



STATE OF LOUISIANA
DEPARTMENT OF STATE CIVIL SERVICE
LOUISIANA BOARD OF ETHICS
P. O. BOX 4368
BATON ROUGE, LA 70821
(225) 219-5600
FAX: (225) 381-7271
1-800-842-6630
www.ethics.la.gov

July 11, 2016

VIA email

The Honorable John A. Alario, Jr.
President, Louisiana State Senate
'apa.senatepresident@legis.la.gov'
P. O. Box 94183
Baton Rouge, LA 70804

The Honorable Senator Karen Carter Peterson
Chairman, Senate and Governmental Affairs
'apa.s-s&g@legis.la.gov'
P.O. Box 94183
Baton Rouge, Louisiana 70804

The Honorable Taylor F. Barras
Speaker, Louisiana House of Representatives
'apa.housespeaker@legis.la.gov'
P. O. Box 94062
Baton Rouge, LA 70804-9062

The Honorable Michael Danahay
Chairman, House and Governmental
Affairs Committee
'apa.h-hg@legis.la.gov'
P. O. Box 94062
Baton Rouge, Louisiana 70804

Re: Promulgation of Amended Rules Regarding Late Filings

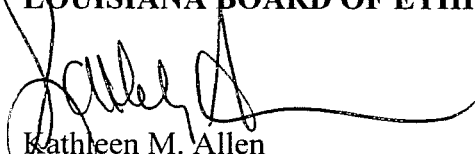
Dear President Alario, Speaker Barras, Senator Peterson and Representative Danahay:

Pursuant to R.S. 49:968 (B) and (C), the Louisiana Board of Ethics is submitting a copy of the Notice of Intent and approved Fiscal Statement for the proposed amended regulations to the Rules for the Board of Ethics concerning late filings. The deadline to submit comments or request a public hearing for the proposed rules is August 10, 2016.

If I can be of any further assistance, please do not hesitate in contacting me.

Sincerely,

LOUISIANA BOARD OF ETHICS


Kathleen M. Allen
For the Board

AN EQUAL OPPORTUNITY EMPLOYER

NOTICE OF INTENT
Department of State Civil Service
Board of Ethics

Late Filings (LAC 52:I.Chapter 12)
Records and Reports (LAC 52:I.Chapter 13)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the Department of Civil Service, Louisiana Board of Ethics, has initiated rulemaking procedures to amend rules for late filing procedures and to correctly reference a statute for certain disclosure forms.

Title 52
ETHICS
Part I. Board of Ethics
Chapter 12. Late Filings

§1201.Late Filing; Notice of Delinquency
[Formerly §1202]

A. The staff shall mail, by certified mail, a notice of delinquency within four business days after the due date for any report or statement, of which the staff knows or has reason to know is due by the filer that is due under any law within the board's jurisdiction which has not been timely filed.

B. If the date on which a report is required to be filed occurs on a weekend or federal or state holiday, the report shall be filed no later than the first working day after the date it would otherwise be due that is not a federal or state holiday.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 23:1298 (October 1997), amended LR 26:628 (April 2000), LR 30:2669 (December 2004), LR 38:1207 (May 2012).

§1203.Late Filing; Assessment of Late Fee

A. The staff of the board shall automatically assess and order the payment of late filing fees for any failure to timely file any report or statement due under any law within the board's jurisdiction in accordance with the law on the assessment of late fees.

B. The assessment and order of the late fee shall be mailed by certified mail to the late filer. If the assessment and order is not claimed by the late filer, the assessment and order shall be served on the late filer via a subpoena of notice.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 23:1298 (October 1997), amended LR 38:1208 (May 2012).

§1205.Late Filing
[Formerly §1204]

A. Definitions. For purposes of §1205, the following definitions shall apply.

Amount of Activity—the total amount of receipts or expenditures, whichever is greater.

Person Regularly Responsible—the person designated by the person required to file a report, in accordance with any law under the jurisdiction of the board, who is responsible for keeping the records and filing the reports on behalf of the required filer.

B. An automatic late fee shall not be assessed, and if one is 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 fourteen days prior to the date the report was due:

1. death of the person required to file or the person regularly responsible, or a death in their immediate family, as defined in 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;

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

C. If a report is filed more than 10 days late and the amount of activity on the report is less than the amount of the late fee to be assessed, the staff may reduce the late fee to the amount of activity or 10 times the per day penalty, whichever is greater.

D. An automatic late fee for a candidate's campaign finance disclosure report shall not be assessed, and if one is assessed, shall be rescinded by the staff, if the candidate officially withdrew with the Secretary of State from the election and received no contributions or loans and/or made any expenditures, excluding his qualifying fee.

