

Open and Accountable Elections Administrative Rules, Chapter 2.16

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1. Authority. The Open and Accountable Elections Program (Program) Director is authorized by Portland City Code (PCC) 2.16.030 to adopt rules necessary to implement the Program.

2. Purpose. The Program's purpose is to reduce or eliminate corruption or the appearance of corruption in elections and governing by elected officials, as identified in Ordinances No. 188152, (passed by the City Council on December 14, 2016, amended by Ordinance No. 188853). These administrative rules provide further detail to implement of the Program and will be broadly interpreted to effectuate the Program's purpose.

3. Definitions. All capitalized terms used in these rules not defined below are defined in PCC 2.16.010.

A. **"Contributions"** do not include services an Individual provides without compensation while volunteering their time to the Candidate or campaign committee.

B. **"Egregious"** means conspicuously, glaringly, or flagrantly bad, which includes conduct that would conceal an instance of committing fraud against the Program or conduct that would conceal an instance of violating a requirement or prohibition of the Program.

C. For the purpose of administrative rule sixteen (16), **"family"** includes a spouse, child, parent or step-parent, domestic partners, parents-in-law, grandparents or grandchildren, and household members.

D. **"Loan"** and **"debt"** do not mean:

1. The campaign's use of a credit card;
2. A campaign vendor that invoices the campaign for goods or services within 45 (forty-five) calendar days of providing the goods or services with a payment deadline of no more than 45 days; or

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3. The Candidate, campaign staff, or campaign volunteers being reimbursed by the campaign for campaign expenses provided that the expenses being reimbursed are either:

- a. Under \$500 (five hundred dollars); or
- b. Reimbursed within 10 (ten) business days of the expenditure being paid.

E. "Participating Candidate" means a person who is a Candidate for a Covered Office and who seeks to be a Certified Candidate in a primary election or general election. For the purposes of PCC 2.10.040, a Candidate is a Participating Candidate:

1. In the case of a Candidate certified by the Program, from the first day of the Election Cycle until the Election Cycle is over; and
2. In the case of a Candidate not certified by the Program:
 - a. If the Candidate applies for certification and is rejected, from the first day of the Election Cycle until the date the Candidate is rejected from certification.
 - b. If the Candidate does not apply for certification, from the first day of the Election Cycle until the deadline to file for certification has passed.

F. "Total Permitted Contributions" means the total Contributions a participating or Certified Candidate may collect as set in PCC2.16.040K or PCC 2.16.040L. This includes any In-Kind Contributions subject to the in-kind limit as set in PCC 2.16.040D. This does not include:

1. The unlimited Contribution of paid time of supervision of volunteers described in PCC 2.16.040D; or
2. Contributions raised to pay for a recount.

G. "Violation" means each time a campaign or political committee receives a notice of penalty for 1 (one) or multiple instances of failing to comply with the Program or these rules.

4. Open and Accountable Elections Fund

A. The following will be deposited in the Fund:

- a. All amounts appropriated to the Fund by the City Council;
- b. Any unspent money remaining in a Certified Candidate's Publicly Funded Campaign Account after the Candidate is no longer a Candidate for a Covered Office that is returned to the Fund as provided in PCC 2.16.100;
- c. All civil penalties issued for violating a provision of the Program;
- d. All interest earned on money in the Fund; and
- e. Voluntary Contributions to the Fund:
 - i. Voluntary contributions may be in any amount.
 - ii. Payment may be made in the form of cash, check, money order, credit card, or electronic check.
 - iii. Contributors may make voluntary contributions directly to the City, either in person, via United States Mail, or on the program website.
 - iv. The Director will publish on the Program website an address to which voluntary contributions may be sent to via United States Mail.
 - v. Contributors may request a receipt from the Director.
 - vi. Contributors and contribution amounts will be disclosed publicly.

