



NOTICE OF PUBLIC MEETING AND POSSIBLE EXECUTIVE SESSION OF THE STATE OF ARIZONA CITIZENS CLEAN ELECTIONS COMMISSION

Location: Citizens Clean Elections Commission
1616 West Adams, Suite 110
Phoenix, Arizona 85007

Date: Thursday, September 28, 2017

Time: 9:30 a. m.

Pursuant to A.R.S. § 38-431.02, notice is hereby given to the Commissioners of the Citizens Clean Elections Commission and the general public that the Citizens Clean Elections Commission will hold a regular meeting, which is open to the public on September 28, 2017. This meeting will be held at 9:30 a.m., at the Citizens Clean Elections Commission, 1616 West Adams, Suite 110, Phoenix, Arizona 85007. The meeting may be available for live streaming online at www.livestream.com/cleanelections. Members of the Citizens Clean Elections Commission will attend either in person or by telephone, video, or internet conferencing.

The Commission may vote to go into executive session, which will not be open to the public, for the purpose of obtaining legal advice on any item listed on the agenda, pursuant to A.R.S. § 38-431.03 (A)(3). The Commission reserves the right at its discretion to address the agenda matters in an order different than outlined below.

The agenda for the meeting is as follows:

- I. Call to Order.
- II. Discussion and Possible Action on Commission Minutes for August 31, 2017 meeting.
- III. Discussion and Possible Action on Executive Director's Report.
- IV. Discussion and Possible Action on Rule Amendment Proposals:
 - A. R2-20-402.01 – Random Audits of Participating Legislative Candidates (approved for public comment on June 22, 2017)
 - B. R2-20-106 – Distribution of Funds to Certified Candidates (proposed rule change)
- V. Discussion and Possible Action on the following related issues:
 - A. Citizens Clean Elections Act §§ 16-941, -942, 956 & 957.
 - B. The Governor's Regulatory Review Council's activities related to the Commission.
 - C. The Secretary of State's office actions related to Commission rules and the 2017 Interagency Service Agreement between the Commission and the Secretary of State.

D. Clean Elections Commission Rules

1. R2-20-109
2. R2-20-111

The Commission may choose to go into executive session on Item V for discussion or consultation with its attorneys to consider its position and instruct its attorneys regarding the public body's position regarding contracts, in pending or contemplated litigation or in settlement discussions conducted in order to avoid or resolve litigation. A.R.S. § 38-431.03(A)(4).

VI. Public Comment

This is the time for consideration of comments and suggestions from the public. Action taken as a result of public comment will be limited to directing staff to study the matter or rescheduling the matter for further consideration and decision at a later date or responding to criticism

VII. Adjournment.

This agenda is subject to change up to 24 hours prior to the meeting. A copy of the agenda background material provided to the Commission (with the exception of material relating to possible executive sessions) is available for public inspection at the Commission's office, 1616 West Adams, Suite 110, Phoenix, Arizona 85007.

Dated this 25th day of September, 2017.

Citizens Clean Elections Commission

Thomas M. Collins, Executive Director

Any person with a disability may request a reasonable accommodation, such as a sign language interpreter, by contacting the Commission at (602) 364-3477. Requests should be made as early as possible to allow time to arrange accommodations.

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THE STATE OF ARIZONA

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CITIZENS CLEAN ELECTIONS COMMISSION

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REPORTER'S TRANSCRIPT OF PUBLIC MEETING

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Phoenix, Arizona

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August 31, 2017

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9:31 a.m.

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COASH & COASH, INC.

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<p style="text-align: right;">Page 2</p> <p>1 PUBLIC MEETING BEFORE THE CITIZENS CLEAN 2 ELECTIONS COMMISSION convened at 9:31 a.m. on August 31, 3 2017, at the State of Arizona, Clean Elections 4 Commission, 1616 West Adams, Conference Room, Phoenix, 5 Arizona, in the presence of the following Board members: 6 7 Mr. Steve Titla, Chairman 8 Mr. Mark S. Kimble 9 Mr. Damien Meyer 10 Mr. Galen D. Paton 11 Ms. Amy B. Chan 12 13 OTHERS PRESENT: 14 Thomas M. Collins, Executive Director 15 Paula Thomas, Executive Officer 16 Sara Larsen, Financial Affairs Officer 17 Gina Roberts, Voter Education Director 18 Mike Becker, Policy Director 19 Alec Shaffer, Web Content Manager 20 Stephanie Cooper, Executive Support Specialist 21 Kara Karlson, Assistant Attorney General 22 Mary O'Grady, Osborn Maledon 23 Joseph Larue, Assistant Attorney General 24 Joseph Kanefield, Ballard Spahr 25 Rivko Knox, League of Women Voters Christina Borrego, Riester Christina Stone, Riester Joel Edman, Arizona Advocacy Network</p>	<p style="text-align: right;">Page 4</p> <p>09:32:47-09:33:42</p> <p>1 Chan. 2 All in favor say aye. 3 (Chorus of ayes.) 4 CHAIRMAN TITLA: Opposed? 5 (No response.) 6 CHAIRMAN TITLA: Abstain? 7 (No response.) 8 CHAIRMAN TITLA: Motion is carried 9 unanimously. 10 So we will jump to VI, Item VI and wait for 11 Tom to come in later. This Item VI is on discussion 12 and possible action on the Voter Education updates. 13 MS. ROBERTS: Yes, sir. Mr. Chairman, 14 Commissioners, thank you. I'm so excited. I never get 15 to go first. 16 So we wanted to give the Commission an 17 update on Voter Education activities that have occurred 18 throughout the year and also what staff is doing to 19 prepare for 2018. 20 So we'll jump into what we've done so far 21 this year and, first, I wanted to thank everybody who 22 was able to attend the roundtable. We appreciated 23 everybody's presence there. And in your packets you do 24 have the summary which basically took our notes from 25 all the presentations and our notes from the breakout</p>
<p>09:31:41-09:32:47</p> <p style="text-align: right;">Page 3</p> <p>1 PROCEEDING 2 3 CHAIRMAN TITLA: It's 9:30 a.m., the time 4 for the meeting for the Citizens Clean Elections 5 Commission. The meeting is called to order at 9:30 6 a.m. 7 And Tom Collins is not here. He's stuck in 8 traffic. So I would like to -- if it's okay with the 9 commissioners, to go from I to II and then maybe to VI, 10 if that's okay. 11 Is Number VI ready? Okay. So why don't we 12 go to Number II, discussion and possible action on the 13 Commission minutes for July 20, 2017 and August 22, 14 2017. 15 COMMISSIONER KIMBLE: Mr. Chairman? 16 CHAIRMAN TITLA: Commissioner Kimble. 17 COMMISSIONER KIMBLE: I move that we 18 approve the minutes for July 20th, 2017 and 19 August 22nd, 2017. 20 CHAIRMAN TITLA: Okay. There's a motion by 21 Commissioner Kimble to approve the minutes for July 20 22 and August 22nd, 2017. 23 Is there a second? 24 COMMISSIONER CHAN: I second that motion. 25 CHAIRMAN TITLA: Seconded by Commissioner</p>	<p>09:33:45-09:34:52</p> <p style="text-align: right;">Page 5</p> <p>1 roundtable sessions and consolidated it into a 2 summarized report. And we did share that with all of 3 the participants, and of course, we have our detailed 4 notes as well, too. 5 So there was about 100 people that 6 attended. And a little bit of background, we first 7 held a roundtable event in 2015, and we only invited 8 county recorders and county election directors at that 9 point. And the reason for that was we wanted to have 10 a, you know, greater discussion with the counties who 11 are the folks that are on the ground conducting the 12 elections and they know first-hand what the issues that 13 they're seeing in terms of voters and ballots and the 14 process. 15 And so based on the feedback that we got 16 from that first roundtable session, the survey 17 responses were overwhelmingly positive. We felt, you 18 know, we really could extend this, and so we decided to 19 host another one. And instead of just limiting it to 20 election officials, we actually expanded the invitation 21 list and invited community leaders and the stakeholders 22 that drive election information to their community 23 members. 24 And so we had a great participation, 25 representation from across the state, and it really</p>

09:34:56-09:35:59	Page 6	09:37:12-09:38:14	Page 8
<p>1 provided, you know, a larger perspective on the voter</p> <p>2 education needs for the state. And as I mentioned, you</p> <p>3 have the summary. So I won't go into too much detail,</p> <p>4 but for the most part, you know, the presentations</p> <p>5 revolved around Voter Education and technology. That</p> <p>6 was the theme: social media.</p> <p>7 I will say my perspectives, a few of the</p> <p>8 things that I took away from that roundtable, a lot of</p> <p>9 the issues that I heard folks bring up about what's</p> <p>10 occurring with voters and elections, I think for the</p> <p>11 most part, 99 percent, the people who were talking</p> <p>12 about those issues, they referenced that the solution</p> <p>13 would be Voter Education.</p> <p>14 And so I think that's a really positive</p> <p>15 thing to hear because there are solutions that exist</p> <p>16 and, furthermore, there's the need for our Voter</p> <p>17 Education program to participate in that because not</p> <p>18 only did the participants identify voter education as</p> <p>19 the solution, I do feel most of them turned to the</p> <p>20 Commission to provide that resource for the voters. So</p> <p>21 it did reinforce, you know, that we're on the right</p> <p>22 track in terms of our Voter Education program and the</p> <p>23 information that we're providing to voters. So I felt</p> <p>24 that was -- that was a positive.</p> <p>25 At the roundtable we did a demo of a new</p>	<p>1 that.</p> <p>2 So, again, as it is new technology, we will</p> <p>3 work towards making it more sophisticated, again, as we</p> <p>4 learn with how voters are utilizing it and how we can</p> <p>5 better understand that technology and leverage it as</p> <p>6 well, too. So it's a new tool, but so far things are</p> <p>7 looking great on it.</p> <p>8 COMMISSIONER KIMBLE: Mr. Chairman?</p> <p>9 CHAIRMAN TITLA: Commissioner Kimble.</p> <p>10 COMMISSIONER KIMBLE: Gina, so how do</p> <p>11 people know about this and start engaging with it?</p> <p>12 MS. ROBERTS: Great question, Mr. Chairman,</p> <p>13 Commissioner Kimble. So for this particular election,</p> <p>14 what we did was we ran a few digital banner ads. So we</p> <p>15 had ads out there that said, hey, you know, Clean</p> <p>16 Elections has this new tool. It's a Chatbot. Come</p> <p>17 help us, you know, test this out. And so we had banner</p> <p>18 ads and we had social media posts as well to target</p> <p>19 into those voters within those four jurisdictions that</p> <p>20 were having an election.</p> <p>21 Additionally, we have a direct URL where</p> <p>22 voters can click on that link and access it. We have</p> <p>23 it on the home page of our website, but we shared it</p> <p>24 with the four cities. And so I know the city of Yuma,</p> <p>25 I believe their city clerk went on the radio and was</p>		
09:36:04-09:37:09	Page 7	09:38:17-09:39:15	Page 9
<p>1 tool that we've launched: our Chatbot. This actually</p> <p>2 went live on July 27th, and the Chatbot is an</p> <p>3 application within an application of Facebook. So it's</p> <p>4 available in Facebook Messenger, and this is new</p> <p>5 technology.</p> <p>6 So really we did a pilot in the August 29th</p> <p>7 election this last Tuesday. There were four</p> <p>8 jurisdictions that were conducting an election:</p> <p>9 Phoenix, Prescott, Tucson and Yuma. And we did a soft</p> <p>10 launch because we wanted to learn more about how voters</p> <p>11 are engaging with this technology. So it's really a</p> <p>12 moment for us to see how voters interacted with it.</p> <p>13 Were they following through in the entire script? You</p> <p>14 know, did they stop at certain points? Was there any</p> <p>15 feedback that they provided?</p> <p>16 And we don't have the full analytics on it</p> <p>17 just yet. The election was Tuesday, but so far</p> <p>18 everything was looking great. We did see most folks</p> <p>19 were completing the script all the way through which is</p> <p>20 a good thing because they're getting the information</p> <p>21 and they're not quitting. So it was nice to see that.</p> <p>22 And in the Chatbot voters can get information such as,</p> <p>23 you know, when is the election, like my city that's</p> <p>24 conducting the election, contact information, you know.</p> <p>25 What's on my ballot? Where do I go vote? Things like</p>	<p>1 announcing it to their voters. I'm not sure if they</p> <p>2 linked it on their website or not, but that's how we</p> <p>3 approached informing voters about this tool and the</p> <p>4 availability of it for this particular election.</p> <p>5 As I mentioned, we were doing sort of a</p> <p>6 soft launch on it to test it out to see how voters</p> <p>7 engaged with it, but going forward, we would have to</p> <p>8 tell voters that it exists because they would have to</p> <p>9 go into the Facebook Messenger application to look for</p> <p>10 it or click on that external link somewhere.</p> <p>11 Additionally, it comes with, like, a QR code. So any</p> <p>12 printed materials that we have that maybe as -- and</p> <p>13 I'll talk about this in a little bit too. As we go to</p> <p>14 our outreach events, we can have that QR code on our</p> <p>15 printed materials as well so voters can scan it and</p> <p>16 access the Chatbot that way as well.</p> <p>17 COMMISSIONER KIMBLE: And is there a way to</p> <p>18 get to it from the app?</p> <p>19 MS. ROBERTS: Yes. So if you have the</p> <p>20 Facebook Messenger app installed on your phone --</p> <p>21 COMMISSIONER KIMBLE: But the Clean</p> <p>22 Elections app?</p> <p>23 MS. ROBERTS: Oh. Mr. Chairman,</p> <p>24 Commissioner Kimble, no, we do not have it integrated</p> <p>25 just yet. So we'll have to see if that is a</p>		

