



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

To: Commissioners
From: Erin Gordon, Candidate Registrar
Date: September 14, 2022
Re: Request by Benjamin Meiklejohn for Waiver of Late-Filing Penalty for 42-Day Post-Election Report

Candidates in the recent special election for Senate District 7 were required to file a 42-Day Post-Election campaign finance report on July 26, 2022. Benjamin Meiklejohn was a traditionally financed, experienced candidate acting as his own treasurer. He filed his report in the early morning hours of July 27, making it one day late. He is seeking a waiver of the preliminary penalty.

LEGAL REQUIREMENTS

Candidates participating in an election, either primary or general, must file a report by the 42nd day after the date on which the election was held, and the report must be complete as of the 35th day after the election. 21-A M.R.S. § 1017(3-A)(D). When a candidate files a report late 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).

DISCUSSION

Before the July 26 deadline the Commission’s eFiling website sent automatic email reminders of the 42-Day Post-Election Report to all registered users required to file it. Registered users include both the 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. On the afternoon of July 26, Candidate Registrar Erin Gordon also directly emailed all candidates, including Mr. Meiklejohn, who had not yet filed to remind them of the report deadline. The email urged candidates to check they could log into eFiling prior to 5:00 p.m. in the event they needed assistance from Commission staff.

Mr. Meiklejohn logged into eFiling after 11 p.m. the evening of July 26 on his mobile device and struggled to enter his transactions. After emailing descriptions of all his transactions for the period to Ms. Gordon, he accessed the site on a laptop and was able to successfully file the report after midnight.

Based on the statutory formula for calculating late-filing penalties, the preliminary penalty amount is \$18.03, calculated as follows:

Report	Deadline	Financial Activity	Penalty Rate	Days Late	Preliminary Penalty
42-Day Post-General Report	07/26/22	\$450.83	4%	1	\$18.03

In a letter dated August 7, 2022, Mr. Meiklejohn asks that the Commission waive the preliminary penalty, because he made a bona fide effort to file the report timely and the transactions were emailed to Commission staff before the deadline. Additionally, he cites issues with accessing the site via mobile browser and raises his concerns with the eFiling site’s incompatibility with “modern browsers.”

STAFF RECOMMENDATION

Staff does not doubt that Mr. Meiklejohn experienced some kind of trouble in his attempts to enter transactions and file reports using his mobile device, however, these are not problems with the eFiling site itself. Our IT contractor confirms that the eFiling website is compatible with

Apple's Safari, Google Chrome, Microsoft Edge, and Mozilla's Firefox. Published research on internet browsers suggest that 95% of users rely on one of these four browsers. The description by our IT contractor is consistent with the staff's own experience using the system and feedback we receive from filers. The Commission's eFiling website was designed primarily for desktop computers, but it can be used on phones and tablet computers. On phones, the entry functions are cumbersome due to the reduced size of the screen, but they operate as expected. After reading Mr. Meiklejohn's waiver request, Commission staff tried to enter transactions on an iPhone and was successful. When the Commission moves to a new eFiling system (years in the future), we will continue to put a priority on compatibility, but the broad experience of users does not indicate modifications to the current system are necessary.

One contributing factor to the late filing is that on July 26, 2022, Mr. Meiklejohn did not log in to complete the report until after 11:00 p.m. Had Mr. Meiklejohn attempted to complete his report earlier, he would have been able to contact staff during business hours for assistance and file his campaign finance report as required by statute by the reporting deadline.

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

- from \$529.00 to \$350.00 – late 42-Day Post-Primary Report by Mark Lawrence
- from \$637.50 to \$250.00 – late July Semiannual Report by Robyn Stanicki
- from \$3,744.00 to \$400.00 – late 24-Hour Report by Cathleen Nichols

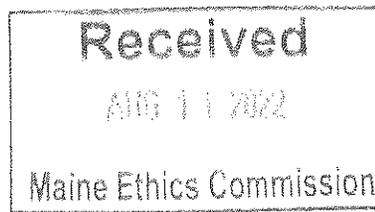
The Commission *declined* to waive preliminary penalties that were already below \$300:

- \$50.00 – late 24-Hour Report by Troy Jackson
- \$132.00 – late 42-Day Post-Primary Report by Mark Andre
- \$109.54 – late 11-Day Pre-General Report by Scott Gaiason.

