

**PROPOSED REGULATION OF
THE SECRETARY OF STATE**

LCB File No. R093-23

November 7, 2023

EXPLANATION – Matter in *italics* is new; matter in brackets ~~omitted material~~ is material to be omitted.

AUTHORITY: § 1, NRS 293.124, 294A.380 and 294A.420.

A REGULATION relating to elections; revising certain provisions relating to the waiver of certain civil penalties for violations of statutes relating to campaign finance; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law provides that a candidate, person, organization, committee, political party or nonprofit corporation that violates certain provisions of the Nevada Revised Statutes relating to campaign finance is subject to certain civil penalties. Existing law further authorizes the Secretary of State to waive such a civil penalty for good cause shown. (NRS 294A.420) Existing regulations sets forth the circumstances that constitute good cause for waiving such a civil penalty. (NAC 294A.097) **Section 1** of this regulation eliminates these provisions from the Nevada Administrative Code.

Existing law provides that if the Secretary of State waives a civil penalty for good cause, the Secretary of State is required to: (1) create a record which sets forth that the civil penalty has been waived and describes the circumstances that constitute the good cause shown; and (2) ensure that such record is available for review by the general public. (NRS 294A.420) **Section 1** requires any such record to be posted on the Internet website of the Office of the Secretary of State.

Section 1. NAC 294A.097 is hereby amended to read as follows:

294A.097 1. The Secretary of State may waive a civil penalty for good cause pursuant to subsection 4 of NRS 294A.420, if the person, committee for political action or entity that is subject to a civil penalty pursuant to NRS 294A.420:

(a) Files a written request for a waiver setting forth the basis for the waiver; *and*

(b) Properly files the appropriate report pursuant to the applicable provisions of chapter 294A of NRS . ~~f; and~~

~~—(c) Establishes that:~~

~~——(1) Within a reasonable time before or on the date the applicable report was due, the candidate or a member of the family of the candidate, within the second degree of consanguinity or affinity, died, had a serious medical condition or was hospitalized;~~

~~——(2) The candidate is experiencing extreme financial hardship to the extent that payment of the penalty would result directly in the loss or inability of the candidate to obtain the minimal necessities of food, medicine and shelter;~~

~~——(3) The candidate or each officer and representative of the committee for political action or entity is or was a member of the Armed Forces of the United States serving outside of the State or country within a reasonable period of time before or on the date the applicable report was due and the candidate or each officer and representative of the committee for political action or entity executes an affidavit under penalty of perjury attesting to such facts;~~

~~——(4) The candidate has been directly impacted by a natural disaster;~~

~~——(5) The entity is organized as a nonprofit under the laws of the State of Nevada, has no paid employees and is comprised only of volunteers and:~~

~~——(I) The representative of the entity who is responsible for filing the appropriate report on behalf of the entity pursuant to the applicable provisions of chapter 294A of NRS, or a member of the family of such a representative, meets the conditions set forth in subparagraph (1) of paragraph (c); or~~

~~——(II) The representative of the entity who is responsible for filing the appropriate report on behalf of the entity pursuant to the applicable provisions of chapter 294A of NRS has, without~~

~~notice, severed his or her relationship with the entity within a reasonable time before or on the date that the applicable report was due; or~~

~~— (6) The violation was not due to mere inadvertence, mistake or neglect, and circumstances exist of a similarly serious nature as set forth in this subsection to justify a waiver of the civil penalty, including, without limitation, an obligation to report for active military service or to serve in an official capacity in response to a public emergency. }~~

2. The Secretary of State, with the approval of the Attorney General and for good cause, may reduce a civil penalty imposed pursuant to NRS 294A.420 if:

(a) The penalty is being imposed for a failure to properly file a report or form for registration; and

(b) The person, committee for political action or entity that is subject to a civil penalty pursuant to NRS 294A.420 first properly files the appropriate report or form.

3. The Secretary of State will not waive or reduce a civil penalty imposed pursuant to NRS 294A.420 for good cause on the basis that the Secretary of State did not send a reminder notice that a report or form for registration was due before the applicable deadline.

4. If the Secretary of State waives a civil penalty imposed pursuant to subsection 4 of NRS 294A.420, the Secretary of State will ensure that the record created pursuant to paragraph (a) of subsection 6 of NRS 294A.420 which sets forth that the civil penalty has been waived and describes the circumstances that constitute the good cause shown is posted on the Internet website of the Office of the Secretary of State.