



ALEX PADILLA | SECRETARY OF STATE | STATE OF CALIFORNIA POLITICAL REFORM

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Guidance to Filers: Complying with Original Signature Requirements during the COVID-19 Crisis

This guidance applies to all filers who are required by the Political Reform Act of 1974 to file with the Secretary of State, including both campaign disclosure and lobbying filings.

The California Secretary of State, Political Reform Division is aware that some filers are finding it difficult or impossible to obtain original signatures during the COVID-19 crisis. We encourage all filers to continue to file all paper reports and statements with an original signature to the extent possible. However, when it is not possible or practicable to obtain original signatures, filers may submit non-original signatures (e.g. by scanning and emailing an original signature). All filers who submit non-original signatures must include a statement explaining why they were not able to file an original signature. Filers must subsequently send the Secretary of State the statement or report with an original signature at the earliest possible time. Reports or statements filed without an original signature will not be assessed late fines by the Political Reform Division solely based on the missing original signature.

The Political Reform Act of 1974 requires that “all reports and statements filed under this title shall be signed under penalty of perjury and verified by the filer” (Government Code section 81004). For paper filings, those signatures must be original, “wet” signatures. However, Fair Political Practices Commission (FPPC) guidance states that a document filed without an original signature is a “type of omission or error to be remedied by the filer but not fatal to the effective date of the filing” (see *In re Layton*, 1 FPPC Ops. 113 (1975)).

The FPPC has published guidance related to the COVID-19 crisis stating: “If a candidate or committee makes best efforts to comply with the Political Reform Act’s campaign finance disclosure rules but is unable to do so due to the COVID-19 pandemic, the FPPC will consider this a strong mitigating factor in determining whether an enforcement action against the candidate or committee is appropriate.” (See the enclosed FPPC Guidance on Campaign Filing Deadlines.) The FPPC clarified that this also applies to lobbying filing deadlines, stating: “If a person with lobbying filing requirements makes best efforts to comply with the Political Reform Act’s lobbying registration and reporting rules but is unable to do so due to the COVID-19 pandemic, the FPPC will consider this a strong mitigating factor in determining whether an enforcement action against the person is appropriate.” (See the enclosed FPPC Guidance on Lobbying Filing Deadlines.)

If you are able to file electronically in lieu of filing on paper, please do so.

If you are unable to obtain an original signature for a required paper filing that you cannot file electronically, please include a statement with the filing that contains the following information:

- An explanation stating why the filing could not have been sent with a wet signature.
- A statement that the filing is being submitted under the penalty of perjury and that all of the information is true and correct.

If you are able to send us a paper filing with a non-original signature by mail, we will continue to accept submissions by that method.

While the public counter is closed, you may also drop off documents to be processed in a drop box in the lobby of the Secretary of State's office, 1500 11th Street, Sacramento, CA 95812.

If you are unable to file by mail or in person, please scan and email the document to one of the following email addresses based on the nature of the filing:

Forms/Filings	Mailbox Description	Email Address
Form 410 - Initial, Amendment, and Termination	F410 Inquiries	form410review@sos.ca.gov
Forms 400, 401, 402, 425, 450, 460, 470 Short, 470 Summary, and 511.	Slate Mailers, Officeholder and Candidate Campaign Statement, Campaign Disclosures, and Paid Spokesperson Report	prdcampaign@sos.ca.gov
Form 501 - Candidate Intention Statement	F501 Inquiries	form501@sos.ca.gov
Forms 601, 602, 603, 604, 605, 606, and 607. For filers not meeting the \$2,500 threshold - 615, 625, 630, 635, 635-C, 640, 645, and 690.	Lobbying Requests	prdlobbying@sos.ca.gov
Form 461 - Major Donor and Independent Expenditure Committee Campaign Statement - Initial and Amendments	Major Donor/IE Inquiries	form461@sos.ca.gov
PRD - 1	Waiver Requests	prdwaivers@sos.ca.gov

Note: our email system will not accept large attachments. Limit submissions to a small file size to ensure successful delivery. Optimize files to a resolution suitable for emailing.