We do not recommend reducing Mr. Meiklejohn's original penalty from \$18.03, as it falls well below the range of \$300-\$400. The factors that caused the delay in filing were avoidable and the penalty amount is not disproportionate.

Thank you for your consideration of this memo.

Dear Commission,



8/7/22

I am requesting a full waiver of the \$18 penalty assessed against my campaign for state senate in the special election in Hancock County. The reason I request the waiver is because a bona fide effort was made to submit the report on time but the system software used can only be used on certain browsers and appears to also not work on mobile devices.

I was transparent and honest with the commission staff that there were glitches in the system preventing me from entering data, and in order to respect the deadline and stay true to my intention to submit the information on time, I emailed all the relevant information about expenditures and receipts to commission staff by 11:59 pm, within the deadline.

I fully explained the glitches in your

software that I was experiencing, in the hopes that it could aid the commission in improving it. After obtaining a different device and using a different browser, I was able to finally submit the same information I had already emailed to commission staff, via the reporting software.

The software has severe limitations that it should not have in 2022. First, it is unusable by mobile devices, which in 2022 is a major shortcoming because the supermajority of online activity in this day is done on mobile devices not computers. Second, the software only works on specific browsers. Most updated and professional software systems are programmed and designed to be used in as many different browsers as possible. These limitations are significant. After submitting my information to the

commission staff by email before the deadline, and after submitting my information via the software within an hour or two after the deadline, I then availed the commission of this information so as to be productive and to help the commission understand the deficiencies of its software so that it might be able to ~~intervene~~ ^{improve} upon it.

Given that I made a bond fide effort to submit the information on time, and that I actually did submit the information to the commission on time, albeit by email instead of through the software, I would ask the commission to fully waive my penalty.

Thank you,
Ben Meiklejohn





DUE TODAY: 42-Day Post-Primary Report

1 message

Benjamin Meiklejohn <benforhouse@gmail.com>
To: Gordon, Erin <Erin.Gordon@maine.gov>

Tue, Jul 26, 2022 at 11:58 PM

Hi Erin,

The reporting system is buggy. I can't add new payees!!

I was able to enter one, but on subsequent tries, after entering all the information, the Create button would simply not activate for me to press, despite that all fields are entered.

Why is this site so difficult to enter information????

I have tried desktop view and everything and nothing makes these buttons work correctly.

I'll keep trying but here is my info for the reporting period, in the hopes that since I got the info in by midnight, a fee will be forgiven:

Donations:

June 7

\$325 Justin Beth, Portland, ME, physicist, Portsmouth Naval Shipyard

June 7

\$48.06 donations under \$50

Expenditures:

\$20.99 GoDaddy July 5 website hosting

\$238 the zone corporation, 861 Broadway 04401, radio ad, July 1

\$145.35 WNSX radio, 409 High St, Ellsworth, 04469, June 10

\$25.50 ethics commission 45 Memorial Circle, Augusta 04430, late filing fee, June 10

\$20.99 godaddy, website hosting, June 5

[Quoted text hidden]



DUE TODAY: 42-Day Post-Primary Report

1 message

Benjamin Meiklejohn <benforhouse@gmail.com>

Wed, Jul 27, 2022 at 1:44 AM

To: Gordon, Erin <Erin.Gordon@maine.gov>

I went on to a friend's laptop computer that had a different browser and was able to enter all the same information that I emailed you before midnight and filled the report..

I am hopeful that since I at least emailed you all the information before the deadline, that you may consider it submitted on time.

I would ask that you consider asking the ethics commission to upgrade its reporting system to accommodate mobile phones and other browsers other than Chrome.

A mobile app would be ideal. The current system seems to be outdated with technology that feels like early 2000's tech.

More people use smart phones than computers now and most systems these days are built to work on a variety of browsers and don't restrict users to having to just use one specific browser.

I don't use Chrome because it hogs up too much of my device's and mines too much data. I really should be able to use the system from the browser of my choice.

Anyway, a mobile app would really be ideal!

