



STATE OF LOUISIANA  
DEPARTMENT OF STATE CIVIL SERVICE  
**LOUISIANA BOARD OF ETHICS**  
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August 23, 2016

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

**Re: Promulgation of Amended Rules Regarding Late Filings and Records and Reports (LAC 52: I. Chapter 12 and Chapter 13, *Louisiana Register*, Volume 42, No. 7, July 20, 2016, Page 1147-1150)**

Dear Senator Peterson:

Pursuant to R.S. 49:968(D)(1)(b), the Louisiana Board of Ethics reports that no public hearing has been or will be held as to the proposed amended regulations concerning late filing procedures and statute references on certain disclosure forms. The deadline to submit comments or request a public hearing for the proposed rules was August 10, 2016. No one submitted comments or requested a public hearing; therefore, no public hearing was scheduled.

If you would like to schedule a hearing before the Senate and Governmental Affairs Committee to consider these suggested rules, please contact Kristy Gary, Deputy Ethics Administrator or myself to provide such assistance as is necessary under these circumstances. Upon receiving a favorable recommendation, the Louisiana Board of Ethics anticipates the final rule will be published and the effective date of the proposed rules will be October 20, 2016.

Sincerely,

**LOUISIANA BOARD OF ETHICS**

A handwritten signature in black ink, appearing to read "Kathleen M. Allen".

Kathleen M. Allen  
For the Board

KMA:kfg

## NOTICE OF INTENT

### Department of Civil Service Board of Ethics

Late Filings; Records and Reports  
(LAC 52:I.Chapter 12 and 1309)

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), LR 42:

#### §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), LR 42:

#### §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 14 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), LR 42:

#### §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), LR 42:

#### **§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), amended LR 42:

### **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 30 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), LR 42:

#### **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.

#### **Small Business Analysis**

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

#### **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.

#### **Public Comments**

Interested persons may direct their comments to Kathleen M. Allen, Louisiana Board of Ethics, P.O. Box 4368, Baton Rouge, LA 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 RULE TITLE: Late Filings; Records and Reports**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT 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 NONGOVERNMENTAL 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.

Kathleen Allen  
Ethics Administrator  
1607#071

Gregory V. Albrecht  
Chief Economist  
Legislative Fiscal Office