5. Certification and Qualification

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- A. Beginning no earlier than the first day of the relevant City election filing period and no later than 28 (twenty-eight) business days prior to the end of the City election filing period, a Candidate who has fulfilled the following conditions may apply for Certification:
 - a. Has filed a Notice of Intent to Participate in the Program by the deadline published by the Director;
 - b. Has completed a mandatory training;
 - c. Whose Treasurer has completed a mandatory training;
 - d. Has received confirmation of qualifications to run for office in the City of Portland by nominating petition and will appear in the official register of candidates; and
 - e. Has filed all required reports of Contributions and Expenditures and any documentation required or requested by the Director.
- B. To be considered for Certification, a Candidate must submit a complete certification application. The Director will publish a certification application on the Program website. A complete certification application will include, without limitation:
 - a. Confirmation of qualifications to run for office in the City of Portland by nominating petition and will appear in the official register of candidates; and
 - b. A completed W-9, the federal tax form that provides a taxpayer identification number to an entity required to file information with the Internal Revenue Service.

6. Contributions

- A. Obtaining Contributions: Participating Candidates must collect at least the following documentation for each of the following types of Contributions:
 - a. Contributions submitted for a Public Contribution, including without limitation qualifying Contributions submitted for certification: an attestation signed by the donor for each Contribution that the Candidate submits as matchable, as published by the Director on the Program website, a statement of contributions received by any online credit card processor for all credit card contributions, a report of or an image of a report of the transactions processed for the reporting period from the candidate's publicly funded campaign account;
 - b. All Contributions made with cash or a money order: an attestation signed by the donor as published by the Director on the Program website;
 - c. In-Kind Contributions of paid supervision of volunteers: An attestation signed by all required parties for each In-Kind Contribution accepted that is not subject to the per election limit, as published by the Director on the Program website; and
 - d. All Allowable Contributions: the bank statement for the campaign finance account into which the Contribution was deposited, submitted to the Director in the manner the Director prescribes in guidance published on the Program website, and a report of or an image of a report of the transactions processed for the reporting period from the candidate's publicly funded campaign account.
- B. Exceeding Contribution limits: Candidates whose opponents have exceeded the total Contribution limit and are requesting to collect more than \$500 (five hundred dollars) per donor per election and exceed the Total Contribution Limit in compliance with PCC 2.16.150 must file a request with the Director before exceeding either limit by returning a completed Removal of Certain Contributions Limits Form, as published by the Director on the Program website.

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7. Public Contributions

- A. Matchable Donors may only have their Contributions matched for 1 (one) Candidate in each Contested Election in each matching period. The Director will provide the Public Contribution to the campaign that reports the donor's Matchable Contribution to the Director first.
- B. The City will distribute public matching dollars to campaigns at least every 14 (fourteen) calendar days.
- C. The City will distribute public matching dollars only once a Contribution reported as matchable is validated as matchable by the City.
- D. A participating candidate may not offer items of value in exchange for a Contribution that is submitted for a Public Contribution, other than items of de minimis value.

8. Use of Contributions

- A. Allowable Uses.
 - a. A participating or Certified Candidate may only use the seed money, in-kind, and the public Contribution matching Contributions for purposes related to the Candidate's campaign. These funds can be used for nomination or election to the Covered Office for which they are eligible to be or have qualified as a Candidate.
- B. Prohibited Uses.
 - a. PCC 2.16.080B provides that Public Contributions, qualifying Contributions, Seed Money Contributions, and In-Kind Contributions may not be:
 - i. Used to make any Expenditures for personal use prohibited by ORS Chapter 260;
 - ii. Contributed to, or for the purpose of supporting or opposing, any other Candidate, political committee or measure;
 - iii. Used to make Independent Expenditures supporting or opposing any Candidate, political committee or measure;
 - iv. Used in connection with the nomination or election of a Participating Candidate to any office or at any election other than the office or election for which the Contributions were given;
 - v. Used to pay any Loans, debts, fines or penalties;
 - vi. Used to pay for consulting services to an Individual, unless the Individual is providing bona fide services to the Candidate and is not compensated over fair market value.
 - vii. Used for out of state travel;
 - viii. Used for certain vehicle-related expenses, including without limitation vehicle purchases, leases, rental, insurance, repairs or fuel. However, expenses are allowed for:
 - 1. Parking expenses related to the campaign;
 - 2. Vehicle mileage reimbursement for campaign purposes, using the standard rate used by the City for mileage reimbursement; and
 - 3. Reimbursement for taxis or car-sharing companies for campaign purposes.
 - ix. Used to pay attorney, accountant and other professional service fees in conjunction with appealing penalties or decertification;

