

6221.39 Investigations

- a) The PCFB may conduct an investigation into possible violations of Title 2 of Article 14 of the Election Law, and these regulations. Such investigations may be based on an audit, complaint, referral, or upon the PCFB's own initiative.
- b) In its investigation, the PCFB may demand, and the candidate and political committee shall furnish, all records consistent with section 6221.7(b)(2), (3), and (4) of this Title.
- c) In conducting an investigation, the PCFB may request the State Board of Elections to appoint certain staff as special investigators consistent with section 3-107 of the Election Law; on a case by case basis, and upon request, the State Board of Elections may delegate its subpoena authority pursuant to subdivisions 5 and 6 of section 3–102 of the Election Law to such special investigators to require the production of any books, records, documents or other evidence that the PCFB may deem relevant to an investigation.
- d) Any request for subpoena authority to be granted to a special investigator shall be in the same manner as requests made by the chief enforcement counsel as provided for in section 6203.2(d) and (e) of this Title.
- e) If the State Board of Elections grants subpoena authority upon a special investigation, such authority shall be subject to motions to quash or modify to the State Board of Elections, consistent with section 6203.3 of this Title.
- f) No special investigator appointed pursuant to this part shall possess a firearm as part of their duties.
- g) After an investigation, PCFB staff shall present to the board its findings, determinations as to the violations of Title 2 of Article 14 of the Election Law, or the regulations related thereto, and recommendations for disposition of the matter, including dismissal, settlement, civil action, or referral to law enforcement. The PCFB may adopt and/or alter the findings and recommendations of staff.

6221.40 Complaints

- a) Complaints alleging a violation(s) of Title 2 of Article 14 of the Election Law, or any provisions of these regulations, may be filed with the PCFB. All complaints shall be made in writing, signed, and sworn to or affirmed by the individual filing the complaint; provided, however, that filing of a complaint using the

interactive online form established by the PCFB shall be deemed to satisfy the requirements of this section which necessitate a complaint be made in writing and be physically signed.

b) Complaints shall:

- 1) be based on personal knowledge, if possible, and if a complaint is based on information and belief, the complainant must state the source of that information and belief;
- 2) specify the conduct alleged to be in violation of Title 2 of Article 14 of the Election Law, or these rules, and to the extent known:
 - i. the date(s) and time(s) of the conduct,
 - ii. the place(s) the conduct occurred, and
 - iii. the names of witnesses, if any.
- 3) be accompanied by copies of all documentary evidence available to the complainant; and
- 4) contain the complainant's full name, current residence address, telephone number, and email address.

c)

- 1) Upon receipt, the complaint will be reviewed for substantial compliance with the requirements listed above and, to determine that the allegations contained therein would constitute a violation of Title 2 of Article 14 of the Election Law or these regulations, over which the PCFB has jurisdiction. If the complaint is deemed to be in compliance with the requirements of this section and puts forth an allegation that would constitute a violation of Title 2 of Article 14 of the Election Law or these regulations, the PCFB shall, within ten (10) business days of receipt of said complaint, provide written notice to the individual(s) that is the subject of the complaint describing the alleged violations contained therein, as well as a notice concerning document retention requirements. Such description shall include references to the provisions of law or regulation that are alleged to have been violated, along with a summary of the basis for such complaint. The board shall not include within the notice information that, in the discretion of the board, would prejudice the complainant or any potential investigation.
- 2) If after the review of the complaint it is determined that no violation of Title 2 of Article 14 of the election law or these regulations is alleged, or

that such allegations may be shown to be facially deficient, the board staff shall, as soon as practicable, take the necessary steps to dismiss the complaint, bring such dismissal recommendation to the board for ratification and advise the complainant of dismissal.

- 3) Upon receipt of notice from the PCFB, the subject(s) of a complaint ("respondent(s)") shall have twenty (20) business days from the date they received said notice to submit to the board a written answer to the allegations contained in the complaint and described in the notice; provided, however, that time in which a respondent(s) has to respond to such notice and provide a written answer may be less than twenty (20) days in a complaint that is received less than ninety (90) days before an election. If a respondent is required to respond in less than twenty (20) business days to a notice of complaint, such timeline for response shall be noted within the notice provided by the PCFB.

