Public Campaign Finance Program Enforcement Regulation

PART 6221 Public Campaign Finance Program

6221.38 Sole Authority

The PCFB shall have sole authority to enforce all the provisions of Article 14 of the Election Law with regard to participating candidates for any election cycle in which they are participating in the public campaign finance program.

6221.39 Preliminary Inquiries and Investigations

(a) The PCFB may, upon a vote of the board, conduct an investigation into possible violations of Article 14 of the Election Law, and these regulations. Such investigations may be based on an audit, complaint, referral, or upon the PCFB's own initiative after staff undertakes a preliminary inquiry. In each investigation, as a basis for the vote, staff shall prepare a memorandum to the board outlining the factual and legal issue(s), and making a recommendation for opening or not opening the investigation. The action taken by the board on the staff's recommendation and the rationale for that action, along with any alterations or modifications made by the Board, redacting any identifying information, shall be reflected in the Executive Session minutes, and shall be made part of the record, along with the vote of each member of the board, subject to 6221.40(f) regarding complaints.

(b) At any stage of a preliminary inquiry or investigation, the PCFB may demand, and the candidate and political committee shall furnish, all records consistent with section 6221.7(d)(2), (3), and (4) of this Title.

(c) In conducting an investigation, the PCFB may request the State Board of Elections to appoint certain staff as special investigators consistent with section 3-107 of the Election Law; on a case-by-case basis, and upon request, the State Board of Elections may delegate its subpoena authority pursuant to subdivisions 5 and 6 of section 3–102 of the Election Law to such special investigators to require the production of any books, records, documents or other evidence that the PCFB may deem relevant to an investigation.

(d) Any request for subpoena authority to be granted to a special investigator shall be in the same manner as requests made by the chief enforcement counsel as provided for in section 6203.2(d) and (e) of this Title.

(e) If the State Board of Elections grants subpoena authority upon a special investigator, such authority shall be subject to motions to quash or modify to the State Board of Elections, consistent with section 6203.3 of this Title.

(f) No special investigator appointed pursuant to this part shall possess a firearm as part of their duties.

(g) After an investigation, or a preliminary inquiry in which a potential violation has been substantiated by staff, PCFB staff shall present to the board its findings and determinations as to the violations of Article 14 of the Election Law, or the regulations related thereto, and recommendations for disposition of the matter, including, but not limited to, issuance of a Notice of Alleged Violation or Notice of Enforcement, dismissal, settlement, civil action, referral to law enforcement, or any

combination thereof. The commissioners may, upon a vote of the board, adopt and/or alter the findings and recommendations of staff. If the commissioners alter the findings and/or recommendations, the rationale for altering such findings and/or recommendations shall be stated and reflected in the executive session minutes, redacting any identifying information in the event of a criminal referral, and shall be made part of the record of the vote of each member of the board for any action resulting therefrom.

(h) Upon finding an alleged violation of Article 14 of the Election Law or of these rules and regulations in the course of a preliminary inquiry or an investigation, PCFB staff shall serve a Notice of Alleged Violation to the Respondents and, if applicable, provide a period to cure such violations, consistent with section 6221, or explain why such violations are not curable; provided however, upon a determination by the commissioners, a criminal referral may be made to law enforcement.

6221.40 Complaints

(a) Complaints alleging a violation(s) of Article 14 of the Election Law, or any provisions of these regulations, may be filed with the PCFB. Such complaints shall be made no later than three years after the date(s) of the alleged conduct. All complaints shall be made in writing, signed, and sworn to or affirmed by the individual filing the complaint; provided, however, that filing of a complaint using the interactive online form established by the PCFB shall be deemed to satisfy the requirements of this section which necessitate a complaint be made in writing and be physically signed.

(b) Complaints shall:

(1) be based on personal knowledge, if possible, and if a complaint is based on information and belief, the complainant must state the source of that information and belief;

(2) specify the conduct alleged to be in violation of Article 14 of the Election Law, or these rules, and to the extent known:

(i) the date(s) and time(s) of the conduct,

(ii) the place(s) the conduct occurred, and

(iii) the names of witnesses, if any.