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- x. Used for salary or payment, other than reimbursable expenses, to a family member;
 - xi. Used for gifts, not including without limitation campaign brochures, buttons, signs or other printed campaign material; or
 - xii. Used to make payments in cash, except to a business licensed in Portland that only accepts cash payments.
 - 1. Campaigns may use non-cash sources to reimburse Candidates, campaign staff, and campaign volunteers for permissible campaign expenses paid for in cash by the Candidate, campaign staff, and campaign volunteers.
- C. PCC 2.16.080C provides that Public Contributions may not be used for election night and post-election parties; however, Allowable Contributions, Seed Money Contribution, and In-Kind Contributions may be used for such events.
- D. PCC 2.16.080D provides that contributions to civic and non-profit organizations from a Participating Candidate's publicly funded account are permitted only if the payment is for the purpose of attending or participating in a specific campaign event open to the public.
- E. The Director will determine whether a campaign Expenditure was made from an impermissible source by totaling the amount of each type of Contribution (e.g. Allowable Contributions, qualifying, Seed Money Contributions, public matching funds, etc.) and well as each type of potentially impermissible Expenditure. The Director will then subtract the potentially impermissible Expenditures from the totals of Contributions that can be used to make such Expenditures.
- a. If the total of potentially impermissible Expenditures does not exceed the total of Contributions that may be used to make such Expenditures, the Expenditure will be deemed permissible.

9. Contested Elections

- A. If all of a Participating Candidate's opponents withdraw from running for office, the seat will become uncontested once all Candidates have formally withdrawn. The Program will stop distributing public matching funds for Matchable Contributions submitted after the Director notifies the Candidate that the Candidate has become uncontested and will not distribute public matching funds to the Candidate as long as the Candidate remains uncontested.
- B. Matchable Contributions collected before a Candidate is contested will be matched once the Candidate is contested.

10. Special Elections and Vacancies

- A. The Director will publish on the Program website a calendar of the following dates within 3 (three) business days of special nominating and Special Runoff Election dates being announced:
 - a. First and last day of the Election Cycle;
 - b. First day the Notice of Intent can be filed;
 - c. First and last day of the Special Nominating Election matching period;
 - d. First and last day of the Special Runoff Election matching period;
 - e. Deadline to file for certification; and
 - f. Deadlines to return unspent public funds.

11. Recounts

- A. Certified Candidates may raise allowable and In-Kind Contributions to pay for recounts and related expenses.
- B. Funds raised after an election to pay for a recount of that election and related expenses do not count toward the Total Permitted Contributions described in PCC 2.16.040K and PCC Section 2.16.040 or the in-kind limit described in PCC 2.16.040D.