Email questions to: politicalreform2@sos.ca.gov

Enclosed: *In re Layton*, 1 FPPC Ops. 113 (1975)
FPPC Guidance on Campaign Filing Deadlines (3/20/2020)
FPPC Guidance on Lobbying Filing Deadlines (4/10/2020)

This guidance was originally published on March 27, 2020 and was updated on April 10, 2020 to reference guidance the FPPC released on that same date related to lobbying filing deadlines. This guidance remains in effect until the end of the COVID crisis, as it relates to filing under the Political Reform Act of 1974, as determined by the Secretary of State.

BEFORE THE FAIR POLITICAL PRACTICES COMMISSION

In the Matter of:)	
)	
Opinion requested by)	No. 75-072
Rex E. Layton, City Clerk)	August 21, 1975
City of Los Angeles)	
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BY THE COMMISSION: We have been asked the following questions by Rex E. Layton, City Clerk, City of Los Angeles:

(1) When a person submits a campaign statement under Government Code Section 84200¹/₁ on a form or by some means other than those prescribed by the Commission, should that person be considered to have filed a campaign statement, or should late filing fees continue to accumulate until said person has filed on a prescribed form?

(2) If a candidate submits a Form 430 or 470 unsigned, is this statement considered filed? If a candidate-controlled committee submits a Form 420 signed by only the treasurer or candidate, is this considered filed? If Forms 440, 450 and 460 are submitted unsigned, are they considered filed? If they are not considered filed, should late filing fees continue to accumulate until the statement is signed?

CONCLUSION

(1) Late filing fees should not be assessed if a campaign statement is submitted on an incorrect form so long as all required information is included and the correct form is filed promptly.

(2) Unsigned forms are not completed forms and late filing fees should be assessed if no signed forms are filed.

¹/₁
All statutory references are to the Government Code unless otherwise noted.

ANALYSIS

(1) A campaign statement is an itemized report which is prepared on a form prescribed by the Commission and which provides the information required by the Campaign Disclosure chapter of the Political Reform Act. Section 82006. A statement which contains all the required information, although submitted on an incorrect form, would satisfy the filing requirement if it constituted substantial compliance with the statute.

Substantial compliance expresses a rule of interpretation which derives from general maxims of equity - that substance governs over form, that no one is required to perform an idle act. (Civil Code Sections 3528, 3522) Hence if the essence of a requirement has been met, or if its performance would be superfluous, then the law holds that the requirement has been substantially complied with.

People v. Boone,
2 C.A.3d 503, 506 (1969)

In the case of a campaign statement, it is reasonable to find that substance governs over form and the required information is the essential element of the statement. Although the statement must be filed on the prescribed form, a person who files a statement in good faith on the wrong form before the deadline and who corrects his error promptly after it is brought to his attention should not be assessed a lateness penalty.

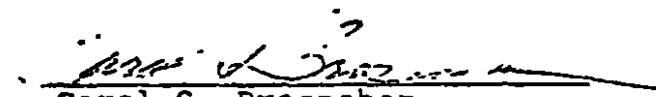
(2) Statements required to be filed under the Political Reform Act must be signed under penalty of perjury and verified by the filer. Section 81004. Verification is not a matter of form. It is an essential part of the report. The specific question of verification was decided by the courts in Oda v. Elk Grove Union Grammar School District, 61 C.A.2d 551 (1943). An unverified claim did not satisfy the statutory requirement that a verified claim be filed.

The value of a campaign statement is its accuracy. Without a signature to support that accuracy, no reliance may be placed on the information submitted. The Commission concludes that an unsigned statement is not filed within the requirements of the Act.

Other defects in the form are subject to correction, but do not serve to invalidate its filing. The filing officer must require completion of satisfactory statements. However, a good faith effort to comply with the law should not be subject to the imposition of late fines. The following list of defects is not exhaustive, but indicates the type of omission or error to be remedied by the filer but not fatal to the effective date of the filing:

- (1) Absence of date;
- (2) A Xeroxed copy, rather than a signed original;
- (3) Absence of signature by the candidate in the case of a controlled committee where the treasurer's signature is present.
- (4) Absence of signature by the treasurer when the candidate has signed in the case of a controlled committee.