09:39:20-09:40:28	Page 10	09:41:34-09:42:45	Page 12
<p>1 possibility. I'm sure we can just put the URL in</p> <p>2 there. That would be very simple to do, but of course,</p> <p>3 you know, we want to make things look nice and shiny</p> <p>4 and we'll see if we can have a more sophisticated</p> <p>5 approach to integrating it with the app. But in the</p> <p>6 meantime, I'm sure we can just put the URL there under</p> <p>7 maybe our FAQs or something like that. We can make</p> <p>8 that update.</p> <p>9 COMMISSIONER KIMBLE: Thank you.</p> <p>10 MS. ROBERTS: Okay. Another tool that we</p> <p>11 are working on is our ID at the polls tool. So this</p> <p>12 actually was born out of our Native American outreach.</p> <p>13 Through our efforts and our talks with ITCA and the</p> <p>14 recorders in those areas that have a large population</p> <p>15 of Native American voters, we found that a big issue</p> <p>16 for voters was, you know, one, do they have the proper</p> <p>17 ID that they need to vote on election day; and then,</p> <p>18 two, how do they realize if they have the proper ID?</p> <p>19 And so we do get phone calls on, you know,</p> <p>20 well, if I have this does it work? Or if I have this?</p> <p>21 And so there is a specific set of required forms that</p> <p>22 work for ID at the polls, and we are looking to take</p> <p>23 the guesswork out of that. So we're developing an</p> <p>24 online application that's very easy to use. So the</p> <p>25 user experience is it will be very simple, but it just</p>		<p>1 lot of it comes down to does it have the necessary</p> <p>2 information: your photograph, your address. And is</p> <p>3 it -- is it still valid? And so --</p> <p>4 COMMISSIONER PATON: The address.</p> <p>5 MS. ROBERTS: -- it will walk the voters</p> <p>6 through that entire process. And, you know, sometimes</p> <p>7 it has to be taken in conjunction with another form of</p> <p>8 ID. If it doesn't have the photograph, then you can</p> <p>9 use it with a utility statement, something to that</p> <p>10 effect. And so there's three lists total of ID that is</p> <p>11 acceptable by law, and so it's a mix and match. And so</p> <p>12 we help voters through that mix-and-match process.</p> <p>13 CHAIRMAN PATON: So I have maybe a comment.</p> <p>14 Could we contact the various tribal governments and</p> <p>15 find out and explain to them that that would help out</p> <p>16 their people if they would put a picture on it? Maybe</p> <p>17 they don't know that's an issue.</p> <p>18 MS. ROBERTS: Mr. Chairman, Commissioner,</p> <p>19 absolutely. We did attend a training that discussed</p> <p>20 this in detail, and so I know that the tribes are aware</p> <p>21 of it. And they have different forms of tribal IDs as</p> <p>22 well, too, depending on -- and I may be getting this</p> <p>23 wrong. Forgive me -- you know, somebody's status to</p> <p>24 that extent. I'm not really sure how they determine,</p> <p>25 you know, who gets what type of ID, but there have been</p>	
09:40:30-09:41:30	Page 11	09:42:47-09:43:59	Page 13
<p>1 guides the voter through, okay, if you have a driver's</p> <p>2 license and is the address correct? Great, you're all</p> <p>3 set. Make sure you take it with you on election day.</p> <p>4 And if it doesn't, you follow that path of</p> <p>5 what will work together. And then, ultimately, if a</p> <p>6 voter finds through this application, you know what, I</p> <p>7 may not have the proper ID, we still let them know it's</p> <p>8 okay. You can still contact us. We can help you</p> <p>9 through this. You know, possibly early voting would be</p> <p>10 a solution. So just kind of an application to take the</p> <p>11 guesswork out of it.</p> <p>12 And, again, I mentioned this really came</p> <p>13 out of our outreach efforts with the Native American</p> <p>14 communities because it seemed to be an issue on that,</p> <p>15 and so we felt with this tool we can take the guesswork</p> <p>16 out of it. And we do hope to launch this in time for</p> <p>17 the November election, so we hope to have it out within</p> <p>18 the next month and a half.</p> <p>19 CHAIRMAN PATON: I have a question.</p> <p>20 CHAIRMAN TITLA: Commissioner.</p> <p>21 CHAIRMAN PATON: So tribal ID is not --</p> <p>22 that doesn't work or does it or --</p> <p>23 MS. ROBERTS: Mr. Chairman, Commissioner,</p> <p>24 yes, tribal ID does work, and so that will be one of</p> <p>25 the options that are listed within this application. A</p>		<p>1 discussions at ITCA and some of their trainings about</p> <p>2 this issue.</p> <p>3 So what we intend to do is when this tool</p> <p>4 is in a format where we can share it as a demo, we</p> <p>5 intend to share that with them so they can go through</p> <p>6 that and provide us feedback specifically on those</p> <p>7 forms of tribal ID that are acceptable. And then, of</p> <p>8 course, you know, we do love to make -- we can</p> <p>9 absolutely make those suggestions about, well, you</p> <p>10 know, if it had this, this would solve a lot of issues.</p> <p>11 And, you know, that also goes for our</p> <p>12 students as well, too, with IDs. Student IDs,</p> <p>13 unfortunately, for the most part are not accepted as ID</p> <p>14 at the polls because they lack certain information.</p> <p>15 And so we do have those conversations with universities</p> <p>16 as well, too, but, you know, in the meantime, until we</p> <p>17 can get it changed, we do want to help voters navigate</p> <p>18 the process as it is. But we will absolutely have</p> <p>19 those conversations with the tribes.</p> <p>20 CHAIRMAN PATON: And then, also, many</p> <p>21 people that live on a particular reservation, they may</p> <p>22 be tribal members elsewhere. So they could be</p> <p>23 throughout the country from different areas.</p> <p>24 CHAIRMAN TITLA: Ma'am, on that point, I</p> <p>25 have a tribal ID that I'd like for you to take a quick</p>	

09:44:04-09:45:19	Page 14	09:46:37-09:47:51	Page 16
<p>1 glance at and see if this is enough for me to vote. It</p> <p>2 talks about -- it talks about me being an enrolled</p> <p>3 member of the San Carlos Apache tribe, and the only</p> <p>4 reason I got this was because it says on here that I'm</p> <p>5 a veteran U.S. Marine Corps also. And with this it's</p> <p>6 like a pass to get into events in the reservation.</p> <p>7 MS. ROBERTS: Yes, sir, Mr. Chairman.</p> <p>8 Sure.</p> <p>9 CHAIRMAN TITLA: And I'll give it to the</p> <p>10 commissioners to review also.</p> <p>11 COMMISSIONER CHAN: And, Mr. Chairman,</p> <p>12 Gina, I would -- I'm glad you chimed in since you're a</p> <p>13 member of a -- of a tribe. I think -- I love how our</p> <p>14 staff has been working with, you know, the tribes here</p> <p>15 in Arizona. I think it's difficult because all the</p> <p>16 tribes are sovereign nations and so they have their own</p> <p>17 requirements and for a state agency to -- a state</p> <p>18 agency can inform them about, you know, what the state</p> <p>19 requirements are but, you know, as sovereign nations</p> <p>20 they obviously have their own administration of what's</p> <p>21 necessary for their -- for themselves in governing.</p> <p>22 And so I think that's maybe where some of</p> <p>23 the issues come up. And what I really appreciate,</p> <p>24 Gina, is the list that you put together and telling</p> <p>25 people even if you don't have what's on this list, you</p>		<p>1 people can go vote, and I'm sure that's true for all</p> <p>2 the different tribes also. They have their own forms</p> <p>3 of ID and we need to coordinate with them.</p> <p>4 CHAIRMAN PATON: So, if I may, on this it</p> <p>5 does say his P.O. Box and a lot of them -- I taught on</p> <p>6 a reservation for 11 years. A lot of them have P.O.</p> <p>7 boxes and a lot of the streets aren't named officially</p> <p>8 or whatever. So that may be the issue if they are just</p> <p>9 using P.O. boxes.</p> <p>10 MS. ROBERTS: Sure. And, Mr. Chairman,</p> <p>11 Commissioner, what we would have to do is actually take</p> <p>12 a look and see how the poll workers are being trained</p> <p>13 and what exactly the list says as well, too. So, you</p> <p>14 know, it really comes down to, you know, on List 1, one</p> <p>15 ID will serve. And so if it's missing a piece or if</p> <p>16 the information does not match what is on the roster,</p> <p>17 then you have to use it in conjunction with List 2.</p> <p>18 So it depends on how that voter is</p> <p>19 registered, you know. If they are utilizing their P.O.</p> <p>20 box and that is what is printed in the roster for the</p> <p>21 poll worker to verify, you know, then possibly it could</p> <p>22 work. So it's -- you know, it depends on exactly what</p> <p>23 does that ID say and what is printed in the roster and</p> <p>24 how the poll worker matches that up.</p> <p>25 CHAIRMAN PATON: The main issue, I think,</p>	
09:45:23-09:46:33	Page 15	09:47:52-09:49:15	Page 17
<p>1 can still vote. I love that. I really love that.</p> <p>2 MS. ROBERTS: Mr. Chairman, Commissioner,</p> <p>3 thank you. Yes. We certainly don't want any of our</p> <p>4 applications to ever deter a voter from not voting and</p> <p>5 so we always, you know, encourage voters to, you know,</p> <p>6 maybe you don't see what you're looking for here. It's</p> <p>7 okay. Don't give up. You know, give us -- give us a</p> <p>8 phone call.</p> <p>9 And, Mr. Chairman, with this particular ID,</p> <p>10 so the three main requirements for this to work on --</p> <p>11 on itself, on its face, would be it would have to have</p> <p>12 your photograph, your name and your address. And so it</p> <p>13 does not have your residence address, and that's what</p> <p>14 the poll worker would need to see. So I'd have to</p> <p>15 double-check the specific list, but you may be able to</p> <p>16 use it in conjunction with another ID. But I would be</p> <p>17 happy to talk further with you on it, but I think on</p> <p>18 its face it probably would not work.</p> <p>19 CHAIRMAN TITLA: I'd like to ask the</p> <p>20 commissioners to review that. I think that it would be</p> <p>21 a good idea to coordinate, like Commissioner Chan said,</p> <p>22 with the tribal enrollment office and election office</p> <p>23 commissioner that we have the requirements to vote also</p> <p>24 when we go to the -- to vote in November because they</p> <p>25 have state election sites there in San Carlos where</p>		<p>1 is we're trying to explain to these different entities</p> <p>2 how they could make things easier for their people to</p> <p>3 vote or in certain areas or whatever. I like the fact</p> <p>4 that we're going out there and doing that and -- and it</p> <p>5 just means the staff is just doing a great job. So I</p> <p>6 appreciate that.</p> <p>7 CHAIRMAN TITLA: Thank you, Commissioner</p> <p>8 Paton.</p> <p>9 And Commissioner Paton is correct. On our</p> <p>10 reservation a lot of the people have P.O. boxes because</p> <p>11 there's no addresses. And, for example, I live on a</p> <p>12 road and there's no address there. We don't have mail</p> <p>13 delivery there, also. So I don't have an address.</p> <p>14 It's just a road on the reservation.</p> <p>15 So for those people, we need to coordinate</p> <p>16 with the state to ensure that we on the Clean Elections</p> <p>17 Commission follow our mandate that we have voter</p> <p>18 education to ensure that all the citizens of the state</p> <p>19 of Arizona are able to vote because if the state of</p> <p>20 Arizona provides some impediment to voters of a certain</p> <p>21 segment of the reservation, then that -- that is not</p> <p>22 good because we need to reach out to those people</p> <p>23 because they're citizens of the state also and they</p> <p>24 need to be able to vote if they can.</p> <p>25 If I went to vote and they asked me for my</p>	