- i. The answer must:

- a) be sworn to or affirmed;
 - b) set forth a response to all allegations contained in the complaint, including any reasons why the PCFB should dismiss the complaint in full or in part, if applicable, and
 - c) be accompanied by copies of all documentary evidence available to the respondent deemed by them to support their position.

- 4) Within twenty (20) days of receipt of an answer to a notice of complaint, or as soon as practical thereafter, the PCFB shall determine whether to open an investigation into the allegations contained in the complaint or whether such complaint shall be dismissed. A determination to open an investigation shall be made upon a majority vote of the board.

- i. If the respondent fails to answer a notice of complaint, the PCFB shall do whatever due diligence it deems necessary in order to make its determination on whether to open an investigation into the allegations contained in the complaint or whether such complaint shall be dismissed based on the information it possesses and that which is contained in the complaint.

- d) If the complaint does not comply with subdivision (a) and (b) of this section, or if the complaint fails to allege a violation that would constitute a violation of Title 2 of Article 14 of the Election Law or these regulations, it shall be

rejected. The complainant shall be provided notice that his or her complaint has been rejected, along with the reasons for such rejection. A complainant shall be allowed to cure any defects in the complaint and resubmit such complaint to the PCFB in accordance with the provisions of this section.

- 1) Rejection of a complaint shall not prevent the PCFB from investigation, on its own initiative, any portion of a complaint received if it deems it appropriate to do so.
- e) Absent any exacerbating circumstances that may require it, at no time shall the PCFB publicly take an enforcement action or levy a fine against a candidate or committee to be found in violation of a provision of this title, within 30 days of election day.
- f) At no time shall public funds be used or earmarked for paying any fees associated with any action being maintained pursuant to this title.

6221.42 Enforcement

- a) Following the adoption of findings by the PCFB, made pursuant to section 6221.39 of this part, that a violation of Title 2 of Article 14 of the Election Law, or these regulations, has occurred, the PCFB shall initiate an enforcement proceeding consistent with this part.
- b) Upon such action by the PCFB, made pursuant to section 6221.39 of this part, the PCFB shall provide a notice of enforcement to the candidate and political committee. Such notice shall be served by personal service consistent with the Civil Practice Law and Rules or by certified mail; and, if known by the PCFB, supplemented by electronic mail.
 - 1) Such notice shall describe, with particularity, the findings adopted by the PCFB pursuant to section 6221.39 of this part; including written references to a specific law(s) or regulation(s) that the PCFB has found to have been violated, and the authorized penalty permitted by 6221.45 and 6221.46 of this Title associated with such violation(s).
 - 2) Such notice shall also advise the candidate and political committee of their right to contest the findings of the PCFB. A candidate or political committee may request a hearing upon the receipt of the PCFB's notice of enforcement. Such hearing request shall be made on a form prescribed by the PCFB. The notice shall provide a mailing address, fax number, and email

address where a political committee or candidate may return such form to request such hearing.

- c) If a candidate or political committee fails to request a hearing within twenty-one (21) days of the receipt of PCFB's notice of enforcement, such findings made by the board pursuant to section 6221.39 of this part, along with any associated penalties, shall be deemed final.

6221.43 Hearing Officers

- a) Hearings requested by a candidate or political committee shall be presided over by a Hearing Officer.
- b) Hearing Officers shall be selected from the panel of hearing officers that are appointed pursuant to section 3-104 of the Election Law and 9 NYCRR 6218.2.
- c) A Hearing Officer shall be assigned randomly to a particular matter. Such random assignment process shall be administered by the co-directors of the PCFB or their designees and shall occur upon each matter. For each assignment, all approved Hearing Officers shall be randomly listed, and the assignment shall be offered in the order of the list until an available Hearing Officer shall accept the assignment.
- d) Hearing Officers shall exercise, to the extent consistent with title 2 of Article 14 of the Election Law and the Rules, Regulations and Opinions of the PCFB, the powers and obligations of presiding officers as defined by the State Administrative Procedure Act (SAPA), in addition to such other powers and obligations as the Election Law and this Part shall provide.
- e) A Hearing Officer's remuneration, working conditions, case assignments, discipline or removal, shall not be based in any way on how a Hearing Officer's rulings, decisions or other actions favor or disfavor any party. There shall not be established any quotas or similar expectations for any Hearing Officer that relate in any way to how the Hearing Officer's rulings, decisions or other actions favor or disfavor the PCFB or any other party.
- f) In any pending adjudicatory proceeding, the Hearing Officer may not be ordered or otherwise directed to make any particular finding of fact, to reach any particular conclusion of law, or to make or recommend any specific disposition of a charge, allegation, question or issue by any party or other person.