(3) be accompanied by copies of all documentary evidence available to the complainant; and

(4) contain the complainant's full name, current residence address, telephone number, and email address.

(c) (1) Upon receipt, the complaint will be reviewed by PCFB enforcement staff for substantial compliance with the requirements listed above and, to determine whether the PCFB has jurisdiction over the allegations contained therein. If it is determined that the PCFB lacks jurisdiction over the allegations, the complaint shall be rejected by PCFB staff and forwarded to the appropriate

enforcement agency, if any. If the complaint is deemed to be in compliance with the requirements of this section and puts forth an allegation that would constitute a violation of Article 14 of the Election Law or these regulations over which the PCFB has jurisdiction, other than late filing or failure to file campaign financial disclosure statements, (which are covered under section 6221.41 of this Part), the PCFB shall, within ten (10) business days of receipt of said complaint, provide written notice to the individual(s) that is the subject of the complaint describing the alleged violations contained therein, as well as a notice concerning document retention requirements. Such description shall include references to the provisions of law or regulation that are alleged to have been violated, along with a summary of the basis for such complaint. The PCFB shall not include within the notice information that, in the discretion of the PCFB, would prejudice the complainant or any potential investigation.

(2) If after the review of the complaint it is determined that no violation of Article 14 of the Election Law or these regulations is alleged, or that such allegations may be shown to be facially deficient, PCFB staff shall dismiss the complaint and advise the complainant of such dismissal. Rejection of a complaint shall not prevent the PCFB from conducting a preliminary inquiry or investigation, on its own initiative, of any portion of a complaint received if it deems it appropriate to do so.

(3) Upon receipt of the written notice from the PCFB, the subject(s) of a complaint ("respondent(s)") shall have ten (10) business days from the date the notice was sent to the respondent(s) to submit to the board a written answer to the allegations contained in the complaint and described in the notice; provided, however, that the time in which a respondent(s) has to respond to such notice and provide a written answer may be less than ten business (10) days for a complaint that is received less than ninety (90) days before an election in which the respondent is a candidate. If a respondent is required to respond in less than ten (10) business days to a notice of complaint, such timeline for response shall be noted within the notice provided by the PCFB.

(i) The answer must:

(a) be sworn to or affirmed;

(b) set forth a response to all allegations contained in the complaint, including any reasons why the PCFB should dismiss the complaint in full or in part, if applicable, and

(c) be accompanied by copies of all documentary evidence available to the respondent deemed by them to support their position.

(4) Within twenty (20) business days of receipt of an answer to a notice of complaint, or as soon as practicable thereafter, the PCFB shall determine whether to open an investigation into the allegations contained in the complaint, issue a Notice of Alleged Violation, or whether such complaint shall be dismissed. If the respondent timely cures the alleged deficiencies or violations alleged in the complaint, staff shall dismiss the complaint. A determination to open an investigation, issue a Notice of Alleged Violation, or whether such complaint shall be dismissed shall be made upon a vote of the board.

(i) If the respondent fails to answer a notice of complaint, the PCFB shall do whatever due diligence it deems necessary in order to make its determination on whether to open an investigation into the allegations contained in the complaint or issue a Notice of Alleged Violation or whether such complaint shall be dismissed based on the information it possesses and that which is contained in the complaint.

(d) At no time shall public funds be used or earmarked for paying any costs associated with complying with or defending against any enforcement action being maintained pursuant to this title.

(e) The PCFB shall keep confidential all complaints, notices to candidates, candidates' answers, and facts about investigations related thereto until the complaint is dismissed pursuant to paragraph (c)(2) of this section or the PCFB makes a finding of a violation pursuant to section 6221.42(b).

6221.41 Failure to File/Late Filing

(a) Failures to file and late filing of required campaign finance disclosure statements shall be issued a fine consistent with section 6221.46 of this Part.

(b) PCFB staff may issue a Notice of Enforcement for late filing or failure to file without first seeking board approval, provided however, the board shall receive a copy of the proposed Notices of Enforcement from the co-directors at least 24 hours prior to the issuing of the Notices of Enforcement, except that in the case of exigent circumstances the copies shall be provided as soon as practicable.