09:49:18-09:50:25	Page 18	09:51:38-09:52:48	Page 20
<p>1 ID and this is all I had, they would say you can't</p> <p>2 vote, you know. Then I feel that that's not something</p> <p>3 that we should live with in Arizona.</p> <p>4 MS. ROBERTS: Mr. Chairman, Commissioners,</p> <p>5 a lot of the issues you've just noted are frequent</p> <p>6 items of discussion, and I'm not sure if you'll recall,</p> <p>7 but the Commission did sponsor a tri-county rule</p> <p>8 addressing conference a few years ago to talk about</p> <p>9 these particular issues with non-standard addresses and</p> <p>10 how are these voters getting precinct -- you know, how</p> <p>11 are the counties precincting them and how would they</p> <p>12 have -- do they have access to their ballot? Do they</p> <p>13 have to drive and go to their P.O. box and are those</p> <p>14 P.O. boxes only available at certain times and they</p> <p>15 have to arrange for transportation? And are polling</p> <p>16 places, you know, set up close enough to those voters?</p> <p>17 And so all of these issues, I'm going to --</p> <p>18 and I will talk in just a few minutes about a meeting I</p> <p>19 went to about a week and a half ago that addressed</p> <p>20 these particular issues as well, too. So those issues</p> <p>21 are definitely on the forefront of the folks that are</p> <p>22 working hard towards voter outreach and making sure</p> <p>23 that voters across all -- you know, the four corners of</p> <p>24 the state have access to the ballot. And so, again,</p> <p>25 the issues that you've brought up, those are definitely</p>		<p>1 the shelters will provide that information to these</p> <p>2 voters. And ACDL will take this information and lead</p> <p>3 the coordination efforts with the shelters and also</p> <p>4 with the police departments as well, too. So this is</p> <p>5 another outreach effort we have for this likely</p> <p>6 underserved community.</p> <p>7 With our app, we do have iOS and Android</p> <p>8 available for the app, and staff is working with our</p> <p>9 developers to increase the functionality both on the</p> <p>10 user end and also on staff, how we manage the app and</p> <p>11 information. And we'll also be working on a redesign</p> <p>12 for it so it closely mirrors our website and our other</p> <p>13 applications so to maintain that Clean Elections theme</p> <p>14 throughout. So we're excited to be working on that and</p> <p>15 we hope to have the functionality of this finalized by</p> <p>16 the end of this year.</p> <p>17 The app is up and running and available,</p> <p>18 and so within the next few days we intend to email</p> <p>19 candidates with instructions on how they can create a</p> <p>20 candidate profile. So this profile will be visible.</p> <p>21 In the app it would have their name, photograph and</p> <p>22 biography, website, social media links and even their</p> <p>23 E-Qual links. So if it's a participating candidate and</p> <p>24 he's set up a \$5 qualifying contribution form in</p> <p>25 E-Qual, he can link directly to it in the app.</p>	
09:50:27-09:51:36	Page 19	09:52:50-09:54:01	Page 21
<p>1 at the forefront.</p> <p>2 Another project that staff is working on is</p> <p>3 a partnership that we have with the Arizona Center for</p> <p>4 Disability Law. They contacted us to let us know about</p> <p>5 an effort to increase voter education and outreach</p> <p>6 efforts to voters that do not have a permanent</p> <p>7 residence, so our voters that do not have a home and</p> <p>8 are -- and are on the go.</p> <p>9 And so to assist in this -- this outreach</p> <p>10 effort, the Commission staff has developed brochures</p> <p>11 and posters and ACDL developed a wristband that</p> <p>12 contains the Commission's toll free phone number</p> <p>13 because we provide Voter Education for the entire</p> <p>14 state. And so the intent is that these brochures and</p> <p>15 posters will go to the shelters across the state, and</p> <p>16 so if a voter, you know, who does not have a permanent</p> <p>17 residence -- unfortunately, we're hearing that some of</p> <p>18 these voters just don't think that they can register to</p> <p>19 vote because they don't have a home and how are they</p> <p>20 going to get their ballot.</p> <p>21 There is a process where they can register</p> <p>22 utilizing certain addresses, whether that's a shelter</p> <p>23 they return to frequently or a general delivery address</p> <p>24 at the post office. And so these brochures and this</p> <p>25 informational material that we're going to hand out to</p>		<p>1 And so we hope to be reaching out to</p> <p>2 candidates within the next few days to get that</p> <p>3 information populated into the app, and then it is</p> <p>4 providing information on the 2018 primary election and</p> <p>5 so voters can have that resource soon.</p> <p>6 Additionally, this year we will be working</p> <p>7 on a website redesign. So in 2016, we received a lot</p> <p>8 of good feedback on our website. You know, voters</p> <p>9 reached out to us and they referenced that it was very</p> <p>10 easy to use and navigate and find the information that</p> <p>11 they were looking for. And so we want to, one, stay on</p> <p>12 top of technology and the trends and, of course, make</p> <p>13 things more efficient for staff to manage our website,</p> <p>14 but our content is growing. The information that we</p> <p>15 are providing out there to voters is growing and so the</p> <p>16 need for that requires a restructuring of our website.</p> <p>17 So we have a different audiences. We have</p> <p>18 voters. We have candidates. We have lawyers and</p> <p>19 consultants and the media and the general public. And</p> <p>20 so knowing these multiple audiences that we serve, the</p> <p>21 information that's currently on our site, we're sort of</p> <p>22 squeezing in there. So we need to take a step back and</p> <p>23 see how can we better restructure this so it provides a</p> <p>24 better user experience for voters.</p> <p>25 And really all of our media that we have</p>	

09:54:04-09:55:05	Page 22	09:56:19-09:57:30	Page 24
<p>1 out there, the social media ads, things like that that</p> <p>2 we do, our commercials, we drive people back to our</p> <p>3 website because our website houses all of that</p> <p>4 information the voter needs to know to vote. And so we</p> <p>5 need to make sure that if a voter is taking the time to</p> <p>6 come to our site, they're not going to leave. We want</p> <p>7 to reduce our bounce rate. We want to make sure that</p> <p>8 they stay and that they're finding meaningful content.</p> <p>9 And so that's the goal of this website</p> <p>10 redesign, and our timeline is to complete that by the</p> <p>11 end of this year.</p> <p>12 COMMISSIONER MEYER: Mr. Chairman?</p> <p>13 CHAIRMAN TITLA: Commissioner Meyer.</p> <p>14 COMMISSIONER MEYER: On the website at</p> <p>15 the -- at the roundtable there was a lot of great</p> <p>16 feedback on the information on the website. And many</p> <p>17 of the folks I was at the breakouts with were county</p> <p>18 recorder's offices, city clerks, and they had very good</p> <p>19 things to say about the website. Our key note speaker,</p> <p>20 Jaime Casap, was, let's just say, more neutral. And</p> <p>21 maybe it will be a good idea -- I don't know -- I don't</p> <p>22 know how connected we stay with him, but maybe give him</p> <p>23 a call and get some thoughts on the website redesign.</p> <p>24 MS. ROBERTS: Yes, sir. Mr. Chairman,</p> <p>25 Commissioner, our key note, he did tell me -- he did</p>		<p>1 our executive director attended a county recorder</p> <p>2 conference down in Gila County and staff is often</p> <p>3 attending our election officials conferences and</p> <p>4 meetings, the clerks association for city clerks,</p> <p>5 election officer certification training.</p> <p>6 Some staff was able to teach to our newest</p> <p>7 election officials there and then also, of course, our</p> <p>8 own staff who is certified as election officials, we</p> <p>9 will -- we will be attending our recertification to</p> <p>10 maintain our training certificate. And, of course, all</p> <p>11 of our outreach with the inter-tribal council and</p> <p>12 various fairs and outreaches events. We do have those</p> <p>13 going on this year, and so there's a few --</p> <p>14 Mr. Chairman.</p> <p>15 CHAIRMAN TITLA: Yes, ma'am. Tom Collins,</p> <p>16 the executive director and I, attended the Gila County</p> <p>17 Recorder's conference, and that was held at Apache Gold</p> <p>18 Casino in the San Carlos Apache Reservation. And they</p> <p>19 had a number of county recorders from Gila County and</p> <p>20 Pinal County, Graham County, Apache County, Navajo</p> <p>21 County and some others. So there as a good crowd</p> <p>22 there, and they were able to talk -- give us some</p> <p>23 feedback also. And Tom probably can talk to us about</p> <p>24 that.</p> <p>25 MR. COLLINS: Yeah.</p>	
09:55:08-09:56:16	Page 23	09:57:31-09:58:36	Page 25
<p>1 apologize that he had to call it out. From our</p> <p>2 perspective, we do hear for a government website</p> <p>3 performs as well, however, taken into context and going</p> <p>4 with the theme that Mr. -- Mr. Casap provided of</p> <p>5 meeting them where they are and staying current and,</p> <p>6 you know, providing that information in an optimal</p> <p>7 viewpoint for our voters -- and, again, I do think he</p> <p>8 was speaking mostly to Gen Z in that aspect.</p> <p>9 And so we have to service all of the -- the</p> <p>10 generations, but absolutely. We can take a step back</p> <p>11 and we can look through his notes and even reach out to</p> <p>12 him as we are going through our design to hopefully see</p> <p>13 if he can give some feedback. He -- our key note was</p> <p>14 very gracious and he did offer to stay in touch and so</p> <p>15 hopefully we can leverage his expertise on that.</p> <p>16 Thank you.</p> <p>17 COMMISSIONER MEYER: And I don't think it</p> <p>18 was meant as a criticism. I just think it was meant as</p> <p>19 maybe there's ways to improve and reach more potential</p> <p>20 voters. I don't think it was a criticism.</p> <p>21 MS. ROBERTS: Thank you.</p> <p>22 Speaking of the roundtable, we talked about</p> <p>23 how we have our stakeholders present. We do continue</p> <p>24 those relationships and staff attends meetings across</p> <p>25 the state. We participated -- I know our chairman and</p>		<p>1 CHAIRMAN TITLA: But we were able to attend</p> <p>2 that, and it was a good meeting. And then we also went</p> <p>3 to the radio station in San Carlos. They call it KYAY</p> <p>4 radio. It's at 91.1 AM -- I mean, FM. Excuse me. FM.</p> <p>5 And we appeared for -- I don't know how long. 30</p> <p>6 minutes to an hour?</p> <p>7 MR. COLLINS: Yeah. At least, yeah, we</p> <p>8 were there 30 minutes or so.</p> <p>9 CHAIRMAN TITLA: Yeah. So we were able to</p> <p>10 talk, and Tom was very good in giving all of the</p> <p>11 information out. And then they -- we were also able to</p> <p>12 dedicate a couple of songs in between breaks, and one</p> <p>13 was -- we dedicated a song to Tom's mother who was</p> <p>14 there with him.</p> <p>15 MR. COLLINS: The --</p> <p>16 CHAIRMAN TITLA: The song was CCR, I Heard</p> <p>17 it Through the Grapevine.</p> <p>18 MR. COLLINS: That's what you chose, yes.</p> <p>19 You were -- you are a -- Mr. -- Chairman Titla is a</p> <p>20 remarkable DJ and a -- and a good radio host.</p> <p>21 CHAIRMAN TITLA: So I just wanted to let</p> <p>22 you know about that, how we are trying to do things to</p> <p>23 reach out to all the people in the state.</p> <p>24 And I got some good remarks on that, Tom,</p> <p>25 afterwards.</p>	