Approved by the Commission on August 21, 1975.
Concurring: Brosnahan, Carpenter, Miller and Waters.
Dissenting: Lowenstein.


Carol S. Brosnahan,
for the Commission

LOWENSTEIN, CHAIRMAN, DISSENTING IN PART: Unfortunately, in my opinion, the majority does not pay sufficient heed to the quotation it sets forth at the outset of its opinion:

Substantial compliance expresses a rule of interpretation which derives from general maxims of equity -- that substance governs over form, ...

People v. Boone,
2 C.A.3d 503, 506 (1969)
(emphasis added).

In concluding that the lateness penalty of Section 91013 must be applied to persons filing otherwise adequate campaign statements which are filed on time, simply because

the filer has neglected to sign the statement, I believe the majority exalts form over substance in a way that is unnecessary and may cause significant injustice in some small number of cases.

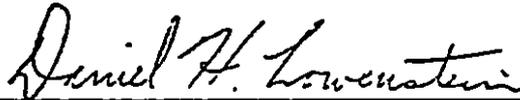
A person who is bent on evading the disclosure requirements will attempt to further his design by omitting or falsifying information on the statement or by failing to file any statement at all. Certainly, he will gain nothing by omitting his signature. The failure to sign is surely, in virtually all cases, an oversight and as a practical matter is less detrimental to the objective of full disclosure than most other defects that may be found in a statement, including the filing of the statement on the wrong form. Ironically, however, the majority exempts such substantive defects from the lateness penalty but applies the penalty to a person who discloses all the required information on the proper form but forgets to sign his or her name.

This is not to say that the signature and verification are unimportant. Aside from its symbolic importance, the verification subjects a false filer to prosecution for perjury. Section 81004. The question before us, however, is not whether the statement must be verified - of course it must - but what is the remedy to be applied when the filer neglects to sign and verify. The filing of an unsigned statement is a violation of the Act. As such, like other defects in filing a statement, it subjects the filer to prosecution for a misdemeanor, Section 91001, as well as to injunctive relief, Section 91003, and liability for monetary damages, Section 91004. Whether or not any or all of these remedies will be applied will depend on the facts and circumstances of each case.

The penalty for lateness has a special purpose, namely to encourage filers to file in a timely manner. A filer who fails to sign his statement, like a person who files on an unauthorized form, has committed a violation but is not guilty of lateness in any meaningful sense. In my opinion, if a filing officer discovers that a statement has not been signed he should ask the filer to correct the defect. Assuming that the statement is signed and verified promptly after notice of the defect is provided to the filer, I see no reason for assessing the lateness penalty. In most cases the failure to sign is an oversight which evidences no lack of good faith and is not detrimental to the public interest. In any case in which the failure to sign serves to indicate bad faith or is prejudicial to the public, a remedy far more severe than the lateness penalty should be more appropriate.

The majority's conclusion is not dictated by Oda v. Elk Grove Union Grammar School District, 60 C.A.2d 551 (1943). In that case a personal injury suit against a school district was dismissed because the plaintiff had submitted an unverified claim to the district within 90 days after the accident, whereas a statute required filing of a verified claim. The court emphasized that in light of the doctrine of sovereign immunity there was no right to sue at all absent the statute, and therefore the plaintiff was bound to follow the statutory procedure, a consideration which has no relevance to the question before us. More importantly, Oda at most supports the proposition, with which I concur, that failure to verify constitutes a violation. The case suggests no reason for applying the lateness penalty to such a violation.

For the reasons stated, I am unable to concur in the second part of the Commission's opinion.



Daniel H. Lowenstein
Chairman



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FOR IMMEDIATE RELEASE
March 20, 2020

FOR FURTHER INFORMATION
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FPPC offers guidance on Campaign Filing Deadlines in wake of COVID-19

In light of the Statewide shelter-in-place order, the FPPC understands the unique and extraordinary situation caused by our united efforts to deal with the COVID-19 pandemic. We are issuing this advisory as we acknowledge the reality the impact this order will have on the current and ongoing election cycle. While we acknowledge the legal nature of filing requirements and deadlines, the FPPC recognizes offices around the State are closed and the stay at home directive means the filing of campaign statements and reports will be difficult.