6221.42 Enforcement

(a) Prior to any finding of a determination of a violation being found, PCFB staff shall serve a Notice of Alleged Violation to the Candidate, Committee and/or Treasurer. The Notice of Alleged Violation shall describe with specificity the facts and law believed to constitute a deficiency or violation. The Committee shall be given 30 days to cure the alleged deficiency or violation. The PCFB may grant an additional 30 days upon a showing of need. If an alleged deficiency or violation is cured, as determined by the PCFB, within the time allowed, the PCFB shall not assess a penalty on the basis of said deficiency or violation. For violations that are found via an audit pursuant to 9 NYCRR 6221.27, the final audit report shall be considered as such notification; provided however, a Notice of Alleged Violation need not be issued, and such cure period does not apply to failure to file required campaign finance statements, material misrepresentation, fraud, or submission of false or fictitious information to the PCFB in the course of participation in the Program, or the repayment of public matching funds for which it is found that the candidate was not eligible to receive.

(b) Following the issuance of any final audit report, or upon the failure to cure an alleged violation consistent with this Part, or upon the vote of the commissioners of the PCFB otherwise provided in this Part, the enforcement counsel shall, on behalf of the PCFB, initiate an enforcement proceeding by serving a Notice of Enforcement to the candidate, treasurer, and/or political committee. Such notice shall be served by personal service consistent with the Civil Practice Law and Rules or by certified mail; and, if known by the PCFB, supplemented by electronic mail.

(1) Such Notice of Enforcement shall describe, with particularity, the findings of the alleged violations adopted by the PCFB; including written references to a specific law(s) or regulation(s) that is alleged to have been violated, and the authorized penalty permitted by 6221.45 and 6221.46 of this Part associated with such violation(s).

(2) Such notice shall also advise the candidate, treasurer and political committee of their right to contest the findings of the PCFB. A candidate, treasurer or political committee may request a hearing upon the receipt of the PCFB's Notice of Enforcement. Such hearing request shall be made on a form prescribed by the PCFB. The notice shall provide a mailing address, fax number, and email address where a political committee, treasurer or candidate may return such form to request such hearing.

(c) If a candidate, treasurer or political committee fails to request a hearing within ten (10) business days of the receipt of PCFB's Notice of Enforcement, such alleged violations, along with any associated penalties, shall be deemed final.

(d) Absent any exacerbating circumstances that may require it, at no time shall the PCFB publicly take an enforcement action or levy a fine against a candidate or committee to be found in violation of a provision of this Part, within 30 days of a primary, general or special election in which the candidate is participating; provided however, such prohibition on enforcement does not apply to failure to file required campaign finance statements or the repayment of public matching funds for which it is found that the candidate was not eligible to receive. "Enforcement action" for the purposes of this section does not include a denial of payments pursuant to sections 6221.8 and 6221.16 of this Part, the conduct of a preliminary inquiry or an investigation, including interviewing witnesses and issuing subpoenas, or any action for which Executive Session may be conducted pursuant to article 7 of the Public Officers Law, or any conduct of a case prior to a finding of a violation pursuant to subdivision (b) of this section.

6221.43 Hearing Officers

(a) Hearings requested by a candidate or political committee shall be presided over by a Hearing Officer.

(b) Hearing Officers shall be selected from the panel of hearing officers that are appointed pursuant to section 3-104 of the Election Law and 9 NYCRR 6218.2.

(c) A Hearing Officer shall be assigned randomly to a particular matter. Such random assignment process shall be administered by the co-directors of the PCFB or their designees and shall occur upon each matter. For each assignment, all approved Hearing Officers shall be randomly listed, and the assignment shall be offered in the order of the list until an available Hearing Officer shall accept the assignment.

(d) Hearing Officers shall exercise, to the extent consistent with Article 14 of the Election Law and the Rules, Regulations and Opinions of the PCFB, the powers and obligations of presiding officers as defined by the State Administrative Procedure Act (SAPA), in addition to such other powers and obligations as the Election Law and this part shall provide.