- g) Unless otherwise authorized by law, a Hearing Officer shall not communicate in connection with any issue that relates in any way to the merits of an adjudicatory proceeding pending before such officer with any person except upon notice and opportunity for all parties to participate. A Hearing Officer may, however, communicate with staff of the PCFB as expressly permitted by subdivision 2 of section 307 of the State Administrative Procedure Act.
- h) A Hearing Officer shall not participate in any proceeding to which they are a party; in which they have been attorney, counsel or representative; in which they are interested; or if they are related by consanguinity or affinity to any party to the controversy. A Hearing Officer shall recuse themselves from any case in which they believe that there is, or there may be perceived to be, a conflict of interest or colorable question as to their impartiality.

6221.44 Hearing Procedure

- a) When a candidate or political committee requests a hearing, the PCFB shall request the assignment of a Hearing Officer, serve a Notice of Opportunity to be Heard and the Report of the PCFB ("Report") upon the respondents and provide the Report to the assigned Hearing Officer. The Report, which is also the Complaint initiating the adjudicatory process, shall consist of:
 - 1) a statement of the legal authority and jurisdiction under which the proceeding is to be held;
 - 2) a reference to the particular sections of the statutes, rules, regulations or opinions of the PFCB involved;
 - 3) a plain and concise statement of the facts constituting the alleged violation of the Election Law;
 - 4) a statement and citation indicating the penalty that has been determined;
 - 5) a statement that interpreter services are available if needed.
- b) The Notice of Opportunity to be Heard shall provide the respondent at least ten (10) business days from the date of service in which to file a written Answer to the Report. The notice shall state that the matter will be decided on the submitted papers unless the Respondent requests an in-person hearing in their written Answer. The notice shall state failure to answer may constitute a default determination in PCFB's favor.
- c)

- 1) The Notice of Opportunity to be Heard shall be served by personal service consistent with the Civil Practice Law and Rules or by certified mail; and, if known by the PCFB, supplemented by electronic mail of the Respondents. When by certified mail, service shall be complete when the notice of hearing and report are received by respondent.
- 2) Every Notice of Opportunity to be Heard shall be served with a copy of these rules, a plain language summary of these rules, a copy of articles 3, 4 and 5 of the State Administrative Procedure Act and relevant definitions under section 102 of the State Administrative Procedure Act.
- d) Every party shall be accorded the right to appear in person or by or with counsel, at his or her own expense.
- e) Respondent shall serve an Answer within ten (10) business days after service of the Notice of Opportunity to be Heard and Report. Such Answer may dispute the report of charges and interpose affirmative defenses, if any. If the respondent fails to answer, a default determination may be entered upon motion by the PCFB; provided, however, that the Hearing Officer may entertain untimely filings of an Answer by the candidate or political committee upon a showing of good cause. The PCFB, on notice to the Hearing Officer, may consent to an extension of time for respondent to answer the Report. Such request shall be in writing to an address so designated by the PCFB for such purpose and must be received no later than the close of business on the 5th business day after service of the Notice of Hearing and Report. If the PCFB denies the request for an extension, the Hearing Officer may grant such extension for good cause shown.
- f) The Hearing Officer shall, if an in-person hearing is requested in the Answer, notify the respondent of the date and time of the hearing by mail and, if provided, email. The date of the hearing shall be not less than seven (7) business days after the receipt of the Answer.
- g) The Hearing Officer assigned shall set the time at which a hearing shall be held, and shall grant or deny adjournments or continuations thereof. To the extent practicable, adjournments shall be scheduled by the Hearing Officer upon consultation with all participants. Notices of adjournment or continuation shall be transmitted directly to the parties by the Hearing Officer, with Notice provided to the PCFB.