12. Reporting Requirements

- A. For Participating Candidates:
 - a. Reporting schedule:
 - i. By the beginning of the Primary Matching Period, the Director will publish a schedule of reporting dates, by which all Participating Candidates must report all Contributions to and Expenditures from their campaign finance account.
 - ii. The first required report must include all transactions from the beginning of the Election Cycle until 7 (seven) calendar days prior to the first deadline that applies to that Candidate. All subsequent reports must cover the period outlined in the Reporting Schedule. Candidates will stop submitting reports only once the Candidate has returned all unspent public funds to the Program.
 - iii. Candidates must report all contributions to and Expenditures from the campaign finance account to the Director beginning on the next reporting date after filing a Notice of Intent, as published by the Director. The first report must include all Contributions and Expenditures from the first day of the Election Cycle until 7 (seven) calendar days prior to the first applicable reporting date.
 - b. Reporting mechanism:
 - i. Participating campaigns must report all Contributions and Expenditures and other related required documentation of contributions and Expenditures to the online Open and Accountable Elections Application, as published on the Program website or provided to campaigns by the Director.
 - ii. When directed by the Director, participating campaigns must report all Contributions and Expenditures and other related required documentation of Contributions and Expenditures using a form, as published on the Program website or provided to campaigns by the Director.
- B. Reporting Schedule for Non-Participating Candidates and Political Committees:
 - a. In a Contested Election in which there is at least 1 (one) participating or Certified Candidate, beginning on the 180th (one hundred and eightieth) calendar day before the election and ending on the 42nd (forty-second) calendar day before the election, Non-Participating Candidates must report Contribution and Expenditure transactions to the Director within 14 (fourteen) calendar days via ORESTAR.
 - b. In a Contested Election in which there is at least 1 (one) participating or Certified Candidate, beginning on the 180th (one hundred and eightieth) calendar day before the election and ending on the 42nd (forty-second) calendar day before the election, persons or political committees making an Independent Expenditure in an amount of \$1,000 (one thousand dollars) or more, or Independent Expenditures in an aggregate of \$1,000 (one

thousand dollars) or more, supporting or opposing a Candidate or Candidates for nomination or election to City office must report such expenditures to the Director within 14 (fourteen) calendar days via ORESTAR.

13. Return of Public Contributions

- A. By the date a campaign is due to return unspent public funds, the campaign must send the Director:
 - a. A report showing the total amount in funds collected other than public matching funds, the total amount of public matching funds collected, a calculation of the percent of contributions that were public, the total amount spent on the campaign, and the total amount remaining in the account; and
 - i. Campaigns may only include in the calculation of the total amount spent on the campaign expenses that the campaign committed to prior to the relevant election, which may not include bonuses only paid if the candidate wins their election.
 - b. A payment equal to the percent of public matching funds collected multiplied by the amount remaining in the account by the deadline to be deposited in the Open and Accountable Elections Fund.
- B. The Director will determine whether the amount each campaign returned is accurate. If the Director determines the amount returned by a campaign is not accurate, the Director will notify the campaign of the correct amount due. The campaign must send any additional owed funds within 7 (seven) business days.
- C. Upon Expulsion from the Program
 - a. A Participating Candidate against whom a civil penalty has been imposed for violation of the Program must return to the Director an amount of money equal to all revenues distributed to the Candidate from the Fund after the date the Candidate was certified.
 - i. The Director will seek immediate recovery of public contributions for any violation of this rule.
 - b. Expelled Candidates must also pay the Fund for interest on the total amount of revenues received at a rate of 12 (twelve) percent per annum, in addition to the penalty and interest on the penalty.

14. Documentation, Audits, and Investigations

- A. Notice of Intent: For the 2020 Election Cycle, candidates may file a Notice of Intent to use the Program beginning on July 1, 2019. After the 2020 election cycle, candidates may file a Notice of Intent beginning on the first day of the Election Cycle. The last day to file a Notice of Intent is 10 (ten) business days prior to the last day a candidate may file for certification.
- B. Financial documentation:
 - a. Candidates must submit all bank statements for their designated campaign finance account to the Director beginning on the next reporting date after filing a Notice of Intent, as published by the Director. The first submission must include all bank statements received from the campaign finance account and any other disclosed campaign accounts from the first day of the Election Cycle until 7 (seven) calendar days prior to the first applicable reporting date. Future submissions must include bank statements, if any, received between the last reporting date and the current reporting date.