(e) A Hearing Officer's remuneration, working conditions, case assignments, discipline or removal, shall not be based in any way on how a Hearing Officer's rulings, decisions or other actions favor or disfavor any party. There shall not be established any quotas or similar expectations for any Hearing Officer that relate in any way to how the Hearing Officer's rulings, decisions or other actions favor or disfavor the PCFB or any other party.

(f) In any pending adjudicatory proceeding, the Hearing Officer may not be ordered or otherwise directed to make any particular finding of fact, to reach any particular conclusion of law, or to make or recommend any specific disposition of a charge, allegation, question or issue by any party or other person.

(g) Unless otherwise authorized by law, a Hearing Officer shall not communicate in connection with any issue that relates in any way to the merits of an adjudicatory proceeding pending before such officer with any person except upon notice and opportunity for all parties to participate. A Hearing Officer may, however, communicate with staff of the State Board of Elections as expressly permitted by subdivision 2 of section 307 of the State Administrative Procedure Act.

(h) A Hearing Officer shall not participate in any proceeding to which they are a party; in which they have been attorney, counsel or representative; in which they are interested; or if they are related by consanguinity or affinity to any party to the controversy. A Hearing Officer shall recuse themselves from any case in which they believe that there is, or there may be perceived to be, a conflict of interest or colorable question as to their impartiality.

6221.44 Hearing Procedure

(a) When a candidate, treasurer or political committee requests a hearing, the PCFB shall request the assignment of a Hearing Officer from the SBOE, serve a Notice of Hearing and the Report of the PCFB (“Report”) upon the respondents and provide the Report to the assigned Hearing Officer. The Report, which is also the Complaint initiating the adjudicatory process, shall consist of:

(1) a statement of the legal authority and jurisdiction under which the proceeding is to be held;

(2) a reference to the particular sections of the statutes, rules, regulations or opinions of the PFCB involved;

(3) a plain and concise statement of the facts constituting the alleged violation of the Election Law;

(4) a statement and citation indicating the penalty that has been determined;

(5) a statement that interpreter services are available if needed.

(b) The Notice of Hearing shall provide the respondent at least ten (10) business days from the date of service in which to file a written Answer to the Report. The notice shall state that the matter will be decided on the submitted papers unless the Respondent requests an in-person hearing in their written Answer. The matter shall be decided only on the submitted papers if the only contested

issue(s) is whether or not the Respondent timely filed the required campaign financial disclosure statements. The notice shall state failure to answer may constitute a default determination in PCFB's favor.

(c) (1) The Notice of Hearing shall be served by personal service consistent with the Civil Practice Law and Rules or by certified mail; and, if known by the PCFB, supplemented by electronic mail of the Respondents.

(2) Every Notice of Hearing shall be served with a copy of these rules, a plain language summary of these rules, a copy of articles 3, 4 and 5 of the State Administrative Procedure Act and relevant definitions under section 102 of the State Administrative Procedure Act.

(d) Every party shall be accorded the right to appear in person or by or with counsel, at their own expense.

(e) Respondent shall serve an Answer within ten (10) business days after service of the Notice of Hearing and Report. Such Answer may dispute the report of charges and interpose affirmative defenses, if any. If the respondent fails to answer, a default determination may be entered upon motion by the PCFB; provided, however, that the Hearing Officer may entertain untimely filings of an Answer by the candidate or political committee upon a showing of good cause. The PCFB, on notice to the Hearing Officer, may consent to an extension of time for respondent to answer the Report. Such request shall be in writing to an address so designated by the PCFB for such purpose and must be received no later than the close of business on the 5th business day after service of the Notice of Hearing and Report. If the PCFB denies the request for an extension, the Hearing Officer may grant such extension for good cause shown.

(f) The Hearing Officer shall, if an in-person hearing is requested in the Answer, coordinate the date of the hearing with PCFB staff and then notify the respondent of the date and time of the hearing by mail and, if provided, email. The date of the hearing shall be not less than seven (7) business days after the receipt of the Answer.

(g) The Hearing Officer assigned shall set the time at which a hearing shall be held, and shall grant or deny adjournments or continuations thereof. To the extent practicable, adjournments shall be scheduled by the Hearing Officer upon consultation with all participants. Notices of adjournment or continuation shall be transmitted directly to the parties by the Hearing Officer, with Notice provided to the PCFB.