- h) At the discretion of the Hearing Officer, conferences may be held for the formulation and simplification of issues, the possibility of obtaining admissions or stipulations of fact and of admissibility and authenticity of documents, the order of proof and of witnesses, discovery issues, legal issues, pre-hearing applications, scheduling, and settlement of the case.
- i) Other than conferences, all proceedings shall be open to the public.
- j) All adjudicatory proceedings will be conducted in accordance with the State Administrative Procedure Act, the Election Law, rules, regulations and opinions of the PCFB and all other applicable legal authority. Such law, regulations, opinions and authority shall, as relevant, be binding on all determinations and findings of the Hearing Officer. In all instances, due process of law will be observed, including the creation of a transcription of any hearing, which shall be done via audio recording.
- k) A respondent may request the Hearing Officer to direct the PCFB to provide a more definite statement or particularization of an alleged violation in the Report. If the Hearing Officer determines such request is reasonable, the Hearing Officer shall direct the PCFB to provide a more definite statement within a reasonable time frame.
- l) Upon request, an in-person hearing may be held by telephone; video conference; or in person, at the Hearing Officers discretion.
- m) The strict rules of evidence do not apply to administrative proceedings under this Part.
- n) If a party requires a subpoena to produce a witness or necessary materials for the specific purpose of an adjudicatory hearing conducted pursuant to this Part, an application for a subpoena may be made to the Hearing Officer and, upon good cause shown, shall be issued by the Hearing Officer as provided for by the State Administrative Procedure Law.
- o) Any person compelled to appear or who voluntarily appears before a Hearing Officer as a witness shall be accorded the right to be accompanied, represented and advised by counsel.
- p) The Hearing Officer shall make findings of fact and conclusions of law (“Determination”) based on a preponderance of the evidence as to whether a violation has been established and, if so, who is responsible for such violation. If it is determined that a violation has occurred, any penalty associated shall be consistent with 6221.45 and 6221.46 of this Title. The determination of the

Hearing Officer shall be forwarded to the PCFB with a copy thereof being forwarded to the respondent(s) by certified mail and email.

- q) Any party may submit proposed findings of fact within time limitations set by the Hearing Officer. Such findings of fact shall be captioned, and shall be consecutively numbered and shall be typed legibly on plain, white bond, standard weight paper, 8 1/2 x 11 inches in size. Such proposed findings of fact shall recite basic facts and not evidentiary facts and shall not be conclusions of law. A basic fact would be "John Jones visited Syracuse," and not "John Jones testified that he visited Syracuse," which is an evidentiary fact. A conclusion of law would be "John Jones has demonstrated untrustworthiness within the meaning of section 441-c of the Real Property Law." In general, it is expected that the complaint will allege the basic facts which would otherwise be contained in a statement of proposed findings of fact. In accordance with section 307(1) of the State Administrative Procedure Act, the person assigned to render a decision will rule on each finding of fact. Such decision maker will do so by marking the instrument setting forth the proposed findings of fact a part of the decision and noting in the margin thereof the ruling, i.e., "Found," "Not Found," "Irrelevant," "Evidentiary," "Conclusion of Law," which rulings may be abbreviated meaningfully. The body of the decision will contain such findings of fact as the decision maker deems relevant, but need not be expressed in the same language as presented in the proposed findings.
- r) Except by consent of the parties, every adjudicatory proceeding under this Part shall be brought to completion by the issuance of the Hearing Officer's findings of fact and conclusions of law within thirty (30) days after, as applicable:
- 1) the date of the hearing; or
 - 2) if no hearing was held, the date the Answer was served; or
 - 3) if no Answer is served, the date the Answer was due.
- s) A failure of the Hearing Officer to observe the time limitations established by this section shall be reviewable under article 78 of the Civil Practice Law and Rules in a proceeding in the nature of mandamus.
- t) The PCFB may, in the exercise of discretion, enter into settlement agreements with willing respondents, provided such provisions are not contrary to law or the rules, regulations and relevant opinions of the PCFB. Settlement agreements shall be entered into on a fair, equitable and uniform basis without regard to the status of the respondent who is the subject of the

Report. If a settlement agreement is entered into before the Hearing Officer makes findings of fact, such settlement agreement shall, in accordance with its terms and conditions, constitute a final administrative disposition of the adjudicatory proceeding and shall be brought before the PCFB for final approval

- u) Determinations of the Hearing Officer shall be forwarded to the commissioners of the PCFB. The commissioners may accept the Hearing Officer's determination, or, may alter such determination based on the record presented. If the commissioners alter the hearing officer's determination, it shall provide a written justification explaining the rationale for such alteration. Such written justification shall be provided to the respondent of the hearing.
- v) The PCFB shall provide written notice of the final determination to the respondents via certified mail and electronic mail.
- w) The PCFB shall be responsible for the costs of administering hearings. This shall not include any expenses of any complainant or respondent to the hearing.

