



TEXAS ETHICS COMMISSION



ETHICS ADVISORY OPINION NO. 648

September 23, 2026

ISSUE

Whether the TEC may impose a civil penalty pursuant to Section 572.033 of the Government Code for a late personal financial statement (PFS) if the Texas Ethics Commission (TEC) did not send the filer a notice to file as required by Section 572.030 of the Government Code? (AOR-752)

SUMMARY

The TEC must impose a civil penalty pursuant to Section 572.033 of the Government Code for a late PFS even if it did not send the filer a notice to file as required by Section 572.030 of the Government Code.

FACTS

The TEC assumes the following facts for the purpose of this opinion. The requestor was required to file a PFS under Chapter 572 of the Government Code as a state officer. The TEC did not send the requestor notice of his filing requirement prior to the filing deadline. The requestor did not timely file his PFS, which would subject him to a civil penalty under Section 572.033 of the Government Code.

ANALYSIS

Under Section 572.021 of the Government Code, state officers are required to file a PFS with the TEC. The filing deadline for a state officer's PFS is dependent on the category of state officer at issue and whether the report is the first PFS filed by the individual. Tex. Gov't Code § 572.026. For example, some deadlines go by the date of appointment or the date an individual assumes the duties of the position, while other state officers must file by April 30th. *Id.* Based on these deadlines the TEC is required to send a state officer a notice to file within a specified time frame prior to the filing deadline. *Id.* § 572.030(c). The notices shall state in pertinent part, that the individual is required to file a PFS, the filing date, and how the individual may obtain the PFS form. *Id.* § 572.030(b). If the

state officer does not timely file the required PFS, he is subject to a \$500 civil penalty as well as a criminal penalty. *Id.* §§ 572.033(b), 572.034;¹ 1 Tex. Admin. Code § 18.13(a)(1).

Based on this legal framework, the requestor asks whether the TEC may impose a civil penalty for a late PFS if the TEC did not provide the state officer the notice required under Section 572.030. Although sending the notice to file is a requirement placed on the TEC, the statute imposing the civil penalty does not provide a penalty exception based on lack of notice. *See* Tex. Gov't Code § 572.033. Rather, the imposition of the penalty is based solely on whether the PFS was filed in compliance with the deadlines set forth in Section 572.026. *Id.* § 572.033. Therefore, the TEC must impose a civil penalty on a state officer for a late PFS even if no notice to file was provided.² This position is further supported by the fact that Section 572.034 provides a state officer with a defense to a criminal penalty based on a late PFS if he did not receive copies of the PFS form if the filer requested the form. Chapter 572 provides no defense for the TEC's failure to provide notice. Had the legislature intended the similar defense be applied to the imposition of a civil penalty, it would have added that language to the civil penalty statute.

It is worth noting, though, that the TEC does provide filers with the opportunity to seek a waiver or reduction of a civil penalty associated with a late report. 1 Tex. Admin. Code § 18.21. Assuming the filer files the report at issue, he may then submit a statement of defense to the TEC explaining the circumstances leading to the late report. *Id.* In the case of a late PFS, if the filer has no prior late offenses in the five years preceding the report at issue, the civil penalty will be waived. *Id.* § 18.25. If the filer has one or two late offenses, the penalty will be reduced. *Id.* However, the TEC does not consider a prior late report a "prior late offense" if no late notices were sent and a waiver or reduction was not requested. *Id.* § 18.24(a)(1). Therefore, if a filer files multiple late reports at the same time, and has no other late reports, the civil penalty assessed for each late report will be waived upon the filer's request for a waiver or reduction. *Id.* §§ 18.24(a)(1), 18.25.

Furthermore, even if a late report does not qualify for an automatic waiver or reduction, if the filer properly appeals the TEC's penalty determination, the Commission has the authority to waive or reduce a civil penalty at its own discretion based on the facts presented.

¹ This penalty may increase if the PFS is filed more than 30 days late and the penalty is not timely paid. Tex. Gov't Code § 572.033(b); 1 Tex. Admin. Code § 18.15. Failure to timely file a PFS is also a Class B misdemeanor. *Id.* § 572.034.

² Based on the same line of reasoning, it should be noted that a state officer's requirement to file a PFS is also not excused based on a lack of notice to file. *See* Tex. Gov't Code § 572.021.