I hope that this suggestion is helpful. I think the system could be developed to be usable across multiple devices and browsers, and would be greatly improved and less buggy if so.

Hope this helps!

Please let me know if this report can be considered submitted on time.

Thanks!

Ben

[Quoted text hidden]



Notice of Unfiled Report

1 message

Benjamin Meiklejohn <benforhouse@gmail.com>

Wed, Jul 27, 2022 at 1:50 AM

To: ethics@maine.gov

I submitted all the information by email to Erin Gordon by email at 11:58 PM because I encountered a bug where I could not create new payees because the Create button would not activate despite that I had entered all the required fields.

I was eventually able to file the report from a different computer and filled it around 1 AM. Since I did at least email Erin Gordon by the deadline, with all the required information included in the email, I would respectfully ask the commission to forgive any late fees in light of the good faith effort I made to disclose the information by email when faced with a technical glitch or bug in the system.

Thank you for this consideration,

Ben

[Quoted text hidden]



DUE TODAY: 42-Day Post-Primary Report

1 message

Benjamin Meiklejohn <benforhouse@gmail.com>

Wed, Jul 27, 2022 at 10:01 AM

To: Gordon, Erin <Erin.Gordon@maine.gov>

Thank you for your reply.

At the least, I would ask that you share with the ethics commission the details of my attempt to enter information for two purposes a) to consider in their decision whether to issue a fine and if so, how much, and b) to be aware of issues with the system that make it user-unfriendly.

Thanks!

Ben

[Quoted text hidden]

July 27, 2022
Benjamin Meiklejohn
PO Box 450
Seal Harbor, Maine 04675

Re: Notice of Violation and Penalty for Late-Filed 42-Day Post-General Report

Dear Mr. Meiklejohn:

You were required to file the 42-Day Post-General Report on July 26, 2022 by 11:59 p.m. (21-A M.R.S. § 1017 (3-A)(D)), but the report was not filed until July 27, 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 \$18.03. 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) 287-3651 or erin.gordon@maine.gov if you have any questions.

Sincerely,

Erin Gordon
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: Benjamin Meiklejohn			
Late-Filed Report: 42-Day Post-General Report			
Contributions	\$373.06	Penalty Base Amount	\$450.83
Expenditures	\$450.83	Percentage	4%
Due Date	07/26/2022	Daily Accrual Rate	\$18.03
Date Filed	07/27/2022	Days Late	1
Previous Violations	1	Your Total Penalty	\$18.03

Payment Statement and Payment Options

From: Benjamin Meiklejohn

Penalty Amount: \$18.03

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.



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 PRIVATELY FINANCED CANDIDATES

COMMITTEE		TREASURER	
Benjamin J Meiklejohn PO BOX 450 Seal Harbor, ME 04675 PHONE:(207) 608-2226 EMAIL: benforhouse@gmail.com		Benjamin J Meiklejohn PO BOX 450 Seal Harbor, ME 04675 PHONE: EMAIL: ben@greenindependents.com	
REPORT	DUE DATE	REPORTING PERIOD	
42-Day Post-General Report	07/26/2022	06/01/2022 - 07/19/2022	