09:58:37-09:59:37	Page 26	10:00:41-10:01:51	Page 28
<p>1 MR. COLLINS: Oh, good.</p> <p>2 CHAIRMAN TITLA: Yeah. You don't think</p> <p>3 people are listening, but they're listening out there.</p> <p>4 And so thank you.</p> <p>5 MS. ROBERTS: Mr. Chairman, thank you for</p> <p>6 that and for those efforts. I'm sure it was helpful in</p> <p>7 reaching voters.</p> <p>8 As I mentioned a few slides ago, about a</p> <p>9 week and a half, two weeks ago, I was able to attend a</p> <p>10 meeting with -- that was sponsored by the Inter-Tribal</p> <p>11 Council of Arizona, and it was a Native vote strategy</p> <p>12 session. And so at this meeting, a lot of the very</p> <p>13 same issues that we've just discussed were brought up,</p> <p>14 and we had community leaders from across the state and</p> <p>15 from the tribes. Navajo Nation there was present. A</p> <p>16 lot of the tribes were present. The county recorders</p> <p>17 were there.</p> <p>18 And it was a good discussion about what</p> <p>19 happened in the 2016 election, issues that we saw, and</p> <p>20 how can we work towards a better, you know, 2018</p> <p>21 election experience for our voters. And so we were</p> <p>22 able to participate in that and, you know, I will tell</p> <p>23 you again the common theme here is voter education, a</p> <p>24 lot of the issues that we see that are coming up. And</p> <p>25 so we were able to take this information, and it will</p>		<p>1 know, the elections that are occurring for the</p> <p>2 remainder of 2017 and what's coming up in 2018 and the</p> <p>3 tools and resources that the Commission provides.</p> <p>4 And we do have our National Voter</p> <p>5 Registration Day which is coming up. This is on</p> <p>6 September 26. This is a very big event where we get a</p> <p>7 lot of traffic at our booths. And so we are working</p> <p>8 with ASU, their undergrad student government, to be a</p> <p>9 partner in this, and we hope to update our Chatbot with</p> <p>10 trivia. So the nice thing about the Chatbot is not</p> <p>11 only can we have a path for election information. We</p> <p>12 can create multiple paths in there, and so we hope to</p> <p>13 update election-related trivia just to help draw the</p> <p>14 crowds to our booth and inform voters as well about the</p> <p>15 process.</p> <p>16 And so we do have quite a bit of people</p> <p>17 that come and talk to us here. I would actually say I</p> <p>18 think our booth is one of the busiest, but it takes a</p> <p>19 lot of time and effort because our students are very</p> <p>20 unique. They have unique circumstances on are they an</p> <p>21 out-of-state student? Do they want to register to vote</p> <p>22 here? They don't have ID. They don't have their birth</p> <p>23 certificate. So we have to really talk to each</p> <p>24 individual student and help them, and so this ends up</p> <p>25 being a really good event where we're able to do a lot</p>	
09:59:40-10:00:39	Page 27	10:01:53-10:02:58	Page 29
<p>1 help us as we work on our 2018 education plan and</p> <p>2 identifying the messages that we'll be communicating</p> <p>3 out there to voters and, of course, the information</p> <p>4 that we put on our website.</p> <p>5 So it was a really helpful meeting for us</p> <p>6 to be present at and, of course, we want to continue up</p> <p>7 our outreach efforts with this particular group. They</p> <p>8 will be working on a report from that meeting and</p> <p>9 sending it out to everybody so I look forward to</p> <p>10 receiving that.</p> <p>11 As we mentioned, we do have some fairs that</p> <p>12 are coming up. Tom will actually be traveling tomorrow</p> <p>13 to attend the White Mountain Apache tribal fair and</p> <p>14 rodeo and then, of course, we will have a presence at</p> <p>15 the Navajo Nation fair. So we're lucky that our</p> <p>16 partnerships with our county recorders who already have</p> <p>17 booths at these events are sharing their space with us</p> <p>18 and invited us down here, and I think this actually</p> <p>19 resulted -- these invitations resulted from the meeting</p> <p>20 that the chairman and our executive director attended</p> <p>21 in Gila County.</p> <p>22 So that was really helpful. And this is a</p> <p>23 good opportunity for us to have that grassroots</p> <p>24 outreach with voters and provide them our tangible</p> <p>25 voter education materials and let them know about, you</p>		<p>1 of good work for our students.</p> <p>2 I'll go pretty briefly here, but for our</p> <p>3 2017 elections, we have our four consolidated</p> <p>4 elections. And for each of those we did have our voter</p> <p>5 education efforts. We really touched on social media.</p> <p>6 That was a strong point for us for this year so far,</p> <p>7 and we provided key election dates, information like</p> <p>8 that. We had the start of our qualifying period, when</p> <p>9 early voting begins. There was a message there about</p> <p>10 our Chatbot and helping us pilot it.</p> <p>11 So we do have an active presence on social</p> <p>12 media, and we get a lot of good feedback and</p> <p>13 interaction and engagement with voters through the</p> <p>14 comments and these are some examples of our digital</p> <p>15 banners. And as I mentioned, our website, we drive</p> <p>16 traffic to our website and this is where we house a lot</p> <p>17 of the information that voters need to vote.</p> <p>18 Very briefly, what's happening in 2018, we</p> <p>19 do have our four consolidated election dates and, of</p> <p>20 course, we do have our statewide primary and general</p> <p>21 election. And the offices that are on the ballot, we</p> <p>22 have all of the statewides this year. And so it will</p> <p>23 be a pretty busy election. We do -- on the federal</p> <p>24 side, we have one U.S. Senate seat and, of course, we</p> <p>25 have our nine House of Representative seats that are up</p>	

10:02:59-10:04:05	Page 30	10:05:21-10:06:21	Page 32
<p>1 for election. All of this -- all of the statewide</p> <p>2 will, of course, be represented in our candidate</p> <p>3 statement pamphlet.</p> <p>4 And for our debates, right now we are</p> <p>5 kicking off a debate review so we can take a look at,</p> <p>6 you know, how did our process work in 2016, what was</p> <p>7 the feedback we received from voters in the surveys and</p> <p>8 how can we improve this. We are looking at working on</p> <p>9 a pilot to involve high schools, and this is per</p> <p>10 Commission Paton's direction. We have some good</p> <p>11 thoughts on how we can incorporate the students and the</p> <p>12 student governments and even their student audio/visual</p> <p>13 teams to participate in this debate, possibly even</p> <p>14 hosting a mock debate with the candidates beforehand,</p> <p>15 but getting their parents involved.</p> <p>16 And so we think this will be a good</p> <p>17 community-based event, and so we're really hopeful that</p> <p>18 it will be a more positive experience for the voters</p> <p>19 that attend this debate. And we're also working on an</p> <p>20 online application to make our invitation process more</p> <p>21 efficient and transparent.</p> <p>22 And then, of course, we have our Voter</p> <p>23 Education guide. So we are working on this now,</p> <p>24 actually. It's quite a big production, but we can take</p> <p>25 a step back and start designing the guide and our</p>	<p>1 It's -- not only is it more cost efficient but it</p> <p>2 really does provide a better user experience for the</p> <p>3 voter. And I think, most importantly, it is less</p> <p>4 intimidating.</p> <p>5 And so that's -- you know, when a voter</p> <p>6 receives this guide in the mail, we don't want them to</p> <p>7 take a look at it and be scared and never open it</p> <p>8 because it's huge. We want them to say, okay, this is</p> <p>9 a tool. This is a resource and they'll take the time</p> <p>10 to open it and they'll take the time to read it. And</p> <p>11 it also takes the guesswork about having to flip</p> <p>12 through and, well, which one can I vote for? So we</p> <p>13 only give them the candidates that they're eligible to</p> <p>14 vote for. So we will continue with that.</p> <p>15 Thank you.</p> <p>16 Were there any further questions?</p> <p>17 COMMISSIONER KIMBLE: Mr. Chairman?</p> <p>18 CHAIRMAN TITLA: Commissioner Kimble.</p> <p>19 COMMISSIONER KIMBLE: I just want to say</p> <p>20 that the -- I was very impressed with the roundtable,</p> <p>21 and the people that I talked to and the people that I</p> <p>22 was on breakout sessions with were very laudatory of</p> <p>23 the programs and just the general assistance they get</p> <p>24 from you specifically and other people in the office.</p> <p>25 They are very -- they are very happy to have the</p>		
10:04:08-10:05:18	Page 31	10:06:25-10:07:25	Page 33
<p>1 internal information. We can update the content. And</p> <p>2 then we're even looking at revising it for better user</p> <p>3 experience. We are working with the Center for Civic</p> <p>4 Design. This is an agency that focuses on design</p> <p>5 efforts for increasing engagement in the political</p> <p>6 process, and it really comes down to ballot design,</p> <p>7 voter education guide design, website design.</p> <p>8 All of that can impact a voter's experience</p> <p>9 in how you provide them that information. And so we</p> <p>10 are really lucky that we were able to send our guide to</p> <p>11 them and they agreed to take a look at it and give us</p> <p>12 some feedback on how we can better structure this for a</p> <p>13 better user experience for voters.</p> <p>14 And with that --</p> <p>15 CHAIRMAN TITLA: Commissioner Meyer.</p> <p>16 COMMISSIONER MEYER: Another -- another</p> <p>17 positive feedback that the Commission received at the</p> <p>18 roundtable that I was at was the district-specific</p> <p>19 voter guides. That was a really big hit for everyone</p> <p>20 that I interacted with, you know. It was so much</p> <p>21 easier for them to use, less confusing. So that was a</p> <p>22 really -- really positive feedback on that.</p> <p>23 MS. ROBERTS: And, Mr. Chairman,</p> <p>24 Commissioner Meyer, thank you for pointing that out.</p> <p>25 We will continue with district-specific information.</p>	<p>1 advertising that we do because they can't afford it and</p> <p>2 they think it's -- it's useful to them and it's higher</p> <p>3 quality than they could do, and I heard nothing but</p> <p>4 praise for the roundtable and for the Commission during</p> <p>5 the entire day. I thought it was an outstanding event.</p> <p>6 MS. ROBERTS: Mr. Chairman, Commissioner, I</p> <p>7 thank you for that feedback. That's nice to hear.</p> <p>8 CHAIRMAN TITLA: Any further questions?</p> <p>9 Comments?</p> <p>10 (No response.)</p> <p>11 CHAIRMAN TITLA: Okay. Good report. Thank</p> <p>12 you.</p> <p>13 MS. ROBERTS: Thank you.</p> <p>14 CHAIRMAN TITLA: Why don't we go to</p> <p>15 Number III, executive director's report.</p> <p>16 MR. COLLINS: Mr. Chairman, Commissioners,</p> <p>17 I apologize for being a little bit -- a little bit</p> <p>18 late. I calculated it out. I think I've been to</p> <p>19 80-something meetings as the Commission's attorney and</p> <p>20 the executive director, and I think this is the first</p> <p>21 time I've been late from the beginning. It's not the</p> <p>22 first time I've been late, but just the first time you</p> <p>23 see me be late.</p> <p>24 Just to really briefly mention, as I, you</p> <p>25 know, highlight just ongoing news, election-related</p>		