6221.45 Penalties and Fines; Assessment.

- a) Upon a determination by the PCFB staff or Hearing Officer that a violation has occurred, the PCFB or the Hearing Officer through the staff, shall make a recommendation to the PCFB that a fine as outlined in section 6221.46 of this part be assessed against the committee and, in some circumstances, the candidate; and require a repayment of funds, and/or decertify the candidate and their committee from participation in the public financing program. Future payments may be reduced, prior payments may be recouped and/or a special proceeding or civil action may be instituted pursuant to section 14-209 of the Election Law to obtain a judgment. Upon its discretion, the PCFB may also settle any fines and penalties in a final determination in accordance with subdivision (b) of this section.
- b) The PCFB shall use the standard penalty schedule in Part 6221.46 to determine penalties for violations of Title 2 of Article 14 of the Election Law and the rules of this Title. This schedule provides standard penalties for such violations.
- c) Treasurers, the authorized committee, and in certain instances as set out in the statute, the Candidate, may be held jointly and severally liable for the payment of penalties or the repayment of funds.

- d) Prior to any finding of a determination of a violation being found, the Candidate, Committee and Treasurer shall be notified of the alleged violation and shall be given forty-five (45) days to work with the PCFB staff to cure or explain the alleged deficiency or violation.
- e) If the alleged deficiency or violation cannot be resolved within the forty-five (45) day period, a notice of determination shall be issued and served pursuant to Section 6221.42 (“Enforcement”) of this Part and the process outlined therein, as well as in Sections 6221.43 (“Hearing Officers”) and 6221.44 (“Hearing Procedure”) of this Part, shall take effect.
- f) No penalty or fine shall be recommended for levy to the PCFB that is less than \$300.00 prior to the final audit. If a violation would result in a penalty of less than \$300, it shall be noted in audit records, and an advisory shall be sent to the political committee and candidate. Such fines may be issued subsequent to the final audit, where the Candidate, Committee and/or Treasurer will have the same opportunity to respond as set out in subdivisions (d) and (e) above.
- g) A penalty or fine above the standard amount may be recommended to the PCFB for imposition if the violation appears to have been knowing or willful. If a penalty is determined to be above the standard amount, the treasurer, political committee and the candidate will be informed of the reason for the penalty enhancement in the enforcement notice and will be given an opportunity to respond to the allegation that it acted knowingly or willfully with regard to the violation.
- h) The fact that any committee shall not be randomly chosen to be formally audited shall not prevent the staff from recommending any additional penalties to the PCFB within 90 days of a Primary or Special Election and 180 days from a General Election.

6221.46 Standard Penalties

- a) (a)The schedule of penalties in this section shall only apply to the 2023-2024 election cycle, and shall not be applicable to future election cycles. Subsequent to the 2023-2024 election cycle, the PCFB shall adopt regulations adopting a schedule for future election cycles.
- b) (b)Accepting a contribution of more than \$5,000 from a corporation, limited liability company (LLC), or partnership is prohibited.

If the overage was returned on or before the first deadline provided by PCFB or, if an extension is granted, by the new deadline	If the overage was returned no later than twenty-days of the deadline provided in the notification from PCFB	If returned later than the twenty-days following the deadline provided in the notification from PCFB or not returned at all
No penalty shall be issued	The greater of \$125 or 25% of the amount of the overage	The amount of the overage, plus the greater of: 1) \$250 or 2) 50% of the amount of the contribution

c) Campaigns are prohibited from accepting contributions (monetary or in-kind) in excess of the applicable contribution limit. No violation shall be issued if the overage is returned by the first deadline provided by the PCFB (or, if an extension is granted, by the new deadline).

