



STATE OF MICHIGAN  
JOCELYN BENSON, SECRETARY OF STATE  
DEPARTMENT OF STATE  
LANSING

March 22, 2024

Tom Graham  
3330 S. 4<sup>th</sup> St  
Kalamazoo, MI 49009

Dear Mr. Graham:

The Department of State (Department) acknowledges receipt of your letter dated January 10, 2024, in which you sought a declaratory ruling or interpretive statement under the Michigan Campaign Finance Act (Act or MCFA).

In accordance with publication and public comment period requirements, the Department posted your request on its website and informed email subscribers of the deadline to file written comments. MCL 169.215(2). The Department did not receive any public comments during the initial public comment period.

The Department issued its preliminary response on March 11, 2024, and posted it for public comment in accordance with requirements in the MCFA and Administrative Procedures Act (APA), 1969 PA 306, MCL 24.201 *et seq.* The Department also notified email subscribers of the preliminary response and the deadline to file public comments. No public comments were received within 5 business days after the preliminary response was made available to the public. MCL 169.215(2). Given that no public comments were received, the Department's preliminary response is provided as its final interpretive statement regarding your question.

The MCFA and Administrative Procedures Act (APA), 1969 PA 306, MCL 24.201 *et seq.*, require the Department to issue a declaratory ruling if an interested person submits a written request that presents a question of law and a reasonably complete statement of facts. MCL 24.263, 169.215(2). If the Department declines to issue a declaratory ruling, it must instead offer an interpretive statement "providing an informational response to the question presented[.]" MCL 169.215(2).

Your letter indicates that in 2022 you ran for a seat on the Kalamazoo County Board of Commissioners but were not elected to that position. Following the election, you filed your post-election campaign finance statement in December 2022, but failed to dissolve your committee. As the filer for an active committee, you were required to submit quarterly campaign statements by July 25, 2023, and October 25, 2023. You acknowledge and do not dispute these reports were not filed by the statutory deadlines. However, you indicate it was not until December 29, 2023, when you allege you received your first notification that you had failed to file reports when you received two notices of late filing fees for both July and October, 2023, in the same envelope. A copy of the notices and envelope were provided to the Department as part of your declaratory ruling request.

In your request, you argue that, had you been given timely notice of the first late filing and corresponding fee, you would have filed the October quarterly report and would not have incurred a second late filing fee. You indicate that a determination by the Department that the clerk was required to give you timely notice may allow for a refund of your second late filing fee.<sup>1</sup>

This statement of facts is insufficient to warrant the issuance of a declaratory ruling, so the Department will issue this interpretive statement. As is customary, the Department starts with the plain language of the Act. In interpreting a statute, the goal is to “ascertain and give effect to the intent of the Legislature.” *People v Gardner*, 482 Mich 41, 50 (2008), quoting *People v Pasha*, 466 Mich 378, 382 (2002). “To do so, we begin with the language of the statute, ascertaining the intent that may reasonably be inferred from its language. When the language of a statute is unambiguous, the Legislature’s intent is clear and judicial construction is neither necessary nor permitted.” *Odom v Wayne County*, 482 Mich 459, 467 (2008), quoting *Lash v Traverse City*, 479 Mich 180, 187 (2007).

Section 16(6) of the MCFA states that “[w]ithin 4 business days after the deadline for filing a statement or report under this act, the filing official shall give notice to the filer by registered mail of an error or omission in the statement or report **and give notice to a person the filing official has reason to believe is a person required to and who failed to file a statement or report.**” MCL 169.216(6) (emphasis added). Campaign statements that are not received by 5 p.m. on the day they are required to be filed begin to accrue late filing fees. MCL 169.216(9). Filers who fail to file or fail to correct errors or omissions indicated by the filing official must be referred to the Attorney General after nine business days. MCL 169.216(8).<sup>2</sup>

The four-day notice requirement in section 16(6) applies to the notice to the filer that a *required report has not been filed*, which is technically separate from your specific question as to the timeline for a notice that a *late filing fee* is owed. However, the body of your declaratory ruling request and the supporting documentation submitted reference both a notice of late filing and a notice of late filing fee – two distinct documents. While this interpretive statement responds to your question posed and thus focuses on the deadline by which the clerk must send a “late filing fee” notice, the Department finds it instructive to highlight the difference between these documents. Section 16(6) of the MCFA establishes a clear four business day requirement for the filing official to provide notice of a *late filing*. If, as you allege, you did not receive any notice of late filing for the missed quarterly campaign statements until December 2023, the late filing notices did not meet the requirements established in the MCFA.

The question you presented to the Department, however, does not concern the notice of late filing. Specifically, you requested a ruling on when the clerk is required to send a “late filing fee” notice to a committee that has been assessed late filing fees. The Act does not contain a specific requirement that filing officials send a notice of a late filing fee being imposed on a committee. However, section 17 of the Act requires the obligation for unpaid fees imposed by the county clerk to be turned over to the treasurer for collections if they remain unpaid for more than 60 days. Accordingly, it is reasonable to conclude that 60 days is the time at which an unpaid fee is

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<sup>1</sup> Of note, in a 1980 interpretive statement, the Department found that “[t]he Act does not give the Department of State any authority to reduce, waive, or suspend late filing fees, even if meritorious defenses are presented.” *Interpretive Statement to Patricia Davis*, issued October 29, 1980.

<sup>2</sup> <http://legislature.mi.gov/doc.aspx/mcl-169-216>

considered a debt owed to the county, and that the filer should be notified by that time of such a debt.

Therefore, in response to your question of when a county clerk must send notice of a late filing fee being imposed, the Department concludes that a clerk shall notify a committee after four business days if a report goes unfiled, but there is no requirement that they notify a committee when they impose a fine for failing to file. While there is no explicit statutory requirement for the timing of the notice, it is reasonable to conclude that before the late filing fee obligation becomes a debt owed to the county, the clerk should notify the filer of the obligation, separate from the notice that the filer has failed to file a report.

The foregoing constitutes an interpretive statement with respect to the questions presented in your January 10, 2024, letter.

Sincerely,

s/Christina Hildreth Anderson

Christina Hildreth Anderson  
Chief of Staff