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- b. At each reporting deadline, if the candidate does not submit a bank statement that covers the entirety of the reporting period for that deadline, the candidate must provide to the Director a document showing all transactions into and out of the publicly financed bank account that covers any part of the reporting period that a submitted bank statement does not cover.
 - c. If a campaign uses a third party vendor to collect contributions that are deposited into the publicly funded campaign account, the campaign must submit by each reporting deadline the information provided to the campaign of each transaction for the reporting period that the reporting deadline applies to.
- C. Record Retention: Candidates must keep all documents submitted to the Director, financial records, and supporting documentation - including without limitation the original signed attestations received by the campaign - related to campaign Expenditures and Contributions for inspection by the Director from the first day of the Election Cycle until 6 (six) months after the general election or Special Runoff Election of that Election Cycle.
- D. Records Requests: Candidates must provide any records or documentation the Director requests relating to ensuring compliance with the Program and cooperate with any investigatory measures deemed relevant to the potential Violation by the Director or any body to which Director refers the matter. The Director or the Director's designee may conduct unannounced site visits to campaigns to inspect documents.
- E. The Director may engage a vendor or governmental body to administer or enforce any provision of the Program, including without limitation conducting inspection of documentation, conducting investigations or taking enforcement actions.

15. Penalties

- A. General. The Director has authority to assess civil penalties for violation of the Program or these rules. The purpose of this section is to discourage and deter the intentional or negligent violation of Program requirements or prohibitions, ensure the proper stewardship of public funds, and encourage accurate reporting of contributions and expenditures for the purpose of public transparency in campaign finance. It is not the intent of this section to discourage participating in the Program through excessive penalties for mistakes that do not harm the purpose of this section or the purpose of the Program.
- B. Maximum Penalty.
 - a. No penalty imposed under the Program or these rules will exceed \$10,000 (ten thousand dollars) for any Violation except as otherwise provided in PCC 2.16.140 and the administrative rules.
 - b. Limits on penalties do not include interest or repayment of public funds. Penalties are subject to interest at a rate of 12 (twelve) percent of the total amount per annum.
- C. Late Filings.
 - a. A late filing is one that is remedied before the subsequent reporting deadline.
 - b. The penalty for the late filing or unreported amounts of Contributions and Expenditures on a Participating Candidate filing, Non-Participating Candidate filing, and Independent Expenditure committee filing, is half a percent of the transaction amount(s) per calendar day.
- D. Insufficient Filings.

- a. An insufficient filing is when an entry on a report is missing 1 (one) or more fields of required information or an item of information provided is not accurate or adequate.
 - i. Missing or inadequate information:
 - 1. If there are entries listed that do not include all of the required information, a notification will be sent to the person the campaign or political committee designates to receive notifications about Program determinations.
 - 2. If all the requested information is provided by the amendment deadline provided in the notice, the report is considered sufficient and there is no penalty.
 - 3. If the campaign or political committee is unable to secure the missing information by the amendment deadline, they may submit a filing showing that the contribution or expenditure has been returned.
 - a. This must be done within the amendment deadline.
 - b. If the Director determines the return filing to be sufficient, penalties will be waived.
 - ii. Inaccurate information: If required information reported is inaccurate, it is subject to a penalty.
 - b. The penalty for an insufficient filing, is half a percent of the transaction amount(s) per calendar day, subject to a cap of twenty-five (25 percent) of the transaction amount.
- E. Fully Omitted Contributions and Expenditures.
- a. A fully omitted filing of a contribution or expenditure is one that is not remedied before the subsequent reporting deadline.
 - b. The penalty for a fully omitted filing of a contribution or expenditure, is one (1) percent of the transaction amount(s) per calendar day, subject to a cap of fifty (50) percent of the transaction amount.
- F. Prohibited Contributions.
- a. If a campaign accepts a prohibited Contribution, it may cure the violation by returning the prohibited amount within seven (7) days of the transaction's reporting deadline and reporting the Contribution as refunded at the next reporting deadline. If a campaign cures a prohibited Contribution on time, no penalty will be assessed.
 - b. Campaigns which violate the total contribution limits set forth in 02.16.040(k)(l) will be subject to a penalty equal to the prohibited amount collected.
 - c. The penalty for prohibited Contributions as set out in 02.06.040 is equal to the amount of the prohibited Contribution. The candidate must also return the prohibited contribution and provide documentation to the Director showing the contribution was returned. If the candidate is unable to return the contribution, the candidate must provide the Director with documentation as to why candidate was not able to return the contribution and the penalty is increased by the amount of the prohibited contribution. The penalty will be waived if the campaign pays back the prohibited contribution prior to receiving notice of the penalty from the Program.
 - d. Candidates who collect contributions from a prohibited source or in a prohibited amount prior to filing Notice of Intent to participate in the Program and return any prohibited contributions within thirty (30) days of filing Notice of Intent is subject to a penalty of

