury Transfer

3 = Commercial Source

11 = Transfer from Previous Campaign

4 = Nonprofit Organization

12 = Contributors giving \$50 or less

5 = Political Action Committee

13 = Contributors giving \$100 or less

6 = Political Party Committee

14 = Contributors giving \$200 or less

7 = Ballot Question Committee

15 = MCEA Payment

8 = Other Candidate/ Candidate Committee

16 = Financial Institution

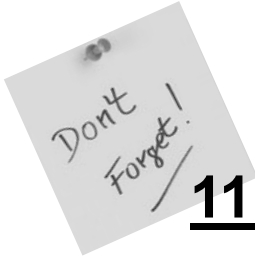
| DATE RECEIVED | CONTRIBUTOR | EMPLOYER AND OCCUPATION | TYPE | AMOUNT |
|---------------------------------|--------------|-------------------------|------|-------------|
| 10/7/2022 | MCEA Payment | Supplemental payment #3 | 15 | \$5,475.00 |
| 10/19/2022 | MCEA Payment | Supplemental payment #4 | 15 | \$5,475.00 |
| TOTAL CASH CONTRIBUTIONS | | | | \$10,950.00 |

**SCHEDULE B
EXPENDITURES**

| EXPENDITURE TYPES | | | | |
|---------------------|---|---------------------------|--|------------|
| APP | Apparel (t-shirts, hats, embroidery, etc.) | CON | Contribution to party committee, non-profit, other candidate, etc. | |
| EQP | Equipment of \$50 or more (computer, tablet, phone, furniture, etc.) | EVT | Campaign and fundraising events (venue or booth rental, entertainment, supplies, etc.) | |
| FOD | Food for campaign events or volunteers, catering | HRD | Hardware and small tools (hammer, nails, lumber, paint, etc.) | |
| LIT | Printed campaign materials (palmcards, signs, stickers, flyers, etc.) | MHS | Mail house and direct mail (design, printing, mailing, and postage all included) | |
| NEW | Newspaper and print media ads only | OFF | Office supplies, rent, utilities, internet service, phone minutes and data | |
| ONL | Social media and online advertising only | OTH | Other and fees (bank, contribution, and money order fees, etc.) | |
| PER | Personnel and campaign staff, consulting, and independent contractor costs | PHO | Phones (phone banking, robocalls and texts) | |
| POL | Polling and survey research | POS | Postage for U.S. Mail and mail box fees | |
| PRO | Professional services (graphic design, legal services, web design, etc.) | RAD | Radio ads, production costs | |
| TKT | Entrance cost to event (bean suppers, fairs, party events, etc.) | TRV | Travel (fuel, mileage, lodging, etc.) | |
| TVN | TV/cable ads, production, and media buyer costs only | WEB | Website and internet costs (website domain and registration, etc.) | |
| DATE OF EXPENDITURE | PAYEE | REMARK | TYPE | AMOUNT |
| 9/22/2022 | JVA Campaigns, LLC 230 E. Town St Floor 3 Columbus, OH, 43215 | Direct mail | MHS | \$5,406.00 |
| 9/28/2022 | JVA Campaigns, LLC 230 E. Town St Floor 3 Columbus, OH, 43215 | Direct mail | MHS | \$5,406.00 |
| 10/5/2022 | JVA Campaigns, LLC 230 E. Town St Floor 3 Columbus, OH, 43215 | Direct mail | MHS | \$5,406.00 |
| 10/7/2022 | JVA Campaigns, LLC 230 E. Town St Floor 3 Columbus, OH, 43215 | Graphic design | PRO | \$225.00 |
| 10/12/2022 | JVA Campaigns, LLC 230 E. Town St Floor 3 Columbus, OH, 43215 | Palm cards | LIT | \$1,350.00 |
| 10/17/2022 | JVA Campaigns, LLC 230 E. Town St Floor 3 Columbus, OH, 43215 | Direct mail | MHS | \$5,329.68 |
| 10/20/2022 | Chebeague Transportation Company 16 N Rd Chebeague Island, ME, 04017 | Ferry passenger fare | TRV | \$63.00 |
| 10/20/2022 | Erikson Communication Group, Inc 157 Park Row Suite 102 Brunswick, ME, 04011 | Video production services | PRO | \$750.00 |
| 10/20/2022 | Erikson Communication Group, Inc 157 Park Row Suite 102 Brunswick, ME, 04011 | Graphic design | PRO | \$500.00 |

| | | | | |
|--|---|--------------------------|-----|-------------|
| 10/20/2022 | Erikson Communication Group, Inc 157 Park Row Suite 102 Brunswick, ME, 04011 | Digital media consulting | PER | \$663.30 |
| 10/20/2022 | Erikson Communication Group, Inc 157 Park Row Suite 102 Brunswick, ME, 04011 | Advertising expense | ONL | \$487.49 |
| 10/20/2022 | Meta 1 HACKER WAY MENLO PARK, CA, 94025 | Advertising expense | ONL | \$3,256.20 |
| 10/24/2022 | JVA Campaigns, LLC 230 E. Town St Floor 3 Columbus, OH, 43215 | Direct mail | MHS | \$3,963.72 |
| 10/25/2022 | USPS 30 PLEASANT ST BRUNSWICK, ME, 04011 | Postage | POS | \$104.00 |
| TOTAL EXPENDITURES FOR CANDIDATE: | | | | \$32,910.39 |

«AddressBlock»



11-DAY PRE-GENERAL REPORT **DUE FRIDAY, OCTOBER 28, 2022**

11-DAY PRE-GENERAL REPORT - DUE OCTOBER 28!

