

Purpose

This establishes a policy and guidelines for addressing untimely submission of Statements of Economic Interests ("Form 700s"). The Political Reform Act and the Department's Conflict of Interest Code require the filing of Form 700s by designated employees. This policy is intended to encourage voluntary compliance with the filing requirement and voluntary correction of deficiencies. It also provides a process to apply meaningful penalties for intentional violations.

If a Form 700 is not timely submitted, the Department may assess the penalty provided by Government Code Section 91013 upon its employees, and members of the various boards, councils, and committees (referred to collectively as @boards@), and board members and employees of the District Agricultural Associations ("DAAs"). In addition, submission by employees of a late Form 700, to the extent allowed under the applicable terms of collective bargaining agreements, shall be considered as grounds for disciplinary action. Late submission by members of the various boards may be considered as a dereliction of duties and, to the extent permitted by law, grounds for termination of their appointments, or for not considering their reappointment. Board members and employees of DAAs may be reported to their appointing authority. DAA board members and employees who violate the Political Reform Act, including failure, after reasonable notice, to submit their Form 700, will be referred to the Fair Political Practices Commission. To the extent allowed pursuant to the Political Reform Act, the Department may impose any of these penalties in the alternative.

In order to encourage voluntary compliance and correction of non-willful discrepancies, to the extent permitted under the Political Reform Act, fines and penalties may be waived when designated employees and board and DAA Directors file Form 700s within thirty (30) days of specific written notice and otherwise fully cooperate with correction of the discrepancy. Voluntary submission of a Form 700, prior to receipt of specific written notice from the Department, is evidence of full cooperation. Full cooperation is also evidence that the tardiness was not a willful violation of the filing requirement. Full cooperation may warrant waiver of the entire penalty. Repeated late filings are evidence of less than full cooperation.

Specific written notice will be provided if the Form 700 has not been submitted after one informal reminder. Informal reminders will be provided by the Department, the marketing

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order board manager, or the DAA manager, as applicable, and may be provided orally, in writing, or by e-mail. Specific written notice will be made by the Department and will include notification that the employee must submit the Form 700, that he/she is subject to a \$10-per-day fine, up to a maximum of \$100, and that he/she must submit the Form 700 within thirty (30) days for the penalty to be waived.

Waiver and Penalty: Where there have been repeated late filings, or less than full cooperation in correction of the discrepancy, or it can be proved that the late filing was willful, the Department will utilize the following guidelines:

In cases where persons do not have sufficient reasons for late filing and it can be established that such persons actually received adequate notice of the filing requirement and submitted his/her Form 700 within thirty (30) days after specific notification, but there have been prior, unexcused late submission or evidence of less than full cooperation, then the monetary penalty may be reduced to less than one hundred dollars (\$100).

The penalty for repeated late submissions may be assessed at twenty-five dollars (\$25) for a second, unexcused late submission, and increased by twenty-five dollars (\$25) for each additional prior, unexcused late submission, up to one hundred dollars (\$100).

In cases where persons file their Form 700 within five (5) days of the filing deadline, they will be granted automatic waivers, but repeated tardiness may be considered as a late submission(s).

The Department may consider financial hardship upon the employee, board member, or DAA Director in assessing or reducing the penalty.

If the tardiness was willful, there will be no waiver of the penalty and the violation may be reported to the Fair Political Practices Commission.

Exceptions: In addition to the provisions for waivers noted above, the Department may also waive penalties for failure to submit the Form 700 if the employee or board or DAA member submits a written statement adequate to affirm the late filing was not willful. Employees may explain the lack of willfulness by reference to the facts and circumstances causing the tardiness; material facts may include but are not limited to: the filer was not provided adequate notice of his/her filing requirement, illness, injury,

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personal tragedy, or similar reasons, or the employee=s absence at the time that the Form 700 was to be filed. To qualify for this waiver, the Form 700 must be submitted within thirty (30) days after specific notice.

Limitations: The policy contained herein is the policy of the California Department of Food and Agriculture. This policy does not limit the authority of the Fair Political Practices Commission or the Attorney General=s Office to enforce the Political Reform Act.

Regardless of the Department=s policy, employees and board and DAA members may be subject to enforcement actions for violation of the Political Reform Act by either the Fair Political Practices Commission or the Attorney General=s Office.

Authority

This policy is adopted pursuant to the Department=s authority to collect and/or waive the penalties for late submission of a Statement of Economic Interests, as provided by Government Code Section 91013.

Distribution

Secretariat
Division Directors
Human Resources Branch Chief

Questions regarding forms and filing deadlines should be directed to the Human Resources Branch at (916) 654-0790 or CALNET 8-464-0790. Any questions regarding this policy should be directed to the Legal Office at (916) 654-1393 or CALNET 8-464-1393.