If the overage was returned on or before the first deadline provided by PCFB or, if an extension is granted, by the new deadline	If the overage was returned no later than twenty-days of the deadline provided in the notification from PCFB	If returned later than the twenty-days following the deadline provided in the notification from PCFB or not returned at all
No penalty shall be issued	The greater of \$250 or 50% of the amount of the overage	The amount of the overage, plus the greater of: 1) \$250 or 2) 50% of the amount of the contribution

d) Campaigns are prohibited from accepting contributions from anonymous sources. No penalty shall be issued if disgorgement is made by the first deadline provided by the PCFB (or, if an extension is granted, by the new deadline),

If disgorgement on or before the first deadline provided by PCFB or, if an extension is granted, by the new deadline	If disgorgement was returned no later than twenty-days of the deadline provided in the notification from PCFB	If disgorged later than the twenty-days following the deadline provided in the notification from PCFB or not returned at all
The greater of \$125 or 25% of the amount of the contribution	The greater of \$250 or 50% of the amount of the contribution	The amount of the overage, plus the greater of: 1) \$250 or 2) 50% of the amount of the contribution

e) Campaigns are required to file timely and substantially complete disclosure statements on scheduled dates. Filing late Disclosure Statements shall be issued penalties as follows:

<u>Daily Penalty</u>	Assembly, Senate	Lieutenant Governor, Attorney General, Comptroller	Governor
	\$25	\$50	\$100

f) A statement that is not filed by the due date of the next statement shall be considered a “failure to file.” Any otherwise matchable contributions contained within that filing when made, or that are received during the applicable timeframes for reporting on that filing, shall be excluded from being matched. In addition, a fine of (see below) shall be imposed.

Assembly, Senate	Lieutenant Governor, Attorney General, Comptroller	Governor
\$1,000	\$3,500	\$5,000

g)

- 1) Campaigns are required to maintain all receipts and to provide bank records, including bank statements and deposit slips, to substantiate their reporting upon request.
- 2) Campaigns shall report all financial transactions in disclosure statements filed according to the schedule provided by the Board. If further documentation regarding receipts and/or expenditures is requested, a committee shall provide the requested documentation within 10 days of such request; provided, however, that if a request for documentation is made within 30 days of an election or post-election, a committee shall have 2 days to provide the requested documentation.
 - i. If further documentation regarding receipts or expenditures is requested by the PCFB pursuant to paragraph (2) of subdivision (g) of this section, and upon review thereof it is found a discrepancy exists in what is reported and what should have been reported during a particular timeframe, the committee shall be given two (2) days to amend the filings to be compliant and shall be assessed a penalty in the amount of 5% of the total funds that should have been reported as received or expended on any particular report; provided, however, that the penalty shall be 20% of the total funds that should have been reported as received or expended on any particular report if such report was to be filed within 30 days of election day.
 - ii. In the event that a campaign fails to provide the requested documentation, such campaign shall be suspended from further participation in the program until such documents are provided, or an adequate explanation of why they cannot be provided is given.
 - iii. If the filings are not amended to be compliant within the time frame provided, in addition to the penalty provided for in subparagraph (i) of this paragraph, an additional penalty in the amount of 10% of the total amount received or expended shall be imposed, and such failure to amend a filing shall be deemed a failure/late filing and the applicable penalties provided for

by this section shall be assessed. For purposes of assessing a penalty, the filing due date shall be considered the last day to amend the filing pursuant to this paragraph.

- iv. In the event that the board staff, in consultation with the campaign, determines that the reporting error was an error in entering the information or another type of minor transcription error, the fine may be waived.
- h) Campaigns are required to report the occupation, employer, and business address of each contributor whose total contributions exceed \$99. Each filer shall be given notice on the first two filings that contain less than 5 of these omissions. After those two notices for any filing missing this required information the standard penalty for this violation is \$2 per contribution for any required information was not provided.
- i) Campaigns are prohibited from converting campaign funds to a personal use. The standard penalty for purchasing goods or services for personal use that total less than Two Thousand Five Hundred (\$2,500.00) Dollars, such as personal or household items, food, etc. shall be 125% of the amount spent, in addition to the return of that amount to the campaign. However, for conversion of campaign funds to a personal use the value of which is greater than Two Thousand Five Hundred (\$2500.00) Dollars, the Board shall assess a penalty of up to Five Thousand (\$5,000.00) Dollars per violation and require the candidate to return all public funds previously received pursuant to a finding of breach of certification. In addition, a referral to law enforcement shall be made.
- j) Campaigns are required to use funds for authorized campaign related expenditures. The standard penalty for campaign related non-authorized expenditures (other than personal use) is 25% of the amount of the transactions.
- k) After an election and before repaying leftover campaign funds to the Board, participants may spend campaign funds only to pay campaign-related expenses incurred in the preceding election and for “routine activities involving nominal cost associated with winding up a campaign and responding to the post-election audit.” The standard penalty for this violation is the amount of transactions at issue. The penalty may be increased to 125% of the amount of the transactions if either 1) the expenditures are in the form of