FINANCIAL ACTIVITY SUMMARY

RECEIPTS	TOTAL FOR THIS PERIOD	TOTAL FOR CAMPAIGN
1. CASH CONTRIBUTIONS FOR THE PRIMARY ELECTION (SCHEDULE A)	\$373.06	\$798.06
1A. CASH CONTRIBUTIONS FOR THE GENERAL ELECTION(SCHEDULE A) <i>For party candidates, general election contributions will only appear on this line after the primary.</i>		
1B. CASH CONTRIBUTIONS FOR THE GENERAL ELECTION RAISED PRIOR TO PRIMARY (Not shown on Schedule A of this report)		
2. OTHER CASH RECEIPTS (INTEREST, ETC)	\$0.00	\$0.00
3. LOANS (SCHEDULE C)	\$0.00	\$0.00
4. TOTAL RECEIPTS	\$373.06	\$798.06
EXPENDITURES		
5. EXPENDITURES (SCHEDULE B)	\$450.83	\$711.39
6. LOAN REPAYMENTS (SCHEDULE C)	\$0.00	\$0.00
7. TOTAL PAYMENTS	\$450.83	\$711.39
CASH SUMMARY		
8. CASH BALANCE AT BEGINNING OF PERIOD	\$164.44	
9. PLUS TOTAL RECEIPTS THIS PERIOD (LINE 4)	\$373.06	
10. MINUS TOTAL PAYMENTS THIS PERIOD (LINE 7)	\$450.83	
11. CASH BALANCE AT END OF PERIOD	\$86.67	
OTHER ACTIVITY		
12. IN-KIND CONTRIBUTIONS (SCHEDULE A-1)	\$0.00	\$0.00
13. TOTAL LOAN BALANCE AT END OF PERIOD (SCHEDULE C)	\$0.00	
14. TOTAL UNPAID DEBTS AT END OF PERIOD (SCHEDULE D)	\$0.00	
FOR PARTY CANDIDATES ONLY: CASH CONTRIBUTIONS FOR THE GENERAL ELECTION RAISED PRIOR TO PRIMARY ELECTION (INCLUDED IN LINE 1A AFTER PRIMARY ELECTION)		

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

REPORT FILED BY: Benjamin J Meiklejohn
 REPORT FILED ON: 7/27/2022 1:30:58 AM
 LAST MODIFIED:
 COMMITTEE ID: 431576

**SCHEDULE A
CASH CONTRIBUTIONS**

- For contributors who gave more that \$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	ELECTION	AMOUNT
6/7/2022	Contributors giving \$50 or less		12	Primary	\$48.06
6/7/2022	Justin Beth Congress ST Portland, ME, 04101	Portsmouth Naval Shipyard Physicist	1	Primary	\$325.00
TOTAL CASH CONTRIBUTIONS FOR PRIMARY					\$373.06
TOTAL CASH CONTRIBUTIONS FOR GENERAL					\$0.00

**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
6/5/2022	GoDaddy, Inc. 2299 W. Obispo Ave #201 Gilbert, AZ, 85233	Monthly website hosting	WEB	\$20.99
6/10/2022	State of Maine Ethics Commission 45 Memorial Circle Augusta, ME, 04330	Late filing fee	OTH	\$25.50
6/10/2022	WNSX RADIO PO BOX 1171 ELLSWORTH, ME, 04605	Radio ads	RAD	\$145.35
7/1/2022	The Zone Corporation 861 Broadway Ave Bangor, ME, 04401	radio ads	RAD	\$238.00
7/5/2022	GoDaddy, Inc. 2299 W. Obispo Ave #201 Gilbert, AZ, 85233	website hosting	WEB	\$20.99
TOTAL EXPENDITURES FOR CANDIDATE:				\$450.83

Gordon, Erin

From: Gordon, Erin
Sent: Tuesday, July 26, 2022 2:02 PM
Subject: DUE TODAY: 42-Day Post-Primary Report

Good afternoon,

You are receiving this email because you are required to file the 42-Day Post-Primary Report and have not yet filed it. The report must be filed online at www.mainecampaignfinance.com by 11:59 p.m. tonight. Please ensure that you can log into your eFiling account before 5:00 p.m. today so that I can assist you with username or password issues before I leave the office.

Please let me know if you have any questions. Thank you,

Erin Gordon

Candidate Registrar

Maine Ethics Commission

(207) 287-3651 | www.maine.gov/ethics

135 State House Station, Augusta, ME 04333-0135

45 Memorial Circle, Augusta, ME

F. Unless further reports will be filed in relation to a later election in the same calendar year, the disposition of any surplus or deficit in excess of \$100 shown in the reports described in paragraph E must be reported as provided in this paragraph. The treasurer of a candidate or political committee with a surplus or deficit in excess of \$100 shall file reports semiannually with the commission within 15 days following the end of the 2nd and 4th quarters of the State's fiscal year, complete as of the last day of the quarter, until the surplus is disposed of or the deficit is liquidated. The first report under this paragraph is not required until the 15th day of the period beginning at least 90 days from the date of the election. The reports will be considered timely if filed electronically or in person with the commission on that date or postmarked on that date. The reports must set forth any contributions for the purpose of liquidating the deficit, in the same manner as contributions are set forth in other reports required in this section.