(h) At the discretion of the Hearing Officer, conferences may be held for the formulation and simplification of issues, the possibility of obtaining admissions or stipulations of fact and of admissibility and authenticity of documents, the order of proof and of witnesses, discovery issues, legal issues, pre-hearing applications, scheduling, and settlement of the case.

(i) Other than conferences, all proceedings shall be open to the public.

(j) All adjudicatory proceedings will be conducted in accordance with the State Administrative Procedure Act, the Election Law, rules, regulations and opinions of the PCFB and all other applicable

legal authority. Such law, regulations, opinions and authority shall, as relevant, be binding on all determinations and findings of the Hearing Officer. In all instances, due process of law will be observed, including the creation of a transcription of any hearing, which shall be done via audio recording.

(k) A respondent may request the Hearing Officer to direct the PCFB to provide a more definite statement or particularization of an alleged violation in the Report. If the Hearing Officer determines such request is reasonable, the Hearing Officer shall direct the PCFB to provide a more definite statement within a reasonable time frame.

(l) Upon request, an in-person hearing may be held by telephone; video conference; or in person, at the Hearing Officer's discretion.

(m) The strict rules of evidence do not apply to administrative proceedings under this Part.

(n) If a party requires a subpoena to produce a witness or necessary materials for the specific purpose of an adjudicatory hearing conducted pursuant to this Part, an application for a subpoena may be made to the Hearing Officer and, upon good cause shown, shall be issued by the Hearing Officer as provided for by the State Administrative Procedure Law.

(o) Any person compelled to appear or who voluntarily appears before a Hearing Officer as a witness shall be accorded the right to be accompanied, represented and advised by counsel.

(p) The Hearing Officer shall make findings of fact and conclusions of law ("Determination") based on a preponderance of the evidence as to whether a violation has been established and, if so, who is responsible for such violation. If it is determined that a violation has occurred, any penalty associated shall be consistent with 6221.45 and 6221.46 of this Title. The determination of the Hearing Officer shall be forwarded to the PCFB with a copy thereof being forwarded to the respondent(s) by certified mail and email.

(q) Any party may submit proposed findings of fact within time limitations set by the Hearing Officer. Such findings of fact shall be captioned, and shall be consecutively numbered and shall be typed legibly on plain, white bond, standard weight paper, 8 1/2 x 11 inches in size, or electronically, at the discretion of the Hearing Officer. Such proposed findings of fact shall recite basic facts and not evidentiary facts and shall not be conclusions of law. A basic fact would be "John Jones visited Syracuse," and not "John Jones testified that he visited Syracuse," which is an evidentiary fact. A conclusion of law would be "John Jones has demonstrated untrustworthiness within the meaning of section 441-c of the Real Property Law." In general, it is expected that the complaint will allege the basic facts which would otherwise be contained in a statement of proposed findings of fact. In accordance with section 307(1) of the State Administrative Procedure Act, the person assigned to render a decision will rule on each finding of fact. Such decision maker will do so by marking the instrument setting forth the proposed findings of fact a part of the decision and noting in the margin thereof the ruling, i.e., "Found," "Not Found," "Irrelevant," "Evidentiary," "Conclusion of Law," which rulings may be abbreviated meaningfully. The body of the decision will contain such findings of fact as the decision maker deems relevant, but need not be expressed in the same language as presented in the proposed findings.

(r) Except by consent of the parties, every adjudicatory proceeding under this Part shall be brought to completion by the issuance of the Hearing Officer's findings of fact and conclusions of law within thirty (30) days after, as applicable:

(1) the date of the hearing; or

(2) if no hearing was held, the date the Answer was served; or

(3) if no Answer is served, the date the Answer was due.

(s) A failure of the Hearing Officer to observe the time limitations established by this section shall be reviewable under article 78 of the Civil Practice Law and Rules in a proceeding in the nature of mandamus.