With that in mind, we still encourage candidates and committees to continue to make the best efforts to timely disclose campaign activity to the public. State and local candidates are encouraged to make use of electronic filing options, if available. All candidates and committees that file campaign statements and reports with the Secretary of State's office (SOS) may use SOS's online filing system. Local candidates and committees should contact their local filing officers to determine if electronic filing is available in their jurisdiction.

"It obviously would not be a good use of our enforcement resources to focus time and energy prosecuting violations that are clearly and demonstrably caused by conditions created by the pandemic," said FPPC Chair Richard C. Miadich. "We want to be as flexible and realistic as possible to help campaigns comply while also providing the public the information needed to make informed decisions."

The law requires certain statements and reports be filed with original signatures. We recognize restrictions imposed to fight the spread of COVID-19 may make the logistics of filing documents on paper with original signatures difficult or even impossible. To the extent that is the case, candidates and committees are encouraged to make use of digital and electronic options for filing statements and reports to ensure the timely filing of statements and reports (e.g. email and fax filing, scanned and/or photocopied signatures, electronic signatures, etc.). Paper statements with originals would need to be filed when feasible. If circumstances caused by COVID-19 inhibit a candidate's or committee's ability to timely file statements and reports, candidates and committees should communicate these issues to their filing officers and document all attempts to file and the issues faced.

If a candidate or committee makes best efforts to comply with the Political Reform Act's campaign finance disclosure rules but is unable to do so due to the COVID-19 pandemic, the FPPC will consider this a strong mitigating factor in determining whether an enforcement action against the candidate or



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committee is appropriate. The FPPC is committed to promoting timely and effective campaign disclosure to the public but also appreciates the larger public safety issues currently facing the state.

If you have questions or concerns above campaign filing obligations, please email us at advice@fppc.ca.gov.

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FOR IMMEDIATE RELEASE
April 10, 2020

FOR FURTHER INFORMATION
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FPPC offers guidance on Lobbying Filing Deadlines in wake of COVID-19

In light of the Statewide shelter-in-place order, the FPPC understands the unique and extraordinary situation caused by our united efforts to deal with the COVID-19 pandemic. We are issuing this advisory as we acknowledge the reality the impact this order will have on those persons subject to the Political Reform Act's lobbying registration and reporting requirements.

The FPPC encourages people subject to lobbying registration and reporting requirements to continue to make the best efforts to timely file all legally required reports and statements. But the FPPC recognizes the difficulty some may face in filing statements and reports given the shelter-in-place order and other issues caused by the COVID-19 pandemic.

“We know there are real concerns and potentially dangerous consequences in this pandemic and we’re empathetic to those dealing with difficult circumstances,” said FPPC Chair Richard C. Miadich. “That’s why we’re encouraging common sense in trying to balance health and logistical concerns with the law and the public’s expectation of transparency.”

If circumstances caused by COVID-19 inhibit the filing of a lobbying report or statement, the filer should communicate these issues to the Secretary of State’s Office and document all attempts to file and the issues faced. While quarterly lobbying reports are filed electronically, the law requires certain other statements be filed on paper with an original signature. Restrictions imposed to fight the spread of COVID-19 may make the logistics of filing documents on paper with original signatures difficult or even impossible. To the extent that is the case, people required to file lobbying forms on paper with original signatures are encouraged to make use of digital and electronic options for filing reports to ensure timely filing (e.g. email and fax filing, scanned and/or photocopied signatures, electronic signatures, etc.). Paper statements with originals would need to be filed when feasible.

If a person with lobbying filing requirements makes best efforts to comply with the Political Reform Act’s lobbying registration and reporting rules but is unable to do so due to the COVID-19 pandemic, the FPPC will consider this a strong mitigating factor in determining whether an enforcement action against the person is appropriate. The FPPC is committed to promoting timely and effective lobbying activity disclosure but also appreciates the larger public safety issues currently facing the state.

If you have questions or concerns above campaign filing obligations, please email us at advice@fppc.ca.gov.

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