G. Unless otherwise specified in this subsection, reports must be complete back to the end date of the previous report filing period. The reports described in paragraph E, if filed with respect to a primary election, are considered previous reports in relation to reports concerning a general election.

H. Reports with respect to a candidate who seeks nomination by petition for the office of Governor must be filed on the same dates that reports must be filed with respect to a candidate who seeks that nomination by primary election.

3. Other candidates. [Repealed]

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.

C. If the candidate has an opponent who is on the ballot or who is a declared write-in candidate, any single contribution of \$1,000 or more received or any single expenditure of \$1,000 or more made after the 14th day before any election and more than 24 hours before 11:59 p.m. on the day of any election must be reported within 24 hours of that contribution or expenditure. The candidate or treasurer is not required to include in this report expenditures for overhead expenses or compensation paid to an employee or other member of the campaign staff who has received payments at regular intervals that have been disclosed in previously filed campaign finance reports. As used in this paragraph, “overhead expenses” includes, but is not limited to, rent, utility payments, taxes, insurance premiums or similar administrative expenses.

→ D. Reports must be filed no later than 11:59 p.m. on the 42nd day after the date on which an election is held and must be complete for the filing period as of the 35th day after that date.

D-1. Reports must be filed no later than 11:59 p.m. on the 42nd day before the date on which a general election is held and must be complete as of the 49th day before that date, except that this report is not required for candidates for municipal office.

E. Unless further reports will be filed in relation to a later election in the same calendar year, the disposition of any surplus or deficit in excess of \$100 shown in the reports described in paragraph D must be reported as provided by this paragraph. The treasurer of a candidate with a surplus or deficit in excess of \$100 shall file reports semiannually with the commission within 15 days following the end of the 2nd and 4th quarters of the State’s fiscal year, complete as of the last day of the quarter, until the surplus is disposed of or the deficit is liquidated. The first report under this paragraph is not required until the 15th day of the period beginning at least 90 days from the date of the election. The reports will be considered timely if filed electronically or in person with the commission on that date or postmarked on that date. The reports must set forth any contributions for the purpose of liquidating the deficit, in the same manner as contributions are set forth in other reports required in this section.

F. Reports with respect to a candidate who seeks nomination by petition must be filed on the same dates that reports must be filed by a candidate for the same office who seeks that nomination by primary election.

3-B. Accelerated reporting schedule. [Repealed]

4. New candidate or nominee. A candidate for nomination or a nominee chosen to fill a vacancy under chapter 5, subchapter 3 is subject to section 1013-A, subsection 1, except that the candidate shall register the name of a treasurer or political committee and all other information required in section 1013-A, subsection 1, paragraphs A and B within 7 days after the candidate’s appointment or at least 6 days

§ 1020-A. Failure to file on time

1. Registration. A candidate that fails to register the name of a candidate, treasurer or political committee with the commission within the time allowed by section 1013-A, subsection 1 may be assessed a forfeiture of \$100. The commission shall determine whether a registration satisfies the requirements for timely filing under section 1013-A, subsection 1.

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.

3. Municipal campaign finance reports. Municipal campaign finance reports must be filed, subject to all the provisions of this subchapter, with the municipal clerk on forms prescribed by the Commission on Governmental Ethics and Election Practices. The municipal clerk shall send any notice of lateness required by subsection 6 and shall notify the commission of any late reports subject to a penalty.

4. [Repealed]

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.

5. [Repealed]

5-A. Maximum penalties. Penalties assessed under this subchapter may not exceed:

A. Five thousand dollars for reports required under section 1017, subsection 2, paragraph B, C, D, E or H; section 1017, subsection 3-A, paragraph B, C, D, D-1 or F; and section 1017, subsection 4, 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;

A-1. Five thousand dollars for reports required under section 1019-B, subsection 4, 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;

B. Five thousand dollars for state party committee reports required under section 1017-A, subsection 4-A, paragraphs A, B, C and E, 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;

C. One thousand dollars for reports required under section 1017, subsection 2, paragraphs A and F and section 1017, subsection 3-A, paragraphs A and E; or

D. Five hundred dollars for municipal, district and county committees for reports required under section 1017-A, subsection 4-B.