E. An automatic late fee for a candidate personal financial disclosure statement shall not be assessed, and if one is assessed, shall be rescinded by the staff, if the candidate officially withdrew with the Secretary of State from the election.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 23:1298 (October 1997), amended LR 26:628 (April 2000), LR 31:1227 (June 2005), LR 38:1208 (May 2012).

**§1207.Late Filing; Waiver
[Formerly §1205]**

A. Any person assessed with automatic late filing fees may request a waiver of the late fee, in writing, to the board within 20 days after the receipt of the assessment requiring the payment of late filing fees, setting forth the facts which tend to prove that the late filer had good cause for filing late.

B. The executive secretary shall place all such requests for a waiver on the board's agenda for consideration. If a late filer requests to make an appearance, the executive secretary shall schedule the appearance.

C. At the time of submission of his request for a waiver, the late filer shall submit all information and documentation to support his request.

D. If the board affirms the order assessing the late fee, notice shall be mailed by certified mail to the late filer, notifying him that the order was affirmed.

E. If the board waives the late fee, notice of the board's decision shall be issued by regular mail.

F. If the board alters in any way the assessment of the late fee after consideration of a waiver request, a new order shall be issued by the staff of the board consistent with the decision of the board after consideration of the waiver request. The new order shall be sent to the late filer in the manner set forth in §1203.B.

G. Within 20 days of receipt of the notice of the board's decision on the waiver request, the late filer may seek reconsideration of the board's decision only upon submission of information not provided or available to the board during its initial consideration of the matter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 23:1298 (October 1997), amended LR 30:2669 (December 2004), LR 38:1208 (May 2012).

§1209.Late Filing; Appeal

A. Any person ordered to pay late filing fees pursuant to §1203 may appeal the order to the Ethics Adjudicatory Board.

B. Notice of the person's intent to appeal should be submitted in writing to the executive secretary of the board within 20 days of the receipt of the order.

C. The notice of intent to appeal shall include all grounds for which the late filer is seeking an appeal, along with any documentation and evidence to be considered by the Ethics Adjudicatory Board.

D. The executive secretary shall forward the notice of appeal, along with the order assessing the late fee and any correspondence concerning the assessment of the late fee to

the Ethics Adjudicatory Board. The notice from the executive secretary shall include the name of the attorney for the board and contact information for the late filer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 38:1208 (May 2012).

**Title 52
ETHICS**

Part I. Board of Ethics

Chapter 13. Records and Reports

§1309. Disclosure Forms Filed Pursuant to R.S. 42:1119(B)(2) of the Code

A. Disclosure forms filed pursuant to R.S. 42:1119(B)(2)(a) of the Code shall:

1. be on a form approved by the board or a form which is substantially the same as the form approved by the board;
2. be filed no later than 30 days after the beginning of the school year;
3. be signed by the school board member or superintendent and contain:
 - a. the name, address, and position of the school board member or superintendent;
 - b. the name, relationship, and position of the immediate family member and the date of the family member's employment;
 - c. the parish in which the school board member or superintendent serves and the date of the commencement of such service; and
 - d. which of the following exceptions applies to the immediate family member:
 - i. classroom teacher certified to teach;
 - ii. employed by school board for more than one year prior to the school board member or the superintendent becoming a member of the school board or the superintendent; or
 - iii. served in public employment on April 1, 1980, the effective date of the Code.

B. Disclosure forms filed pursuant to R.S. 42:1119(B)(2)(b) of the Code shall:

1. be in writing and on a form approved by the board or a form which is substantially the same as the form approved by the board;
2. be filed no later than January thirtieth of each year;
3. be signed by the chief executive or member of the board of a hospital service district or hospital public trust authority and contain:
 - a. the name, address, and position of the chief executive or member of the board of a hospital service district or hospital public trust authority;
 - b. the calendar year for which the disclosure statement is being filed;
 - c. the name, relationship, and position of the immediate family member and the date of the family member's employment;

d. the name of the hospital service district or public trust authority that the chief executive or member of the board of a hospital service district or hospital public trust authority serves and the date of the commencement of such service; and

e. which of the following exceptions applies to the immediate family member:

i. employed by the hospital service district or public trust authority for more than one year prior to the chief executive or member of a board of a hospital service district or hospital public trust authority becoming the chief executive or board member for the hospital service district or hospital public trust authority;

ii. served in public employment on April 1, 1980, the effective date of the Code; or

iii. the hospital service district or public trust authority is located in a parish with a population of 100,000 or less and the family member is employed as a licensed physician or registered nurse.

C. The executive secretary shall maintain these forms suitably indexed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 23:1300 (October 1997), amended LR 26:629 (April 2000).

Family Impact Statement

The proposed rule changes have no known impact on family formation, stability or autonomy, as described in R.S. 49:972.