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twenty-five (25) percent of the total amount of prohibited expenditures. If the candidate is unable to return the contribution, the candidate must provide the Director with documentation as to why candidate was not able to return the contribution and the penalty is increased by the amount of the prohibited contribution. The penalty will be waived if the campaign pays back the prohibited contribution prior to receiving notice of the penalty from the Program. A candidate may not apply for certification until all prohibited Contributions are returned and the penalty is paid.

- e. Candidates who collect contributions from a prohibited source or in a prohibited amount prior to filing Notice of Intent to participate in the Program and do not return any prohibited contributions within 30 days of filing Notice of Intent will not be certified to use the Program.

G. Prohibited Expenditures.

- a. A prohibited Expenditure includes Expenditures in violation of PCC 2.16.080 or loans or debts taken out by the campaign.
- b. The penalty for a prohibited Expenditure by a Candidate who is not Certified is to make a personal contribution to the publicly funded campaign account in the same amount as the prohibited Expenditure and to pay a penalty of ten (10) percent of the prohibited Expenditure amount to the Fund.
- c. The penalty for prohibited Expenditures as set out in in PCC 2.16.080 by a Certified Candidate is decertification from the Program and repayment of all public contributions with twelve (12) percent interest per annum.
- d. The Director will notify a campaign that makes a potential prohibited expenditure and give the campaign seven (7) calendar days to explain why the Expenditure was not prohibited or to cure it. If the Director determines the Expenditure was not Prohibited or was effectively cured, the campaign will not be penalized. If the campaign does not explain or cure the Expenditure within seven (7) days or if the Director determines the Expenditure was prohibited, the campaign will be subject to the penalty.

H. In-Kind Contribution Violations.

- a. The first \$1,000 (one thousand dollars), calculated to accrue cumulatively, of prohibited In-Kind Contributions can be cured by paying an amount equal to the prohibited amount to the Fund.
- b. In-Kind Contributions which exceed the total limits set out in PCC 2.16.040K by more than \$1,000 (one thousand dollars), calculated to accrue cumulatively, will be assigned Violations on a per item charge as follows:
 - 1. Campaigns which receive more than \$1,000 (one thousand dollars) but no more than \$5000 (five thousand dollars) above the In-Kind limit must pay a penalty that is equal to two times the amount above the limit.
 - 2. Campaigns which receive more than \$5000 (five thousand dollars) above the In-Kind limit must pay a penalty that is equal to three times the amount above the limit.

I. Campaign Account Violations.

- a. A candidate with a campaign account that is not designated as the publicly funded campaign account may transfer the funds in the account to a savings account associated with the publicly funded campaign account. The savings account must be inactive for the

duration of the relevant election cycle once created, other than making a Seed Money Contribution within the rules and limits of the Program. It will be treated as separate from the designated campaign account and subject to the provisions in this section.

