

ADM-2.23 - Mitigating Circumstances and Personal Emergencies

MITIGATING CIRCUMSTANCES AND PERSONAL EMERGENCIES

Administrative Rule Adopted by the City Auditor Pursuant to Rule-Making Authority
ARB-ADM-2.23

A. Purpose

To provide a process and procedure for determining valid mitigating circumstances or personal emergencies that impact a person, candidate or committee's ability to comply with campaign finance fund provisions.

B. Authority

Code Section 2.10.020 authorizes the Auditor to adopt rules to ensure effective administration of the Campaign Finance Fund, including criteria for determining what constitutes a valid personal emergency or mitigating circumstance.

C. Rules

1. General. The Auditor may reconsider a proposed penalty imposed or repayment determination made under the provisions of City Code Chapter 2.10 or City Administrative 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.

2. Mitigating Circumstances. The only mitigating circumstances that the Auditor 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);
- c. The lateness or insufficiency of a report is the direct result of failure of a professional delivery service to deliver documents in the time guaranteed for delivery by written receipt of the service provider (this does not include delivery by fax); or
- d. The lateness or insufficiency of a report is the direct result of an error by the

elections filing officer.

3. Personal Emergency.

a. A valid personal emergency is an emergency, such as a serious personal illness or death in the immediate family of the candidate or treasurer which:

1) Caused a report to be late; or

2) Caused a candidate to withdraw as a certified candidate and/or 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.

4. 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 shall be in writing and shall detail the mitigating circumstances or personal emergency. The request shall be filed with the Auditor no later than the date the penalty or repayment is due to be paid.

D. City Code References

2.10.210 Withdrawal of Certified Candidate, Repayment of Funds

2.10.220 Civil Penalties, Revocation of Certification, and Repayment of Funds

History

Adopted by the City Auditor August 25, 2005.

Filed for inclusion in PPD August 25, 2005.