excessive additional payments to pre-election staff (e.g., a staff member's pay rate during the post-election period increases significantly from their pre-election pay rate without sufficient explanation) after a hearing is held, or 2) the amount of the expenditures is 25% or more of the amount that the campaign would otherwise be required to repay in public funds.

- l) Campaigns must include the words "paid for by," followed by information identifying the candidate or committee. If after a hearing a campaign has been found to disseminate or authorize the dissemination of campaign materials without the correct attribution being included such as a "paid for by" or "authorized by" notice, the standard penalty is the lesser of Five Hundred (\$500.00) or 25% of the cost of the communication. If the communication does contain a "paid for by" or "authorized by" notice that is not of a "conspicuous size and style" or clearly spoken, the standard penalty is the lesser of Fifty (\$50.00) Dollars or 10% of the cost of the communication.
- m) Campaigns are required to establish and maintain a separate campaign bank account for any and all transactions regarding the matching of funds and expenditures related to and covered by the public financing program and to report all bank, merchant, and depository accounts used for campaign purposes. The standard penalty for each of these violations is the lesser amount of 5% of the amount at issue or Two Hundred Fifty (\$250.00) Dollars. If there is evidence that the campaign is intentionally trying to manipulate the filing system and requirements through the use of an additional unauthorized account, the fine shall be One Thousand (\$1,000.00) Dollars. The campaign shall have a right to rebut such a finding of intention and if successful, the fine shall revert back to the standard previously set out in the paragraph.
- n) Prior to or during an audit, campaigns are required to provide copies of bank, credit card, and merchant account statements, for all accounts used for each election. The standard penalty for failing to provide bank or credit card statements within the allotted time frame is: Fifty (\$50.00) Dollars per statement for candidates for the Senate and Assembly; One Hundred (\$100.00) Dollars per statement for candidates for lieutenant governor, attorney general, and comptroller; and Two Hundred (\$200.00) Dollars per statement for candidates for governor. The standard penalty for failing to provide merchant account statements is Twenty-Five (\$25.00) Dollars per statement. Such statement may be waived if the PCFB staff are convinced that

the campaign has made all efforts to obtain such statement but has been unable to do so. The criteria for “all efforts made” shall be outlined by the PCFB and shall be applied equally to all such waiver requests.

- o) Campaigns are prohibited from accepting cash contributions in the aggregate from a contributor greater than One Hundred (\$100.00) Dollars. The standard penalty for this violation is 25% of the overage plus the amount of the overage. If the over-the-limit portion is refunded, the penalty is 25% of the overage.
- p) Campaigns are required to maintain records, such as copies of checks, invoices, and bank records, to verify financial transactions reported in disclosure statements, and campaigns are required to provide such records to the Board upon request and to respond to specific questions regarding compliance with PCFB rules. If campaigns provide such documentation late, the penalty shall be Fifty (\$50.00) Dollars per day late, up to the greater of 2% of public funds received or Five Hundred (\$500.00) Dollars. If the campaign fails to respond, the penalty shall be the greater of 10% of public funds received, up to Fifteen Thousand (\$15,000.00) Dollars, or One Thousand (\$1,000.00) Dollars.
- q) If after a hearing the PCFB finds that there has been material misrepresentation, fraud, or submission of false or fictitious information, it shall cancel the candidate certification to participate and require the campaign to return all public funds previously received. Additionally, the campaign shall be fined up to Fifteen Thousand (\$15,000.00) Dollars and refer all such campaigns and candidates found to have knowingly participated in such fraud to law enforcement.
- r) Nothing in this section shall preclude the PCFB from issuing a fine or penalty for a violation of Title II of Article 14 of the Election Law or these regulations that is not listed in this schedule.