(t) The PCFB may, in the exercise of discretion, enter into settlement agreements with willing respondents, provided such provisions are not contrary to law or the rules, regulations and relevant opinions of the PCFB. Settlement agreements shall be entered into on a fair, equitable and uniform basis without regard to the status of the respondent who is the subject of the Report. If a settlement agreement is entered into before the Hearing Officer makes findings of fact, such settlement agreement shall, in accordance with its terms and conditions, constitute a final administrative disposition of the adjudicatory proceeding and shall be brought before the PCFB for final approval

(u) Determinations of the Hearing Officer shall be forwarded to the commissioners of the PCFB. The commissioners may accept the Hearing Officer's determination, or may alter such determination based on the record presented if it is found that an error has been made in the finding of fact or application of the law or these rules and regulations. If the commissioners alter the hearing officer's determination, it shall provide a written justification explaining the rationale for such alteration. Such written justification shall be provided to the respondent of the hearing.

(v) The PCFB shall provide written notice of the final determination to the respondents via certified mail and electronic mail.

(w) The PCFB shall be responsible for the costs of administering hearings. This shall not include any expenses of any complainant or respondent to the hearing.

6221.45 Penalties and Fines; Assessment, Settlement or Payment

(a) Upon a determination by the PCFB commissioners that a violation occurred, pursuant to section 6221.44(u) of this Part, or through a final audit report pursuant to section 6221.27, a fine shall be issued against the committee, candidate, treasurer, and/or any agents thereof, as applicable, consistent with the schedule provided in section 6221.46 of this Part; provided, however, that a penalty or fine above the standard amount may be recommended to the PCFB for imposition if the violation is found to have been knowing or willful.

(b) PCFB staff shall have the discretion to issue no penalty in cases of de minimis violations. For purposes of this section, de minimis violations shall include, but not be limited to, violations with an

aggregate penalty of $300 or less. Such matters shall be noted in the committee's record, and shall be referred for training.

(c) The PCFB shall use the standard penalty schedule in Part 6221.46 to determine penalties for violations of Article 14 of the Election Law and the rules of this Title. This schedule provides standard penalties for such violations.

(d) Failure to file required campaign finance statements or the failure to repay public matching funds for which it is found that the candidate was not eligible to receive shall be issued a fine consistent with section 6221.46 of this part.

(e) Treasurers, the authorized committee, and in certain instances as set out in the statute, the Candidate, may be held jointly and severally liable for the payment of penalties or the repayment of funds.

(f) To satisfy any penalty or fine issued by the PCFB, future payments may be reduced, prior payments may be recouped and/or a special proceeding or civil action may be instituted pursuant to section 14-209 of the Election Law to obtain a judgment. Upon its discretion, the PCFB may also settle any fines and penalties in a final determination.

6221.46 Standard Penalties

(a) The schedule of penalties in this section shall only apply to the election cycles between November 9, 2022 through November 3, 2026, and shall not be applicable to future election cycles. Subsequently, the PCFB shall adopt regulations adopting a schedule for future election cycles.

(b) Accepting a contribution of more than $5,000 from a corporation, limited liability company (LLC), or partnership is prohibited.

If the overage was returned on or before the cure provision provided by the PCFB or, if an extension is granted, by the new deadline	**If the overage was returned no later than thirty-days of the date of the notification from PCFB**	**If returned later than the thirty-days of the date of the notification from PCFB or not returned at all**
No penalty shall be issued	The greater of $125 or 25% of the amount of the overage	The amount of the overage, plus the greater of: 1) $250 or 2) 50% of the amount of the contribution

(c) Campaigns are prohibited from accepting contributions (monetary or in-kind) in excess of the applicable contribution limit. No violation shall be issued if the overage is returned by the first deadline provided by the PCFB (or, if an extension is granted, by the new deadline).