10:07:29-10:08:59	Page 34	10:10:26-10:11:55	Page 36
<p>1 news, there is a referendum filed on a bill called</p> <p>2 Senate Bill 1431 that has to do with the -- the bill</p> <p>3 itself has to do with an expansion of -- I think the</p> <p>4 term in the statute is empowerment scholarships. The</p> <p>5 colloquial term that's been used is vouchers, but in</p> <p>6 any event, that process of signature verification is</p> <p>7 underway through the Secretary of State's office and</p> <p>8 the County Recorder's.</p> <p>9 If this goes -- if this were to make it to</p> <p>10 the ballot, in theory, it would be on the 2018 general</p> <p>11 election ballot. So that's just something to bear in</p> <p>12 mind. It's not a direct impact on us, but it may have</p> <p>13 an impact on our education efforts in terms of what --</p> <p>14 you know, what we're looking at going forward.</p> <p>15 You see the current participating</p> <p>16 candidates numbers. We do have an oral argument on</p> <p>17 September 11th at 10:40 in the case of Legacy</p> <p>18 Foundation Action Fund versus Citizens Clean Elections</p> <p>19 Commission which some of you or all of you -- many of</p> <p>20 us may have forgotten about it. I certainly forgot</p> <p>21 about it until I looked at my calendar and said, oh,</p> <p>22 wow, we've got an oral argument on September 11th.</p> <p>23 So I think that Joe Roth from Osborn</p> <p>24 Maledon will be doing the argument for us, and I think</p> <p>25 we'll be getting ready for that. And you're all</p>		<p>1 advantage of our opportunity to ensure that folks who</p> <p>2 are participate in the system are, in fact --</p> <p>3 participating in the clean funding part of the system,</p> <p>4 I should say, are -- are abiding by the rules.</p> <p>5 It's also -- you know, obviously, I'll</p> <p>6 point out that publicly funded candidates are the only</p> <p>7 candidates who are getting audited and whose campaign</p> <p>8 finance reports are getting reviewed which is kind of</p> <p>9 an irony when you think about it.</p> <p>10 Finally, I just wanted to give you an</p> <p>11 update. I had a conversation with the Deputy Secretary</p> <p>12 of State Lee Miller about changes the Secretary would</p> <p>13 like to see to the structure of the E-Qual system. The</p> <p>14 initial idea that the Secretary has talked about is to</p> <p>15 essentially have those \$5 qualifications -- qualifying</p> <p>16 donations or contributions, rather, channeled directly</p> <p>17 to the Fund. There are some policy, slash, legal</p> <p>18 issues there and some stakeholder issues there.</p> <p>19 I certainly can say that I think the</p> <p>20 Secretary's office would like to move this as quickly</p> <p>21 as possible, but I think everyone is cognizant of the</p> <p>22 fact that that may not be possible within this election</p> <p>23 cycle, especially if the policy issues turn out to be</p> <p>24 significant enough that we need to look at legislative</p> <p>25 changes.</p>	
10:09:01-10:10:23	Page 35	10:11:56-10:13:26	Page 37
<p>1 welcome to attend if you want to. I don't think</p> <p>2 it's -- I don't think it's required at all, but -- and</p> <p>3 it's also Livestreamed and the Livestream link is there</p> <p>4 in the report. We can send you that, otherwise, as</p> <p>5 well.</p> <p>6 Just an FYI, as you know, we have set up</p> <p>7 for public comment an additional expansion of our audit</p> <p>8 rules to capture all participating candidates. Back in</p> <p>9 December, I want to say, we adopted a rule that called</p> <p>10 for all statewide candidates to be subject to audit,</p> <p>11 and now we will expand that to all participating</p> <p>12 candidates.</p> <p>13 Just to give you a sense of what that audit</p> <p>14 is, that's not going to mean a full audit of every</p> <p>15 transaction, but it's the audit where we select certain</p> <p>16 transactions, evaluate those transactions, see if those</p> <p>17 transactions are good. And what we found is that,</p> <p>18 generally speaking, candidates go through that process</p> <p>19 with minimal difficulty.</p> <p>20 The process itself is not burdensome, but</p> <p>21 the issue is that we have, in fact, you know, also</p> <p>22 caught some potential violations that are more serious.</p> <p>23 And we want to make sure that given that we have the</p> <p>24 resources and that the process we've set up is itself</p> <p>25 not burdensome, we want to make sure that we're taking</p>		<p>1 So, you know, this is sort of a -- you</p> <p>2 know, to the folks who are engaged with candidates or</p> <p>3 engaged with the process, it's -- you know, this is</p> <p>4 something to keep your eye on. And we certainly</p> <p>5 welcome any feedback that we can get, and I'm happy to</p> <p>6 talk to folks who are here and, of course, the</p> <p>7 Commission about what this means going forward.</p> <p>8 Just to -- just to put a real fine point on</p> <p>9 it, the most significant practical change if this were</p> <p>10 to come to pass is that the law as it's written</p> <p>11 allowed -- you know, the money is fungible, right? I</p> <p>12 mean, I think we all kind of agree about that. That's</p> <p>13 a fact. And so when you collect \$5 contributions,</p> <p>14 you're allowed to use that -- those dollars towards</p> <p>15 your campaign so long as you reserve sufficient funds</p> <p>16 to cut the appropriate check to the Commission at --</p> <p>17 and as the statute says, at the same time as you</p> <p>18 deliver your qualifying names.</p> <p>19 The -- so the change -- the significant</p> <p>20 change would be that those dollars would not -- I don't</p> <p>21 think that's contemplated by the proposal -- would not</p> <p>22 be available to the candidates. There are two reasons</p> <p>23 why this is significant. The first is that if you're</p> <p>24 getting that -- if you're allowed to use the money as</p> <p>25 you get it as long as you have the correct reserves,</p>	

10:13:30-10:14:45	Page 38	10:16:03-10:17:27	Page 40
<p>1 that may or may not affect practical choices you make.</p> <p>2 There's another issue which is that if you</p> <p>3 don't qualify, you get to keep the \$5 contributions</p> <p>4 because they're still campaign contributions. And so</p> <p>5 if we are turning those -- if those are being turned in</p> <p>6 on a rolling basis, it's not clear what happens to</p> <p>7 those contributions if they're directly deposited into</p> <p>8 the Fund, but they, in fact, really otherwise would be,</p> <p>9 essentially, the funds that belong to the candidate</p> <p>10 campaign until they're tendered.</p> <p>11 And since we do have folks who don't -- who</p> <p>12 start out and then don't qualify, we -- you know,</p> <p>13 that's -- that's a little wrinkle there. So it's --</p> <p>14 the reason I flagged it now is because I know the</p> <p>15 Secretary of State's Office would like to move quickly,</p> <p>16 you know. You know, I don't personally feel like the</p> <p>17 Commission wants -- or that I certainly want to be in</p> <p>18 the way of progress, but we need to recognize that</p> <p>19 there's a bunch of different competing interests that</p> <p>20 are there. So I'm just flagging that now for an</p> <p>21 ongoing discussion going forward.</p> <p>22 COMMISSIONER CHAN: Mr. Chairman?</p> <p>23 CHAIRMAN TITLA: Commissioner Chan.</p> <p>24 COMMISSIONER CHAN: Mr. Chairman, Tom, I</p> <p>25 would just say this raises in my mind a whole host of</p>	<p>1 and I think we're in -- what? -- fourth election cycle</p> <p>2 with it -- and our rules reflect this.</p> <p>3 The Secretary designates an electronic</p> <p>4 payment system through which the contribution is made</p> <p>5 electronically, and that, I think, is what the</p> <p>6 Secretary would like to get out of the business of</p> <p>7 having to deal with is that integration of the -- of</p> <p>8 the payment system with the -- with the -- with the --</p> <p>9 with the voter -- with the system that checks to ensure</p> <p>10 that the voter is eligible to give the donation in the</p> <p>11 first place by -- you know, and sort of cuts out that</p> <p>12 process.</p> <p>13 You know, so whether or not you can kick</p> <p>14 back out money from the Fund in small increments to</p> <p>15 donors or candidates is a -- is in part a technology</p> <p>16 problem, and it's partially a problem for the state</p> <p>17 comptroller and the other folks who are handling the</p> <p>18 actual transactions of state money.</p> <p>19 COMMISSIONER CHAN: Mr. Chairman, Tom, I</p> <p>20 just -- I will be very interested in following this. I</p> <p>21 know you were just putting this out here for our</p> <p>22 information, but I'm extremely concerned about this</p> <p>23 change. And I think that, you know, the Secretary is</p> <p>24 the filing officer and, you know, it is what it is.</p> <p>25 That is her job as the Secretary. And E-Qual has been</p>		
10:14:48-10:16:00	Page 39	10:17:32-10:18:44	Page 41
<p>1 issues which -- a few of which you've named, but I</p> <p>2 mean, it not only -- I guess in my mind when you're</p> <p>3 filing as a Clean Elections candidate, that means that</p> <p>4 you've done all the legwork. You've gotten the</p> <p>5 petition signatures. You've gotten your \$5 quals. You</p> <p>6 file them all at the same time because you know what</p> <p>7 your decision is.</p> <p>8 What about people that change their mind</p> <p>9 that -- well, you mentioned that. What about</p> <p>10 contributors that change their mind? You know, to me</p> <p>11 this is going to create, possibly, significant problems</p> <p>12 for us to administer something that should be in the</p> <p>13 hands of the candidates until the time they actually</p> <p>14 file.</p> <p>15 MR. COLLINS: Mr. Chairman, Commissioner</p> <p>16 Chan, I think -- I mean, I think that -- I think that</p> <p>17 will be part of the discussion. It's not</p> <p>18 necessarily -- I don't think -- this is all</p> <p>19 preliminary. I've certainly made the Secretary aware</p> <p>20 of the issue with the inflows and outflows from the</p> <p>21 Fund. And their view, I think, provisionally is that</p> <p>22 it simplifies things to just deposit the money in the</p> <p>23 Fund, but as you say -- and one of the reasons it</p> <p>24 simplifies things is because the way that the E-Qual</p> <p>25 program was structured from the -- from the outset --</p>	<p>1 a boon, I think, for candidates, as well as voters who</p> <p>2 want to be participating, but I don't think that this</p> <p>3 is the way to go to simplify the process for the</p> <p>4 Secretary.</p> <p>5 And I know -- I've seen on Twitter that,</p> <p>6 you know, the system has been having issues that people</p> <p>7 are complaining about very publicly, but I don't think</p> <p>8 that that is a reason to make this kind of a policy</p> <p>9 change which, frankly, I think would be a bad policy</p> <p>10 change.</p> <p>11 So having said that, thank you,</p> <p>12 Mr. Chairman.</p> <p>13 CHAIRMAN PATON: Mr. Chairman?</p> <p>14 CHAIRMAN TITLA: Commissioner Paton.</p> <p>15 CHAIRMAN PATON: I would concur. The idea</p> <p>16 that they're collecting these \$5 -- I mean, it's not</p> <p>17 that much money, but to these people this is real money</p> <p>18 that they need upfront. You know, we've seen them come</p> <p>19 here and testify and, I mean, to -- I'm not a</p> <p>20 technology person or anything like that, but I don't --</p> <p>21 I don't think it should be that difficult to let</p> <p>22 somebody keep \$1,000 to get their campaign going.</p> <p>23 And since we had all these people saying</p> <p>24 things were too hard, well, I think that would make</p> <p>25 things too hard right there. I mean, it's just -- just</p>		

