

**ADOPTED REGULATION OF THE
SECRETARY OF STATE
LCB File No. R089-25**

EXPLANATION – Matter in *italics* is new; matter in brackets ~~[omitted material]~~ is material to be omitted.

AUTHORITY: § 1, NRS 293.124, 294A.380 and 294A.420.

A REGULATION relating to elections; revising certain provisions relating to the waiver or reduction of certain penalties for violations of statutes relating to campaign finance; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides that a candidate, person, organization, committee, political party or nonprofit corporation that violates certain provisions of the Nevada Revised Statutes relating to campaign finance is subject to certain civil penalties. Existing law further authorizes the Secretary of State to waive such a civil penalty for good cause shown. (NRS 294A.420) Existing regulations authorize the Secretary of State to grant a waiver if the person, committee for political action or entity: (1) files a written request for a waiver; and (2) properly files the appropriate report that was the cause of the civil penalty. (NAC 294A.097)

This regulation sets forth certain circumstances that constitute good cause. In addition to the existing requirements to receive a waiver, this regulation requires the person, committee for political action or entity to establish: (1) that the person, committee for political action or entity has properly filed each report that the person, committee for political action or entity was required to file for the immediately preceding 36 months; and (2) one of the circumstances that constitutes good cause. Further, this regulation authorizes the Secretary of State, with the approval of the Attorney General, to grant a waiver in certain circumstances without requiring the person, committee for political action or entity to request the waiver or take certain actions.

Existing law provides that if the Secretary of State waives a civil penalty for good cause, the Secretary of State is required to: (1) create a record which sets forth that the civil penalty has been waived and describes the circumstances that constitute the good cause shown; and (2) ensure that the record is available for review by the general public. (NRS 294A.420) Existing regulations require the Secretary of State to: (1) compile each record into a quarterly report; and (2) post the quarterly report on the Internet website of the Office of the Secretary of State. (NAC 294A.097) This regulation provides that such requirements also apply when the Secretary of State reduces a civil penalty for good cause shown.

Section 1. NAC 294A.097 is hereby amended to read as follows:

294A.097 1. ~~The~~ *Except as otherwise provided in subsection 4, the* Secretary of State may waive a civil penalty for good cause pursuant to subsection 4 of NRS 294A.420, if the person, committee for political action or entity that is subject to a civil penalty pursuant to NRS 294A.420:

(a) Files a written request for a waiver setting forth the basis for the waiver; ~~and~~
(b) Properly files the appropriate report pursuant to the applicable provisions of chapter 294A of NRS ~~H~~; *and*

(c) Establishes that each appropriate report the person, committee for political action or entity was required to file pursuant to chapter 294A of NRS for the immediately preceding 36 months was properly filed pursuant to the applicable provisions of chapter 294A of NRS and that:

(1) Within a reasonable time on or before the date the respective report was due, the candidate or officer or representative of the committee for political action or entity experienced an unforeseen circumstance or event or personal or medical emergency;

(2) The candidate is experiencing financial hardship;

(3) The candidate or officer or representative of the committee for political action or entity is or was a member of the Armed Forces of the United States serving outside of the State or country within a reasonable period of time on or before the date the respective report was due and the candidate or officer or representative of the committee for political action or entity executes an affidavit under penalty of perjury attesting to such facts;

(4) The candidate or officer or representative of the committee for political action or entity experienced an unforeseen circumstance or event, including, without limitation, damaging weather conditions, a civil emergency or power outage, and the candidate or officer or representative of the committee for political action or entity executes an affidavit under penalty of perjury attesting to such facts;

(5) The candidate or officer or representative of the committee for political action or entity experienced a threat to his or her personal safety that required certain actions under which submission of the report was not reasonable and the candidate or officer or representative of the committee for political action or entity executes an affidavit under penalty of perjury attesting to such facts;

(6) The candidate or officer or representative of the committee for political action or entity received erroneous written instructions from a filing officer or election official relating to the filing of the report;

(7) An administrative or technical error made the timely filing of the report impossible;

(8) Any other circumstance or situation that is specific to a particular candidate or officer or representative of the committee for political action or entity which the Secretary of State, with the approval of the Attorney General, determines to be good cause for a waiver; or

(9) The entity is a nonprofit organization under the laws of this State that does not have paid employees and is solely comprised of volunteers and:

(I) The representative of the entity who is responsible for filing the appropriate report on behalf of the entity or a member of the family of such an officer or representative of the entity who experiences a circumstance described in subparagraphs (1) to (8), inclusive; or

(II) The representative of the entity who is responsible for filing the appropriate report on behalf of the entity severs his or her relationship with the entity.

2. The Secretary of State, with the approval of the Attorney General and for good cause, may waive a civil penalty imposed pursuant to NRS 294A.420, if the person, committee for political action or entity:

(a) Did not receive any contributions and did not make any expenditures during the reporting period;

(b) Was running for office for the first time or the committee for political action or entity was formed within the 12 months immediately preceding the date on which the report was due, as applicable; or

(c) Made a good faith effort to file the report.

3. The Secretary of State, with the approval of the Attorney General and for good cause, may reduce a civil penalty imposed pursuant to NRS 294A.420 if:

(a) The penalty is being imposed for a failure to properly file a report or form for registration; and

(b) The person, committee for political action or entity that is subject to a civil penalty pursuant to NRS 294A.420 first properly files the appropriate report or form.

~~13.1~~ 4. The Secretary of State will not waive or reduce a civil penalty imposed pursuant to NRS 294A.420 for good cause on the basis that the Secretary of State did not send a reminder notice that a report or form for registration was due before the applicable deadline.

~~14.1~~ 5. If the Secretary of State waives *or reduces* a civil penalty imposed pursuant to subsection 4 of NRS 294A.420, the Secretary of State will:

- (a) Compile each record created pursuant to paragraph (a) of subsection 6 of NRS 294A.420 into a quarterly report; and
- (b) Post the quarterly report created pursuant to paragraph (a) on the Internet website of the Office of the Secretary of State not later than 15 business days after the last day of each calendar quarter.