If the overage was returned on or before the cure provision provided by the PCFB or, if an extension is granted, by the new deadline	**If the overage was returned no later than thirty-days of the date of the notification from PCFB**	**If returned later than the thirty-days of the date of the notification from PCFB or not returned at all**
No penalty shall be issued	The greater of $250 or 50% of the amount of the overage	The amount of the overage, plus the greater of: 1) $250 or 2) 50% of the amount of the contribution

(d) Campaigns are prohibited from accepting contributions from anonymous sources. No penalty shall be issued if disgorgement is made by the first deadline provided by the PCFB (or, if an extension is granted, by the new deadline),

If disgorgement on or before the cure provision provided by the PCFB or, if an extension is granted, by the new deadline	**If disgorgement was returned no later than thirty-days of the date of the notification from PCFB**	**If disgorged later than the thirty-days of the date of the notification from PCFB or not returned at all**
No penalty shall be issued	The greater of $250 or 50% of the amount of the contribution	The amount of the overage, plus the greater of: 1) $250 or 2) 50% of the amount of the contribution

(e) Campaigns are required to file timely and substantially complete disclosure statements on scheduled dates. Filers of late Disclosure Statements shall be issued penalties as follows:

	Assembly, Senate	**Attorney General, Comptroller**	**Governor/Lieutenant Governor**
Daily Penalty	$50	$100	$200

provided, however, that such penalties shall be capped at the failure to file penalty below, in which such violation shall be considered a failure to file.

(f) A statement that is not filed by the due date of the next statement shall be considered a "failure to file." Any otherwise matchable contributions contained within that filing when made, or that are received during the applicable timeframes for reporting on that filing, shall be excluded from being matched. In addition, a fine of (see below) shall be imposed.

	Assembly, Senate	**Attorney General, Comptroller**	**Governor/Lieutenant Governor**
	$1,000	$2,000	$4,000

(g) (1) Campaigns are required to maintain all receipts and to provide bank records, including bank statements and deposit slips, to substantiate their reporting upon request.

(2) Campaigns shall report all financial transactions in disclosure statements filed according to the schedule provided by the board. If further documentation regarding receipts and/or expenditures is requested, a committee shall provide the requested documentation within 10 days of such request; provided, however, that if a request for documentation is made within 30 days of an election or post-election, a committee shall have 2 days to provide the requested documentation.

(i) If further documentation regarding receipts or expenditures is requested by the PCFB pursuant to paragraph (2) of subdivision (g) of this section, and upon review thereof it is found a discrepancy exists in what is reported and what should have been reported during a particular timeframe, the committee shall be assessed a penalty in the amount of 5% of the total funds that should have been reported as received or expended on any particular report; provided, however, that the penalty shall be 20% of the total funds that should have been reported as received or expended on any particular report if such report was to be filed within 30 days of election day.

(ii) In the event that a campaign fails to provide the requested documentation, such campaign shall be suspended from further participation in the Program and denied public matching funds until such documents are provided, or an adequate explanation of why they cannot be provided is given.

(iii) If the filings are not amended to be compliant within the time frame provided, in addition to the penalty provided for in subparagraph (i) of this paragraph, an additional penalty in the amount of 10% of the total amount received or expended shall be imposed, and such failure to amend a filing shall be deemed a failure/late filing and the applicable penalties provided for by this section shall be assessed. For purposes of assessing a penalty, the filing due date shall be considered the last day to amend the filing pursuant to this paragraph.

(iv) In the event that the board staff, in consultation with the campaign, determines that the reporting error was an error in entering the information or another type of minor transcription error, the fine may be waived.

(h) Campaigns are required to report the occupation, employer, and business address of each contributor whose total contributions exceed $99. The standard penalty for this violation is $2 per contribution for any required information that was not provided.

(i) Campaigns are prohibited from converting campaign funds to a personal use, as prohibited under section 14-130. The standard penalty for purchasing goods or services for personal use that total less than Two Thousand Five Hundred ($2,500.00) Dollars, such as personal or household items shall be 125% of the amount spent, in addition to the return of that amount to the campaign. However, for conversion of campaign funds to a personal use the value of which is greater than Two Thousand Five Hundred ($2,500.00) Dollars, the board may assess a penalty of up to Five Thousand ($5,000.00) Dollars per violation and may require the candidate to return all public funds previously received pursuant to a finding of breach of certification. In addition, a referral to law enforcement shall be made.

(j) Campaigns are required to use funds for campaign related expenditures. The standard penalty for noncampaign related expenditures (other than personal use) is 25% of the amount of the transactions.