10:18:46-10:19:57	Page 42	10:21:16-10:22:56	Page 44
<p>1 kind of nonsensical that if they collect \$5, but they</p> <p>2 can't keep it. They've got to turn it into somebody.</p> <p>3 And then, well, if I decide not to use the Clean</p> <p>4 Elections money, then how am I going to get that money</p> <p>5 back.</p> <p>6 MR. COLLINS: Right.</p> <p>7 COMMISSIONER PATON: And what are they</p> <p>8 going to do? They're going to go to somebody with a</p> <p>9 lot of money to -- you know, for donations or whatever.</p> <p>10 So to me, I just -- maybe I'm too simple minded on</p> <p>11 this, but to me it makes -- it's not -- it's illogical,</p> <p>12 really.</p> <p>13 MR. COLLINS: Well, Mr. Chairman,</p> <p>14 Commissioner Paton, I think -- I think -- no, I think</p> <p>15 that both you and Commissioner Chan raised and</p> <p>16 identified the kind of policy issues that you do have</p> <p>17 to work through. I think that -- I think that my --</p> <p>18 these conversation are preliminary. I think it's</p> <p>19 important to bear that in mind. I think that if</p> <p>20 there's a better way to do the E-Qual program that</p> <p>21 meets all the needs of all the stakeholders -- and</p> <p>22 we're not the only stakeholder.</p> <p>23 I mean, the fact of the matter is that the</p> <p>24 Commission can -- is not to stand in -- as I've told</p> <p>25 the Secretary's office, the Commission is not to stand</p>		<p>1 CHAIRMAN PATON: But it's a little -- it</p> <p>2 kind of smacks a little bit of David versus Goliath</p> <p>3 here. And, I mean, we were talking about all this, the</p> <p>4 apps and whatever. Are you serious somebody in a suit</p> <p>5 someplace can't figure this out easily?</p> <p>6 MR. COLLINS: Yeah. Again, I mean --</p> <p>7 CHAIRMAN PATON: I'm a little irritated</p> <p>8 just with the whole idea, I guess.</p> <p>9 MR. COLLINS: No, I think -- Commissioner</p> <p>10 Paton, I think that -- I think that, you know, we've --</p> <p>11 with respect to your comments and Commissioner Chan's</p> <p>12 comments respecting the rollout of E-Qual itself, you</p> <p>13 know, the Commission itself, you know, has been aware</p> <p>14 of those issues and the Commission staff. We've done</p> <p>15 some outreach to candidates on those issues, but we</p> <p>16 have tried to not get involved in any kind of press</p> <p>17 kind of public back-and-forth on it because my view is</p> <p>18 that at least in the current cycle, the most important</p> <p>19 thing is to get the thing working and -- and -- and it</p> <p>20 seems like that's the case currently.</p> <p>21 I mean, I haven't heard new -- new issues</p> <p>22 since the initial launch. And I may be wrong about</p> <p>23 that, but I certainly -- you know, so there is always</p> <p>24 going to be -- you know, the legislature decided, you</p> <p>25 know, several years ago that the Secretary's office</p>	
10:19:58-10:21:15	Page 43	10:23:02-10:24:39	Page 45
<p>1 in for the candidates. The candidates are the</p> <p>2 candidates, and so it is important that the candidates</p> <p>3 be aware of these things as we go forward and get</p> <p>4 them -- get themselves involved. Because they're going</p> <p>5 to be able to make the exact points you are making and</p> <p>6 they have -- as we've seen testimony here, they have</p> <p>7 the day-to-day experience that even we as staff may</p> <p>8 not -- may not have.</p> <p>9 So I think that -- I think that's -- I</p> <p>10 think that's right. I think that -- you know, so I</p> <p>11 think that -- what I view this as -- as an idea to try</p> <p>12 to find a better way, and I'm certainly open to</p> <p>13 exploring things that may be more efficient for the</p> <p>14 purpose of actually getting folks to a place where</p> <p>15 they're -- where they're -- you know, the qualifying</p> <p>16 process is not hampered unnecessarily by the</p> <p>17 bureaucratic stuff so long as we're still getting</p> <p>18 verification that the -- that the -- that the</p> <p>19 qualifying signatures are good, but that's -- you know,</p> <p>20 that's -- yeah.</p> <p>21 As you all have observed, that's not a --</p> <p>22 that's not as easy as flipping a switch. So -- so I'll</p> <p>23 keep you posted as we get closer to something.</p> <p>24 CHAIRMAN PATON: Mr. Chairman?</p> <p>25 CHAIRMAN TITLA: Commissioner Paton.</p>		<p>1 would be responsible for the statute that -- that deals</p> <p>2 with E-Qual. I think the tension is that the</p> <p>3 Secretary's office would also like the Commission to</p> <p>4 share in that responsibility, but the Commission's</p> <p>5 ability to share in that responsibility is limited by</p> <p>6 the fact that the Commission doesn't have the authority</p> <p>7 over the administration of the electronic system</p> <p>8 itself.</p> <p>9 And so, you know, it's sort of a -- it just</p> <p>10 makes things more complicated, but as Commissioner Chan</p> <p>11 observed, under the act and under E-Qual both, the</p> <p>12 Secretary's office is the place where folks are going</p> <p>13 to deliver these materials at the end of the day, not</p> <p>14 the Commission. And so we can certainly advise. We</p> <p>15 can -- you know, and I have advised, especially on the</p> <p>16 stakeholder issue, that the Commission is not the only</p> <p>17 stakeholder. The Commission is a stakeholder in this</p> <p>18 process.</p> <p>19 We have a legal role in terms of the fact</p> <p>20 that there are legal issues or policy issues within the</p> <p>21 act we have to deal with but, you know, at the end of</p> <p>22 the day, if the stakeholder process for making a change</p> <p>23 like this isn't done correctly, whether we take the</p> <p>24 lead on that -- I mean, I don't mind taking a lead on</p> <p>25 that, frankly, provided that, you know, we get that</p>	

10:24:42-10:25:48	Page 46	10:27:16-10:28:47	Page 48
<p>1 feedback back to the Secretary's office as they're</p> <p>2 going forward and developing it.</p> <p>3 It's a matter of at the end of the day</p> <p>4 where the road meets the road and the implementation</p> <p>5 happens, we cannot -- well, it just creates a -- well,</p> <p>6 I'm not saying we cannot. I guess that's too strong a</p> <p>7 word. There's a conundrum and a tension about how much</p> <p>8 the Commission itself can administrate a program that</p> <p>9 the Secretary's is obligated to administrate.</p> <p>10 So it's complicated.</p> <p>11 COMMISSIONER CHAN: Mr. Chairman, I don't</p> <p>12 think there's a question. I mean, we don't have a role</p> <p>13 in administering it. So, okay, having said that.</p> <p>14 CHAIRMAN TITLA: Any more comments?</p> <p>15 Questions for the director?</p> <p>16 (No response.)</p> <p>17 CHAIRMAN TITLA: Okay. Let's go to the</p> <p>18 next item here.</p> <p>19 Thank you, Tom for your report.</p> <p>20 MR. COLLINS: Thank you.</p> <p>21 CHAIRMAN TITLA: We go to Item IV,</p> <p>22 discussion and possible action on issues related to the</p> <p>23 Clean -- or Citizens Clean Elections A.R.S. 16-941, the</p> <p>24 Governor's Regulatory Review Council's activities</p> <p>25 related to the Commission, and the Secretary of State's</p>	<p>1 the Secretary's office that Mary had sent them</p> <p>2 basically saying, you know, we think that -- we think</p> <p>3 that you ought to put the Rules R2-20-109 and R2-20-111</p> <p>4 back into the Administrative Code.</p> <p>5 We -- Deputy Secretary Miller cited a</p> <p>6 particular section of the code, and I think he said</p> <p>7 something to the effect of if a lawyer would tell him</p> <p>8 that that's incorrect he would change it. Well, we</p> <p>9 have told him that's incorrect because the citation</p> <p>10 he's relying on simply doesn't apply to this situation</p> <p>11 at all. Nevertheless, we haven't heard back from them</p> <p>12 on that. So that's the status quo there.</p> <p>13 Why that matters is that, you know, we --</p> <p>14 for purposes of an Interagency Service Agreement, the</p> <p>15 services that they're providing are twofold. One,</p> <p>16 they're providing us with -- with the ability to have</p> <p>17 access to -- and the public to have access to better</p> <p>18 presented information about campaign financing</p> <p>19 activity, but, two, to ensure that specifically the</p> <p>20 Clean Elections report called for in 16-941(d) and 958</p> <p>21 are in the campaign finance reporting system.</p> <p>22 And as a condition of that, we asked them</p> <p>23 to refrain from taking actions in a regulatory</p> <p>24 manner -- matter or in a lawsuit to interfere with the</p> <p>25 Commission's ability to obtain information from</p>		
10:25:52-10:27:10	Page 47	10:28:49-10:30:12	Page 49
<p>1 office actions related to Commission rules and the 2017</p> <p>2 Interagency Service Agreement between the Commission</p> <p>3 and the Secretary of State.</p> <p>4 Director?</p> <p>5 MR. COLLINS: Yes. Mr. Chairman -- and</p> <p>6 I'll try to keep my summary brief. And we do</p> <p>7 anticipate that we will ask you to go into executive</p> <p>8 session on this, but I just want to update you.</p> <p>9 Last meeting which was last week, you know,</p> <p>10 in my executive director's report and in Deputy</p> <p>11 Secretary Miller's response to it which he was nice</p> <p>12 enough to come and present, you know, we had a</p> <p>13 discussion about what's going on with the status of the</p> <p>14 Commission's rules. The first thing I'll say is that</p> <p>15 the Commission's view remains, unless otherwise</p> <p>16 directed, the same it's always been. The rules are the</p> <p>17 rules that we pass. Those are the rules that are</p> <p>18 enforced, and those rules reflect directly the statutes</p> <p>19 that are enforced and those statutes are still</p> <p>20 enforced.</p> <p>21 And so there -- and the case law in Arizona</p> <p>22 also reflects the law as we currently apply it. So</p> <p>23 that's always a preparatory comment that I make. I</p> <p>24 will say that we've sent two letters. I think you have</p> <p>25 at least one of them -- maybe not in this packet -- to</p>	<p>1 reporting parties.</p> <p>2 So the risk here is -- and just on the ISA</p> <p>3 piece is that, you know, those are intertwined. If</p> <p>4 you're going to make a contract for services, which is</p> <p>5 what we've done, you also have to -- and you have a --</p> <p>6 the person with whom you're contracting has previously</p> <p>7 objected to the existence of the very service that you</p> <p>8 want them to provide, it seems to me logical that the</p> <p>9 contract would stipulate that you ought not to</p> <p>10 interfere with the actual provision of the services</p> <p>11 we're paying for. And that is where the publication --</p> <p>12 the depublication of the rules fits in and why it's</p> <p>13 important.</p> <p>14 But what that's also done is brought</p> <p>15 together two or three different strains of issues that</p> <p>16 we have been wrestling with over the course of the last</p> <p>17 couple of years because the depublication situation</p> <p>18 doesn't arise without the Governor's Regulatory Review</p> <p>19 Commission's activities which don't arise without Eric</p> <p>20 Spencer and Secretary Reagan's activities at the</p> <p>21 Governor's Regulatory Review Commission in the first</p> <p>22 place.</p> <p>23 And so we now have a situation where --</p> <p>24 where legal issues, public education issues, reporting</p> <p>25 issues and interagency -- you know, really, I mean,</p>		