Poverty Impact Statement

The proposed rule changes have no known impact on poverty, as described in R.S. 49:972.

Provider Impact Statement

The proposed rule should not have any known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session.

Small Business Statement

The proposed Rule should not have any known or adverse impact on small business as described in R.S. 49:956.6

Public Comments

Interested persons may direct their comments to Kathleen M. Allen, Louisiana Board of Ethics, P.O. Box 4368, Baton Rouge, Louisiana 70821, telephone (225) 219-5600, until 4:45 p.m. on August 10, 2016.

Kathleen M. Allen
Ethics Administrator

FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES

Person Preparing Statement: Kristy F. Gary Dept.: Civil Service
Phone: 225-219-5600 Office: Ethics Administration Program
Return Address: P.O. Box 4368 Rule Title: Late Filings
Baton Rouge, LA 70821
Date Rule Takes Effect: Upon Promulgation

SUMMARY
(Use complete sentences)

In accordance with Section 953 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a fiscal and economic impact statement on the rule proposed for adoption, repeal or amendment. THE FOLLOWING STATEMENTS SUMMARIZE ATTACHED WORKSHEETS, I THROUGH IV AND WILL BE PUBLISHED IN THE LOUISIANA REGISTER WITH THE PROPOSED AGENCY RULE.

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS
(Summary)

The cost to implement the rule change, regarding late filings, is estimated to be \$400 in FY 17, which accounts for the cost to publish the rule change in the State Register. The proposed rules provide for the manner in which notices of delinquency are mailed to late filers, late fees are assessed pursuant to R.S. 42:1157, waivers are requested from the Board of Ethics, and appeals are made for consideration by the Ethics Adjudicatory Board. The proposed rule also amends a section to correctly reference a statute for certain disclosure forms.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS
(Summary)

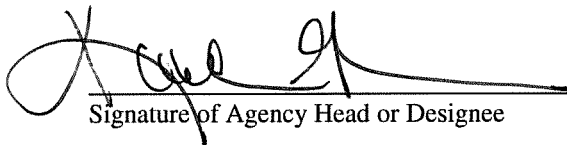
The proposed rule change will have no anticipated effect on revenue collections of state or local governmental units. Pursuant to R.S. 42:1157, the Ethics Administration Program is responsible for issuing orders for late fees for reports and registrations that are not filed in a timely manner according to the Code of Governmental Ethics, Campaign Finance Disclosure Act, and the Legislative, Executive and Local Lobbyist Disclosure Acts. The rules do not change the amount of late fees imposed. The rules make changes with respect to the process for requesting a waiver from the Board of Ethics.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

The proposed rule change will have no anticipated costs or economic benefits to directly affected persons or non-governmental groups.

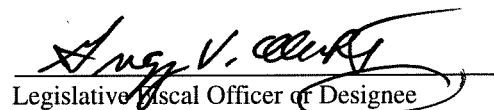
IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change will have no anticipated effect on competition and employment.


Signature of Agency Head or Designee

Kathleen Allen/ Ethics Administrator
Typed Name and Title of Agency Head or Designee

7.11.16
Date of Signature


Legislative Fiscal Officer or Designee

7/11/2016
Date of Signature

FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES

The following information is required in order to assist the Legislative Fiscal Office in its review of the fiscal and economic impact statement and to assist the appropriate legislative oversight subcommittee in its deliberation on the proposed rule.

- A. Provide a brief summary of the content of the rule (if proposed for adoption or repeal) or a brief summary of the change in the rule (if proposed for amendment). Attach a copy of the notice of intent and a copy of the rule proposed for initial adoption or repeal (or, in the case of a rule change, copies of both the current and proposed rules with amended portions indicated).

Chapter 12. Late Filings – The proposed rules provide for the manner in which notices of delinquency are mailed to late filers, late fees are assessed pursuant to R.S. 42:1157, waivers are requested from the Board of Ethics and appeals are made for consideration by the Ethics Adjudicatory Board.

Chapter 13. Records and Reports – The proposed rule amends an incorrect statute citation.

See attached proposed rules for adoption and the underscore/strikethrough version of the proposed rules.

- B. Summarize the circumstances which require this action. If the Action is required by federal regulation, attach a copy of the applicable regulation.

After August 15, 2008, the Board of Ethics (BOE) no longer conducts adjudicatory hearings. The Ethics Adjudicatory Board (EAB) conducts said hearings. The waiver requests for late filings are handled by the BOE. These rules provide for those procedures. The Board proposes to amend its procedures.

- C. Compliance with Act 11 of the 1986 First Extraordinary Session (1) Will the proposed rule change result in any increase in the expenditure of funds? If so, specify amount and source of funding.