- * All candidates receiving this reminder must file their 11-Day Pre-General Report no later than 11:59 p.m. on Friday, October 28, 2022
- * If you are receiving this reminder, you are required to file this report
- * We encourage you to visit www.maine.gov/ethics/candidates/filing-campaign-finance-reports to read our filing tips for this report
- * Reporting period ends: **October 25, 2022**
- * To file your report, go to www.mainecampaignfinance.com and sign in

◇ **Every order placed or agreed to by October 25, must be included in the 11-Day Pre-General Report.**

◆ **The 24-Hour reporting period is October 26—November 7. Any single contribution or expenditure of \$1,000 or more must be reported in a 24-Hour Report.**

If you need assistance please contact your Candidate Registrar

Lorrie Brann: lorrie.j.brann@maine.gov | (207) 287-4727
House 77-151, Senate 18-35
Androscoggin, Cumberland, Franklin, Kennebec,
Lincoln, Oxford, Sagadahoc, and York counties

Erin Gordon: erin.gordon@maine.gov | (207) 287-3651
House 1-76, Senate 1-17
Aroostook, Hancock, Knox, Penobscot, Piscataquis,
Somerset, Waldo, and Washington counties

From: [Gordon, Erin](#)
Cc: [Brann, Lorrie J](#)
Subject: DUE TODAY: 11-Day Pre-General Report
Date: Friday, October 28, 2022 1:38:22 PM

Good afternoon,

You are receiving this email because you are required to file the 11-Day Pre-General Report and it is still unfiled. This report must be filed online at www.mainecampaignfinance.com no later than 11:59 p.m. tonight. Please make sure that you can log in to the eFiling site today by 5 p.m. so that we can assist you if necessary.

Note to MCEA Candidates: campaign finance reports must be filed by your treasurer. If your treasurer is unavailable, contact your assigned Candidate Registrar immediately.

REMEMBER: We are currently within the 24-hour reporting period. Any new transactions of **\$1,000 or more** between now and the election must be added to eFiling and filed within 24 hours.

As always, do not hesitate to reach out if you have questions or concerns. Thank you,

Erin Gordon
Candidate Registrar
(207) 287-3651

Lorrie Brann
Candidate Registrar
(207) 287-4727

Maine Ethics Commission | www.maine.gov/ethics
135 State House Station, Augusta, ME 04333-0135
45 Memorial Circle, Augusta, ME

Title 21-A M.R.S.
Chapter 13: Campaign Finance Reports and Finances

...

§ 1017. Reports by candidates

...

3-A. Other candidates. A treasurer of a candidate for state or county office other than the office of Governor shall file reports with the commission and municipal candidates shall file reports with the municipal clerk as follows. Once the first required report has been filed, each subsequent report must cover the period from the end date of the prior report filed.

A. In any calendar year in which an election for the candidate's particular office is not scheduled, when any candidate or candidate's political committee has received contributions in excess of \$500 or made or authorized expenditures in excess of \$500, reports must be filed no later than 11:59 p.m. on July 15th of that year and January 15th of the following calendar year. These reports must include all contributions made to and all expenditures made or authorized by or on behalf of the candidate or the treasurer of the candidate as of the end of the preceding month, except those covered by a previous report.

B. Reports must be filed no later than 11:59 p.m. on the 11th day before the date on which an election is held and must be complete as of the 14th day before that date. If a report was not filed under paragraph A, the report required under this paragraph must cover all contributions and expenditures through the 14th day before the election.

§ 1020-A. Failure to file on time

...

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 7, the commission shall determine whether a report satisfies the requirements for timely filing. The commission may waive a penalty in whole or in part if the commission determines that the penalty is disproportionate to the size of the candidate's campaign, the level of experience of the candidate, treasurer or campaign staff or 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 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;
- B. An error by the commission staff;
- C. Failure to receive notice of the filing deadline; or
- D. 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.

...

4-A. 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%;
- B. For the 2nd violation, 4%; and
- C. For the 3rd and subsequent violations, 6%.

Any penalty of less than \$10 is waived.

Violations accumulate on reports with filing deadlines in a 2-year period that begins on January 1st of each even-numbered 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.

A registration or report may be provisionally filed by transmission of a facsimile copy of the duly executed report to the commission, as long as the facsimile copy is filed by the applicable deadline and an original of the same report is received by the commission within 5 calendar days thereafter.