10:30:17-10:31:32	Page 50	11:28:26-11:30:02	Page 52
<p>1 basically GRRC's excessive -- you know, both incorrect</p> <p>2 and excessive exercises of authority are all now</p> <p>3 wrapped up in one thing which pulling out the strains</p> <p>4 of that is complicated enough, but that's kind of the</p> <p>5 lay of the land as it stands today.</p> <p>6 As it stands today, we have no response</p> <p>7 from the Secretary. As it stands today, the law is</p> <p>8 what we say the law is, but the law is not</p> <p>9 represented -- is not represented as clearly or</p> <p>10 accurately as it could be in the Administrative Code</p> <p>11 because those rules are not there. Absent those rules,</p> <p>12 folks need to either find our rule book or look at the</p> <p>13 statute and there's not necessarily -- and then that</p> <p>14 creates an information problem and a concern.</p> <p>15 So I think that's about all I can say to</p> <p>16 give the public a sense of what this -- what this issue</p> <p>17 is, unless Mary thinks there's more I can say. And</p> <p>18 then -- but we recommend that if there was a motion to</p> <p>19 go into executive session, we would -- we would</p> <p>20 recommend that we do that at that time -- at this time.</p> <p>21 CHAIRMAN TITLA: Is there a motion to go</p> <p>22 into executive session, Commissioners?</p> <p>23 COMMISSIONER CHAN: I move that we go into</p> <p>24 executive session to discuss this issue.</p> <p>25 CHAIRMAN TITLA: Commissioner Chan motions</p>		<p>1 we went into executive session, I wanted to return to</p> <p>2 those issues because I think that one of those issues</p> <p>3 is pertinent and appropriate for public session because</p> <p>4 I discussed it in public. And I just wanted to close</p> <p>5 that out, and that's the issue related to the</p> <p>6 Interagency Service Agreement between the Secretary's</p> <p>7 office and the Commission.</p> <p>8 What I recommend is that, based on the</p> <p>9 language of the ISA, that we would -- I would ask for</p> <p>10 authorization to me and to our counsel to -- to notice</p> <p>11 the Secretary of State of breach of that ISA. I think</p> <p>12 that's a requirement -- well, it's part of the</p> <p>13 contract. I think that -- as I indicated at the</p> <p>14 outset, that Mr. Miller's statements respecting why he</p> <p>15 did what he did are not backed up by the laws that he</p> <p>16 cites and, therefore, they are -- in our view, and</p> <p>17 according to letters we've already sent to him, they</p> <p>18 were discretionary acts by the Secretary that</p> <p>19 contradicted discretionary acts she took to that she</p> <p>20 would refrain from acting in this manner.</p> <p>21 And so I think it's important that the</p> <p>22 Commission do, in fact, act on its rights under the</p> <p>23 contract. And so I'd recommend, and subject to your</p> <p>24 discussion and action, that authorization to the staff</p> <p>25 and counsel to -- to draft and send over a notice of</p>	
10:31:35-11:28:24	Page 51	11:30:09-11:31:06	Page 53
<p>1 for executive session.</p> <p>2 Second?</p> <p>3 COMMISSIONER KIMBLE: Second.</p> <p>4 CHAIRMAN TITLA: Commissioner Kimble.</p> <p>5 All in favor say aye.</p> <p>6 (Chorus of ayes.)</p> <p>7 CHAIRMAN TITLA: Opposed?</p> <p>8 (No response.)</p> <p>9 CHAIRMAN TITLA: Abstain?</p> <p>10 (No response.)</p> <p>11 CHAIRMAN TITLA: Motion passes. We will go</p> <p>12 into executive session at 10:30 a.m.</p> <p>13 (The following section of the meeting is in</p> <p>14 executive session and bound under separate cover.)</p> <p>15 * * * * *</p> <p>16 (End of executive session. Public meeting</p> <p>17 resumes at 11:28 a.m.)</p> <p>18 CHAIRMAN TITLA: Okay. We're back in</p> <p>19 regular session now having discussed Item IV in</p> <p>20 executive session.</p> <p>21 Any action by the Commission?</p> <p>22 MR. COLLINS: Well, Mr. Chairman, if I</p> <p>23 could, I think that the thing that we need to talk</p> <p>24 about in open session real quickly just to rehash the</p> <p>25 things that I talked about in the beginning or before</p>		<p>1 breach of the Interagency Service Agreement.</p> <p>2 And I'm happy to answer any questions about</p> <p>3 that that you have at this time.</p> <p>4 CHAIRMAN TITLA: Any questions for the</p> <p>5 director?</p> <p>6 COMMISSIONER KIMBLE: Mr. Chairman?</p> <p>7 CHAIRMAN TITLA: Commissioner Kimble.</p> <p>8 COMMISSIONER KIMBLE: I would move that the</p> <p>9 Commission direct the executive director, in</p> <p>10 conjunction with our legal advisors, to draft a written</p> <p>11 notice of a breach to the Secretary of State's office</p> <p>12 regarding the 2017 Interagency Services Agreement</p> <p>13 between the Commission and the Secretary of State.</p> <p>14 CHAIRMAN TITLA: Motion by Commissioner</p> <p>15 Kimble.</p> <p>16 MR. COLLINS: And I don't mean to interrupt</p> <p>17 the motion, but we would also like -- we would like --</p> <p>18 we would like to send it.</p> <p>19 COMMISSIONER KIMBLE: And I would -- I</p> <p>20 would modify my motion to say draft and send the</p> <p>21 letter.</p> <p>22 CHAIRMAN TITLA: Okay. We have a modified</p> <p>23 motion by Commissioner Kimble.</p> <p>24 Is there a second?</p> <p>25 COMMISSIONER CHAN: I would second that</p>	

11:31:06-11:31:57	Page 54	11:32:51-11:44:25	Page 56
<p>1 modified motion.</p> <p>2 CHAIRMAN TITLA: Commissioner Chan seconds</p> <p>3 the motion.</p> <p>4 All in favor say aye.</p> <p>5 (Chorus of ayes.)</p> <p>6 CHAIRMAN TITLA: Opposed?</p> <p>7 (No response.)</p> <p>8 CHAIRMAN TITLA: Abstain?</p> <p>9 (No response.)</p> <p>10 CHAIRMAN TITLA: Motion is carried</p> <p>11 unanimously.</p> <p>12 Is there anything else?</p> <p>13 MR. COLLINS: That's Item IV. We are</p> <p>14 prepared to move on to Item V.</p> <p>15 CHAIRMAN TITLA: Okay. Item V, discussion</p> <p>16 and possible action on Clean Elections Surcharge and</p> <p>17 related issues with the Arizona Administrative Office</p> <p>18 of the Courts.</p> <p>19 MR. COLLINS: And, Mr. Chairman, Joe</p> <p>20 Kanefield from the law firm Ballard Spahr, as you know,</p> <p>21 has been appointed to advise us on this matter. He</p> <p>22 has, I think, an update for us. I also think that --</p> <p>23 you can ask him if we need to go into executive</p> <p>24 session, but we may have to briefly go into executive</p> <p>25 session to deal with a couple of issues. But I'll</p>		<p>1 CHAIRMAN TITLA: Opposed?</p> <p>2 (No response.)</p> <p>3 CHAIRMAN TITLA: Abstain?</p> <p>4 (No response.)</p> <p>5 CHAIRMAN TITLA: Motion is carried.</p> <p>6 We are in executive session at 11:31 a.m.</p> <p>7 (The following section of the meeting is in</p> <p>8 executive session and bound under separate cover.)</p> <p>9 * * * * *</p> <p>10 (End of executive session. Public meeting</p> <p>11 resumes at 11:43 a.m.)</p> <p>12 CHAIRMAN TITLA: Okay. We are back in open</p> <p>13 session.</p> <p>14 And, esteemed counselor, we would ask you</p> <p>15 to proceed as directed by the Commission. Thank you.</p> <p>16 Okay. We did Item VI already, I think, at</p> <p>17 the beginning of the meeting. So we'll go to Item VII,</p> <p>18 public comment.</p> <p>19 Is there anyone in the public that wishes</p> <p>20 to comment?</p> <p>21 Yes, ma'am.</p> <p>22 MS. KNOX: My name is Rivko Knox, and I'm</p> <p>23 representing the League of Women Voters of Arizona.</p> <p>24 And I just felt a great need to one more time</p> <p>25 compliment the staff, Mr. Chairman and members of the</p>	
11:32:01-11:32:51	Page 55	11:44:28-11:45:33	Page 57
<p>1 leave it -- I'll put it -- Joe -- that's all I have to</p> <p>2 say.</p> <p>3 MR. KANEFIELD: Mr. Chair, members of the</p> <p>4 Commission, at the last meeting following your</p> <p>5 executive session to direct me to proceed as instructed</p> <p>6 in executive session, I have had some additional</p> <p>7 communications in a meeting with the senior leadership</p> <p>8 at the Administrative Office of the Courts. I'd like</p> <p>9 to report back my latest conversation with them,</p> <p>10 however, because this is in the context of potential</p> <p>11 litigation, I would suggest that the Commission go into</p> <p>12 executive session. And I promise I won't take more</p> <p>13 than five minutes.</p> <p>14 CHAIRMAN TITLA: Is there a motion for</p> <p>15 executive session?</p> <p>16 COMMISSIONER CHAN: I would move that we go</p> <p>17 back into executive session.</p> <p>18 CHAIRMAN TITLA: Commissioner Chan motions</p> <p>19 to go into executive session.</p> <p>20 Second?</p> <p>21 COMMISSIONER KIMBLE: Second.</p> <p>22 CHAIRMAN PATON: Second -- third.</p> <p>23 CHAIRMAN TITLA: Commission Kimble.</p> <p>24 All in favor say aye.</p> <p>25 (Chorus of ayes.)</p>		<p>1 Commission and Mr. Collins. And I wanted to compliment</p> <p>2 the staff about the wonderful roundtable which the</p> <p>3 league was privileged to be able to attend, and I also</p> <p>4 wanted to say that we -- the League of Women Voters of</p> <p>5 Arizona is tentatively planning a day at the</p> <p>6 legislature on -- in early February, February 7, so our</p> <p>7 members can get to know more of the legislators.</p> <p>8 And one of the things that I am definitely</p> <p>9 going to recommend that we talk with our legislators</p> <p>10 about -- because we have about 800 members all over the</p> <p>11 state -- is the outstanding job that the Citizens Clean</p> <p>12 Elections staff does -- Citizen Clean Election through</p> <p>13 their staff accomplished in terms of voter education</p> <p>14 because I think that it's really important for more and</p> <p>15 more legislators to be aware of what a -- what an</p> <p>16 amazingly effective and efficient and important role</p> <p>17 that that is: the Clean Elections Commission. And I</p> <p>18 just wanted to say that for the record.</p> <p>19 Thank you.</p> <p>20 CHAIRMAN TITLA: Thank you, ma'am. Your</p> <p>21 comments are always appreciated.</p> <p>22 Anybody else in the public?</p> <p>23 (No response.)</p> <p>24 CHAIRMAN TITLA: Okay. If not, is there a</p> <p>25 motion to adjourn?</p>	


11:45:35-11:45:52

Page 58

1 COMMISSIONER CHAN: I would move we adjourn
2 the meeting.
3 CHAIRMAN TITLA: Commissioner Chan motions
4 to adjourn.
5 Second?
6 COMMISSIONER KIMBLE: Second.
7 CHAIRMAN TITLA: Commissioner Kimble
8 seconds.
9 All in favor say aye.
10 (Chorus of ayes.)
11 CHAIRMAN TITLA: Opposed?
12 (No response.)
13 CHAIRMAN TITLA: Abstain?
14 (No response.)
15 CHAIRMAN TITLA: Motion is carried.
16 We are adjourned at 11:44. Thank you,
17 everybody.
18 (Whereupon, the proceedings concluded at
19 11:45 a.m.)
20
21
22
23
24
25

Page 59

1 STATE OF ARIZONA)
2 COUNTY OF MARICOPA)
3 BE IT KNOWN the foregoing proceedings were
4 taken by me; that I was then and there a Certified
5 Reporter of the State of Arizona, and by virtue thereof
6 authorized to administer an oath; that the proceedings
7 were taken down by me in shorthand and thereafter
8 transcribed into typewriting under my direction; that
9 the foregoing pages are a full, true, and accurate
10 transcript of all proceedings and testimony had and
11 adduced upon the taking of said proceedings, all done to
12 the best of my skill and ability.
13 I FURTHER CERTIFY that I am in no way
14 related to nor employed by any of the parties thereto
15 nor am I in any way interested in the outcome hereof.
16 DATED at Phoenix, Arizona, this 2nd day of
17 September, 2017.