The only expense associated with the proposed rule change is the cost of publishing the Notice of Intent and the rules in the State Register. The proposed rule change will not result in an increase in the expenditure of funds.

(2) If the answer to (1) above is yes, has the Legislature specifically appropriated the funds necessary for the associated expenditure increase?

- (a) _____ Yes. If yes, attach documentation.
(b) X No. If no, provide justification as to why this rule change should be published at this time.

The expense can be absorbed by existing budget.

FISCAL AND ECONOMIC IMPACT STATEMENT

WORKSHEET

I. A. COSTS OR SAVINGS TO STATE AGENCIES RESULTING FROM THE ACTION PROPOSED

1. What is the anticipated increase (decrease) in costs to implement the proposed action?

COSTS	FY 17	FY 18	FY 19
PERSONAL SERVICES	0	0	0
OPERATING EXPENSES	\$400	0	0
PROFESSIONAL SERVICES	0	0	0
OTHER CHARGES	0	0	0
EQUIPMENT	0	0	0
<u>TOTAL</u>	\$400	0	0
<u>MAJOR REPAIR & CONSTR.</u>	0	0	0
<u>POSITIONS (#)</u>	0	0	0

2. Provide a narrative explanation of the costs or savings shown in "A. 1." including the increase or reduction in workload or additional paperwork (number of new forms, additional documentation, etc.) anticipated as a result of the implementation of the proposed action. Describe all data, assumptions, and methods used in calculating these costs.

The above cost represents the cost to publish the notice of intent and the rules to be promulgated in the State Register.

3. Sources of funding for implementing the proposed rule or rule change.

SOURCE	FY 17	FY 18	FY 19
STATE GENERAL FUND	\$400	0	0
AGENCY SELF-GENERATED	0	0	0
DEDICATED	0	0	0
FEDERAL FUNDS	0	0	0
OTHER (Specify)	0	0	0
<u>TOTAL</u>	\$400	0	0

4. Does your agency currently have sufficient funds to implement the proposed action? If not, how and when do you anticipate obtaining such funds?

Yes, the agency does have sufficient funds to publish the items in the State Register.

B. COST OR SAVINGS TO LOCAL GOVERNMENTAL UNITS RESULTING FROM THE ACTION PROPOSED

1. Provide an estimate of the anticipated impact of the proposed action on local governmental units, including adjustments in workload and paperwork requirements. Describe all data, assumptions and methods used in calculating this impact.

The proposed action will not have a fiscal impact on local governmental units.

2. Indicate the sources of funding of the local governmental unit, which will be affected by these costs or savings.

Not applicable.

FISCAL AND ECONOMIC IMPACT STATEMENT

WORKSHEET

II. EFFECT ON REVENUE COLLECTIONS OF STATE AND LOCAL GOVERNMENTAL UNITS

A. What increase (decrease) in revenues can be anticipated from the proposed action?

REVENUE INCREASE/DECREASE	FY 17	FY 18	FY 19
STATE GENERAL FUND	0	0	0
AGENCY SELF GENERATED	0	0	0
RESTRICTED FUNDS*	0	0	0
FEDERAL FUNDS	0	0	0
LOCAL FUNDS	0	0	0
TOTAL	0	0	0

*Specify the particular fund being impacted.

B. Provide a narrative explanation of each increase or decrease in revenues shown in "A." Describe all data, assumptions, and methods used in calculating these increases or decreases.

The proposed rule change will have no anticipated effect on revenue collections of state or local governmental units. Pursuant to R.S. 42:1157, the Ethics Administration Program is responsible for issuing orders for late fees for reports and registrations that are not filed in a timely manner according to the Code of Governmental Ethics, Campaign Finance Disclosure Act, and the Legislative, Executive, and Local Lobbyist Disclosure Acts. The proposed rules do not change the amount of late fees imposed. The proposed rules make changes with respect to the process for requesting a waiver from the Board of Ethics.

III. COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS

A. What persons or non-governmental groups would be directly affected by the proposed action? For each, provide an estimate and a narrative description of any effect on costs, including workload adjustments and additional paperwork (number of new forms, additional documentation, etc.), they may have to incur as a result of the proposed action.

The proposed rule change will have no anticipated costs or economic benefits to directly affected persons or non-governmental groups.

B. Also provide an estimate and a narrative description of any impact on receipts and/or income resulting from this rule or rule change to these groups.

The proposed rule changes will have no impact on receipts and/or income from these groups.

IV. EFFECTS ON COMPETITION AND EMPLOYMENT

Identify and provide estimates of the impact of the proposed action on competition and employment in the public and private sectors. Include a summary of any data, assumptions and methods used in making these estimates.

The proposed rule changes will not impact competition and employment.