- b. Campaign account violations include without limitation:
 - i. Depositing campaign contributions or matching funds into or making expenditures from an account other than the designated campaign account reported to the Director, other than expenditures permitted by these rules;
 - ii. Having more than 1 (one) active campaign account, including an associated savings account as described in subsection A;
 - iii. Having a campaign account other than the publicly funded campaign account that has not been reported to the Director; and
 - iv. Failure to return public matching funds erroneously distributed to a campaign account within the deadline in the notification sent by the Director.
- c. Violations of campaign account requirements set out in PCC 2.16.040 A will be assigned a penalty as follows:
 - i. Minor violations will be required to cure the violation by paying the Fund an amount no more than equal to the amount of the violation.
 - ii. Serious violations will be subject to a penalty of no less than equal to the amount of the violation and no more than triple the violation.
 - iii. Whether a violation is minor or serious is at the discretion of the Director. The Director will weigh the following factors to determine whether a violation is minor or serious:
 - 1. Whether the violation occurred prior to the candidate filing a Notice of Intent with the Director;
 - 2. Whether the violation requires a recent proactive action to occur;
 - 3. The amount of the transaction that was in violation; and
 - 4. Whether the candidate reasonably would have known of the violation prior to it occurring and been able to prevent the violation.
- J. Soliciting or directing contributions to other campaign finance entities to support one's own election, in violation of PCC 2.16.120 H, will result in a penalty of up to \$10,000 (ten thousand dollars) at the Director's discretion.
- K. Misrepresentation of Program Status: Any candidates, campaign staff, or campaign surrogates found to have misrepresented that a candidate is participating in this Program and that contributions being solicited at the moment of the misrepresentation will be matchable when they have not filed a Notice of Intent, have been notified of rejection from certification, have passed the certification deadline and not been certified, or have been decertified will result in the campaign being subject to a Violation of \$1,000 (one thousand dollars) for each incident with a maximum of \$5,000 (five thousand dollars).
- L. Falsifying documents: A campaign that submits to the Director a document that has been falsified by the candidate or campaign staff, or by a third party and candidate or campaign staff knows or should have known that the document was falsified, is subject to decertification and repayment of all Public Contributions with twelve (12) percent interest per annum.

- M. Any other Violations: Any other violation of the Program or these rules may result in a penalty of up to \$10,000 (ten thousand dollars), decertification per PCC 2.16.160 B, and repayment of public funds, including interest.
- N. An Egregious Violation, or multiple Violations which together are Egregious, by a Participating Candidate may subject the Candidate to tripling of the penalty imposed or decertification per City Code 2.16.160(b). Egregious violations include without limitation failures to timely and accurately report expenditures or contributions that violate Program requirements, failure to remedy a violation within a reasonable time period, and failure to pay penalties totaling a large percentage of their privately raised funds within a reasonable time period.
- O. The Director may, in the case of high outstanding penalty amounts or Egregious Violations, withhold Public Contributions from a campaign until penalties are paid and any other required remedies are carried out.
- P. Exceptions:
- a. If any violation is made as a result of an error by the Director, the Violation is waived and no penalty is assessed.
 - b. Multiple like instances in one reporting period of de minimis impact may be combined when calculating the penalty at the discretion of the Director.
- Q. Payment of Penalties.
- a. No penalty may be paid using public contributions.
 - b. If a civil penalty has been imposed against a candidate or the campaign committee of a candidate, the candidate will be personally liable for the amount to be paid.
 - c. If a civil penalty has been imposed against a political committee other than a campaign committee of a candidate, the directors of the political committee will be jointly and severally liable for the amount to be paid.
 - d. The following penalties may be paid from the publicly funded campaign account:
 - i. Reporting penalties in Subsections C, D, and E;
 - ii. Prohibited Contributions in Subsection F;
 - iii. Prohibited Expenditures in Subsection G;
 - iv. In-Kind Contributions in Subsection H; and
 - v. Other Violations as described in Subsection M only if the penalty notice specifies that the penalty may be paid from the publicly funded campaign account.
 - e. The following penalties must be paid by the candidate from personal funds:
 - i. Campaign account violations in Subsection I;
 - ii. Soliciting or directing contributions as described in Subsection J;
 - iii. Misrepresentation of Program status in Subsection K;
 - iv. Other Violations as described in Subsection M if the penalty notice specifies that the penalty may not be paid from the publicly funded campaign account.
 - f. Civil penalties may be paid at any time after receiving the notice of proposed penalty, but are due within 7 (seven) business days of the penalty becoming final.
 - g. Penalties imposed under this Section are subject to interest at a rate of 12 (twelve) percent of the total amount per annum.
 - h. All moneys received for Violations of any provision of the Program must be paid and credited to the Fund.
- R. Failure to Pay Penalties.