(k) After an election and before repaying leftover campaign funds to the board, participants may spend campaign funds only to pay campaign-related expenses incurred in the preceding election and for "routine activities involving nominal cost associated with winding up a campaign and responding to the post-election audit." The standard penalty for a violation under this rule is the amount of the transactions at issue. The penalty may be increased to 125% of the amount of the transactions if either: 1) the expenditures are in the form of excessive additional payments to pre-election staff (e.g., a staff member's pay rate during the post-election period increases significantly from their pre-election pay rate without sufficient explanation), or 2) the amount of the expenditures is 25% or more of the amount that the campaign would otherwise be required to repay in public funds.

(l) Campaigns must comply with the "paid for by" requirements under section 14-106 of the Election Law. If a campaign has been found to violate 14-106 of the Election Law, it shall be subject to the standard penalty of the lesser of Five Hundred ($500.00) or 25% of the cost of the communication. If the communication does contain a "paid for by" or "authorized by" notice that is not of a "conspicuous size and style" or clearly spoken, the standard penalty is the lesser of Fifty ($50.00) Dollars or 10% of the cost of the communication.

(n) Prior to or during an audit, campaigns are required to provide copies of bank, credit card, and merchant account statements, for all accounts used for each election. The standard penalty for failing to provide bank or credit card statements within the allotted time frame is: One hundred ($100.00) Dollars per statement for candidates for the Senate and Assembly; Two Hundred ($200.00) Dollars per statement for candidates for Attorney General and Comptroller; and Two Hundred Fifty ($250.00) Dollars per statement for candidates for Governor/Lieutenant Governor. The standard penalty for failing to provide merchant account statements is Fifty ($50.00) Dollars per statement. Such penalty may be waived if the PCFB staff are convinced that the campaign has made all efforts to obtain such statement but has been unable to do so. The criteria for "all efforts made" shall be outlined by the PCFB and shall be applied equally to all such waiver requests.

(o) Campaigns are prohibited from accepting cash contributions in the aggregate from a contributor greater than One Hundred ($100.00) Dollars. The standard penalty for this violation is 25% of the overage plus the amount of the overage. If the over-the-limit portion is refunded, the penalty is 25% of the overage.

(p) Campaigns are required to maintain records, such as copies of checks, invoices, and bank records, to verify financial transactions reported in disclosure statements, and campaigns are required to provide such records to the Board upon request and to respond to specific questions regarding compliance with PCFB rules. If campaigns provide such documentation late, the penalty shall be Fifty ($50.00) Dollars per day late, up to the greater of 2% of public funds received or Five Hundred ($500.00) Dollars. If the campaign fails to respond, the penalty shall be the greater of 10% of public funds received, up to Fifteen Thousand ($15,000.00) Dollars, or One Thousand ($1,000.00) Dollars.

(q) If following an enforcement action pursuant to section 6221.42 of this Part, the PCFB finds that there has been material misrepresentation, fraud, or submission of false or fictitious information, it shall cancel the candidate certification to participate and require the campaign to return all public funds previously received. Additionally, the campaign shall be fined up to Fifteen Thousand ($15,000.00) Dollars and the PCFB shall refer all such campaigns and candidates found to have knowingly participated in such fraud to law enforcement.

(r) Participating candidates for statewide office are required to participate in debates held pursuant to section 6221.34 of this part. In addition to civil penalties, a candidate who fails to participate in a required debate shall be liable for the return of any public funds previously received and shall be ineligible to receive additional public funds for the current election, unless the PCFB determines that the failure to debate occurred under circumstances beyond the control of the candidate. The standard penalty for this violation is the greater of $1,000 or 2% of aggregate matchable contributions, up to a maximum of $15,000.

(s) Nothing in this section shall preclude the PCFB from issuing a fine or penalty for a violation of Article 14 of the Election Law or these regulations that is not listed in this schedule.

(t) A penalty above the standard amount may be issued if the violation is found to have been willful or the result of reckless disregard for the law. If a penalty is determined to be above the standard amount, the candidate and political committee will be informed of the reason for the increase in the Notice of Enforcement and will be given an opportunity to respond to the allegation that it acted willfully or with reckless disregard for the law.