- a. At the request of the Director, the City Attorney may seek civil penalties and enforcement of any provision of the Program, in addition to any other remedies provided by law, in Circuit Court or other appropriate venue.

16. Mitigating Circumstances and Personal Emergencies

- A. The Director may reconsider a proposed penalty imposed or repayment determination made under the provisions of PCC 2.16.160 or these rules if the person, Candidate or committee provides evidence of a valid mitigating circumstance or personal emergency that caused the initial Violation or insufficient filing.
- B. The only mitigating circumstances that the Director may consider in a late or insufficient filing case are:
 - a. The lateness or insufficiency of a report is the direct result of clearly-established fraud, embezzlement, or other criminal activity against the committee, committee treasurer or Candidate, as determined in a criminal or civil action in a court of law or independently corroborated by a report of a law enforcement agency or insurer or the sworn testimony or affidavit of an accountant or bookkeeper or the person who actually engaged in the criminal activity. This mitigating circumstance is not available to the Candidate or treasurer who was the perpetrator of the wrongdoing described above;
 - b. The lateness or insufficiency of a report is the direct result of fire, flood or other calamitous event, resulting in physical destruction of, or inaccessibility to, committee records. ("Calamitous event" means a phenomenon of an exceptional character, the effects of which could not have been reasonably prevented or avoided by the exercise of due care or foresight); or
 - c. The lateness or insufficiency of a report is the direct result of an error by the Director.
- C. Personal Emergency.
 - a. A valid personal emergency is an emergency, such as a serious personal illness or injury or death in the family of the Candidate or treasurer which:
 - i. Caused a report to be late; or
 - ii. Caused a Candidate to withdraw as a Candidate for office.
 - b. Personal emergency does not include illness such as a common cold or flu. In the case of a late report, personal emergency also does not include a long-term illness where other arrangements could have been made.
- D. Request for Reconsideration. A person, Candidate or committee may request a reconsideration of a proposed penalty or a repayment determination due to mitigating circumstances or a personal emergency. The request must be in writing and must detail the mitigating circumstances or personal emergency. The request must be filed with the Director no later than the date the penalty or repayment is due to be paid.

17. Accessibility/Language Access

- A. Participating Candidates may not participate in a debate or similar public event that isn't in a location that provides equitable access to all members of the public.
- B. Accessibility includes reasonable provision of the following: language services, removing physical barriers, providing modifications, accommodations, alternative formats, auxiliary aids, or other services that ensure access, upon request at least 10 (ten) business days prior to the event.

18. Emergency Rulemaking

- A. The Director may, at any time, amend these rules.
- B. Amendments do not take effect until the Director has issued public notice and provided direct notice to all candidates subject to the rule. This notice must include the rule change and, when possible, the rationale for the amendment. Amendments will be in effect for 1 (one) year from publication date.
- C. The amendment of the rules does not become permanent unless the Director submits the amendment to Council for consideration and approval.