18 
19 _____
20 LILIA MONARREZ, RPR, CR #50699
21
22
23
24
25

\$	administering (1) 46:13 administrate (2) 46:8,9 administration (2) 14:20;45:7 Administrative (4) 48:4; 50:10;54:17;55:8 adopted (1) 35:9 ads (4) 8:14,15,18;22:1 advantage (1) 36:1 advertising (1) 33:1 advise (2) 45:14;54:21 advised (1) 45:15 advisors (1) 53:10 affect (1) 38:1 afford (1) 33:1 afterwards (1) 25:25 again (7) 8:2,3;11:12; 18:24;23:7;26:23;44:6 agency (3) 14:17,18; 31:4 ago (5) 18:8,19;26:8,9; 44:25 agree (1) 37:12 agreed (1) 31:11 Agreement (5) 47:2; 48:14;52:6;53:1,12 allowed (3) 37:11,14,24 always (5) 15:5;44:23; 47:16,23;57:21 amazingly (1) 57:16 American (3) 10:12,15; 11:13 analytics (1) 7:16 Android (1) 20:7 announcing (1) 9:1 anticipate (1) 47:7 Apache (5) 14:3;24:17, 18,20;27:13 apologize (2) 23:1; 33:17 app (11) 9:18,20,22; 10:5;20:7,8,10,17,21, 25;21:3 appeared (1) 25:5 application (8) 7:3,3; 9:9;10:24;11:6,10,25; 30:20 applications (2) 15:4; 20:13 apply (2) 47:22;48:10 appointed (1) 54:21 appreciate (2) 14:23; 17:6 appreciated (2) 4:22; 57:21 approach (1) 10:5 approached (1) 9:3 appropriate (2) 37:16; 52:3 approve (2) 3:18,21 apps (1) 44:4 areas (3) 10:14;13:23; 17:3	argument (3) 34:16,22, 24 arise (2) 49:18,19 Arizona (10) 14:15; 17:19,20;18:3;19:3; 26:11;47:21;54:17; 56:23;57:5 around (1) 6:5 arrange (1) 18:15 ARS (1) 46:23 aspect (1) 23:8 assist (1) 19:9 assistance (1) 32:23 association (1) 24:4 ASU (1) 28:8 attend (8) 4:22;12:19; 25:1;26:9;27:13;30:19; 35:1;57:3 attended (4) 5:6;24:1, 16;27:20 attending (2) 24:3,9 attends (1) 23:24 attorney (1) 33:19 audiences (2) 21:17,20 audio/visual (1) 30:12 audit (5) 35:7,10,13,14, 15 audited (1) 36:7 August (4) 3:13,19,22; 7:6 authority (2) 45:6;50:2 authorization (2) 52:10, 24 availability (1) 9:4 available (5) 7:4;18:14; 20:8,17;37:22 aware (5) 12:20;39:19; 43:3;44:13;57:15 away (1) 6:8 aye (5) 4:2;51:5;54:4; 55:24;58:9 ayes (5) 4:3;51:6;54:5; 55:25;58:10	based (2) 5:15;52:8 basically (3) 4:24;48:2; 50:1 basis (1) 38:6 bear (2) 34:11;42:19 beforehand (1) 30:14 beginning (3) 33:21; 51:25;56:17 begins (1) 29:9 belong (1) 38:9 better (11) 8:5;21:23, 24;26:20;31:2,12,13; 32:2;42:20;43:12; 48:17 big (4) 10:15;28:6; 30:24;31:19 bill (3) 34:1,2,2 biography (1) 20:22 birth (1) 28:22 bit (6) 5:6;9:13;28:16; 33:17,17;44:2 book (1) 50:12 boon (1) 41:1 booth (2) 28:14,18 booths (2) 27:17;28:7 born (1) 10:12 both (4) 20:9;42:15; 45:11;50:1 bounce (1) 22:7 bound (2) 51:14;56:8 Box (3) 16:5,20;18:13 boxes (4) 16:7,9;17:10; 18:14 breach (3) 52:11;53:1, 11 breakout (2) 4:25;32:22 breakouts (1) 22:17 breaks (1) 25:12 brief (1) 47:6 briefly (4) 29:2,18; 33:24;54:24 bring (1) 6:9 brochures (3) 19:10,14, 24 brought (3) 18:25; 26:13;49:14 bunch (1) 38:19 burdensome (2) 35:20, 25 bureaucratic (1) 43:17 busiest (1) 28:18 business (1) 40:6 busy (1) 29:23	came (1) 11:12 campaign (7) 36:7; 37:15;38:4,10;41:22; 48:18,21 can (55) 7:22;8:4,22; 9:14,15;10:1,4,6,7; 11:8,8,15;12:8;13:4,5, 8,17;14:18;15:1;16:1; 17:24;19:18,21;20:19, 25;21:5,23;23:10,11, 13,15;24:23;26:20; 28:11,12;30:5,8,11,24; 31:1,8,12;32:12;35:4; 36:19;37:5;40:13; 42:24;45:14,15;46:8; 50:15,17;54:23;57:7 candidate (5) 20:20,23; 30:2;38:9;39:3 candidates (22) 20:19; 21:2,18;30:14;32:13; 34:16;35:8,10,12,18; 36:6,7;37:2,22;39:13; 40:15;41:1;43:1,1,2,2; 44:15 capture (1) 35:8 Carlos (4) 14:3;15:25; 24:18;25:3 carried (4) 4:8;54:10; 56:5;58:15 Casap (2) 22:20;23:4 case (3) 34:17;44:20; 47:21 Casino (1) 24:18 caught (1) 35:22 CCR (1) 25:16 Center (2) 19:3;31:3 certain (7) 7:14;13:14; 17:3,20;18:14;19:22; 35:15 certainly (9) 15:3; 34:20;36:19;37:4; 38:17;39:19;43:12; 44:23;45:14 certificate (2) 24:10; 28:23 certification (1) 24:5 certified (1) 24:8 Chair (1) 55:3 CHAIRMAN (111) 3:3, 15,16,20,25;4:4,6,8,13; 8:8,9,12;9:23;11:19,20, 21,23;12:13,18;13:20, 24;14:7,9,11;15:2,9,19; 16:4,10,25;17:7;18:4; 22:12,13,24;23:25; 24:14,15;25:1,9,16,19, 21;26:2,5;27:20;31:15, 23;32:17,18;33:6,8,11, 14,16;38:22,23,24; 39:15;40:19;41:12,13, 13,14,15;42:13;43:24, 24,25;44:1,7;46:11,14, 17,21;47:5;50:21,25;
A	abiding (1) 36:4 ability (3) 45:5;48:16, 25 able (16) 4:22;15:15; 17:19,24;24:6,22;25:1, 9,11;26:9,22,25;28:25; 31:10;43:5;57:3 Absent (1) 50:11 absolutely (4) 12:19; 13:9,18;23:10 Abstain (5) 4:6;51:9; 54:8;56:3;58:13 acceptable (2) 12:11; 13:7 accepted (1) 13:13 access (6) 8:22;9:16; 18:12,24;48:17,17 accomplished (1) 57:13 according (1) 52:17 accurately (1) 50:10 ACDL (2) 19:11;20:2 across (5) 5:25;18:23; 19:15;23:24;26:14 act (3) 45:11,21;52:22 acting (1) 52:20 action (7) 3:12;4:12; 34:18;46:22;51:21; 52:24;54:16 actions (2) 47:1;48:23 active (1) 29:11 activities (4) 4:17; 46:24;49:19,20 activity (1) 48:19 acts (2) 52:18,19 actual (2) 40:18;49:10 actually (10) 5:20;7:1; 10:12;16:11;27:12,18; 28:17;30:24;39:13; 43:14 additional (2) 35:7;55:6 Additionally (3) 8:21; 9:11;21:6 address (8) 11:2;12:2, 4;15:12,13;17:12,13; 19:23 addressed (1) 18:19 addresses (3) 17:11; 18:9;19:22 addressing (1) 18:8 adjourn (3) 57:25;58:1, 4 adjourned (1) 58:16 administer (1) 39:12	B back (14) 21:22;22:2; 23:10;30:25;35:8; 40:14;42:5;46:1;48:4, 11;51:18;55:9,17; 56:12 back-and-forth (1) 44:17 backed (1) 52:15 background (1) 5:6 bad (1) 41:9 Ballard (1) 54:20 ballot (8) 7:25;18:12, 24;19:20;29:21;31:6; 34:10,11 ballots (1) 5:13 banner (2) 8:14,17 banners (1) 29:15	C calculated (1) 33:18 calendar (1) 34:21 call (4) 15:8;22:23; 23:1;25:3 called (4) 3:5;34:1; 35:9;48:20 calls (1) 10:19	

51:4,7,9,11,18,22;53:4,6,7,14,22;54:2,6,8,10,15,19;55:14,18,22,23;56:1,3,5,12,25;57:20,24;58:3,7,11,13,15 CHAN (20) 3:24;4:1;14:11;15:21;38:22,23,24;39:16;40:19;42:15;45:10;46:11;50:23,25;53:25;54:2;55:16,18;58:1,3 change (10) 37:9,19,20;39:8,10;40:23;41:9,10;45:22;48:8 changed (1) 13:17 changes (2) 36:12,25 channeled (1) 36:16 Chan's (1) 44:11 Chatbot (8) 7:1,2,22;8:16;9:16;28:9,10;29:10 check (1) 37:16 checks (1) 40:9 chimed (1) 14:12 choices (1) 38:1 Chorus (5) 4:3;51:6;54:5;55:25;58:10 chose (1) 25:18 circumstances (1) 28:20 citation (1) 48:9 cited (1) 48:5 cites (1) 52:16 cities (1) 8:24 Citizen (1) 57:12 Citizens (6) 3:4;17:18,23;34:18;46:23;57:11 city (5) 7:23;8:24,25;22:18;24:4 Civic (1) 31:3 Clean (16) 3:4;8:15;9:21;17:16;20:13;34:18;36:3;39:3;42:3;46:23,23;48:20;54:16;57:11,12,17 clear (1) 38:6 clearly (1) 50:9 clerk (1) 8:25 clerks (3) 22:18;24:4,4 click (2) 8:22;9:10 close (2) 18:16;52:4 closely (1) 20:12 closer (1) 43:23 code (5) 9:11,14;48:4,6;50:10 cognizant (1) 36:21 collect (2) 37:13;42:1 collecting (1) 41:16 Collins (20) 3:7;24:15,25;25:7,15,18;26:1;33:16;39:15;42:6,13;44:6,9;46:20;47:5;51:22;53:16;54:13,19;	57:1 colloquial (1) 34:5 coming (4) 26:24;27:12;28:2,5 comment (5) 12:13;35:7;47:23;56:18,20 comments (6) 29:14;33:9;44:11,12;46:14;57:21 commercials (1) 22:2 Commission (40) 3:5,13;4:16;6:20;17:17;18:7;19:10;28:3;30:10;31:17;33:4;34:19;37:7,16;38:17;42:24,25;44:13,14;45:3,6,14,16,17;46:8,25;47:1,2;49:21;51:21;52:7,22;53:9,13;55:4,11,23;56:15;57:1,17 COMMISSIONER (70) 3:15,16,17,21,24,25;8:8,9,10,13;9:17,21,24;10:9;11:20,23;12:4,18;14:11;15:2,21,23;16:11;17:7,9;22:12,13,14,25;23:17;31:15,16,24;32:17,18,19;33:6;38:22,23,24;39:15;40:19;41:14;42:7,14,15;43:25;44:9,11;45:10;46:11;50:23,25;51:3,4;53:6,7,8,14,19,23,25;54:2;55:16,18,21;58:1,3,6,7 commissioners (7) 3:9;4:14;14:10;15:20;18:4;33:16;50:22 Commission's (7) 19:12;33:19;45:4;47:14,15;48:25;49:19 common (1) 26:23 communicating (1) 27:2 communications (1) 55:7 communities (1) 11:14 community (4) 5:21,22;20:6;26:14 community-based (1) 30:17 competing (1) 38:19 complaining (1) 41:7 complete (1) 22:10 completing (1) 7:19 complicated (3) 45:10;46:10;50:4 compliment (2) 56:25;57:1 comptroller (1) 40:17 concern (1) 50:14 concerned (1) 40:22 concluded (1) 58:18 concur (1) 41:15	condition (1) 48:22 conducting (3) 5:11;7:8,24 conference (3) 18:8;24:2,17 conferences (1) 24:3 confusing (1) 31:21 conjunction (4) 12:7;15:16;16:17;53:10 connected (1) 22:22 consolidated (3) 5:1;29:3,19 consultants (1) 21:19 contact (3) 7:24;11:8;12:14 contacted (1) 19:4 contains (1) 19:12 contemplated (1) 37:21 content (3) 21:14;22:8;31:1 context (2) 23:3;55:10 continue (4) 23:23;27:6;31:25;32:14 contract (4) 49:4,9;52:13,23 contracting (1) 49:6 contradicted (1) 52:19 contribution (2) 20:24;40:4 contributions (5) 36:16;37:13;38:3,4,7 contributors (1) 39:10 conundrum (1) 46:7 conversation (3) 36:11;42:18;55:9 conversations (2) 13:15,19 coordinate (3) 15:21;16:3;17:15 coordination (1) 20:3 corners (1) 18:23 Corps (1) 14:5 correctly (1) 45:23 cost (1) 32:1 council (2) 24:11;26:11 Council's (1) 46:24 counsel (2) 52:10,25 counselor (1) 56:14 counties (2) 5:10;18:11 country (1) 13:23 county (16) 5:8,8;22:17;24:1,2,16,19,19,20,20,20,21;26:16;27:16,21;34:8 couple (3) 25:12;49:17;54:25 course (15) 5:3;10:2;13:8;21:12;24:7,10;27:3,6,14;29:20,24;30:2,22;37:6;49:16 Courts (2) 54:18;55:8 cover (2) 51:14;56:8 create (3) 20:19;28:12;	39:11 creates (2) 46:5;50:14 criticism (2) 23:18,20 crowd (1) 24:21 crowds (1) 28:14 current (3) 23:5;34:15;44:18 currently (3) 21:21;44:20;47:22 cut (1) 37:16 cuts (1) 40:11 cycle (3) 36:23;40:1;44:18	13:23;16:2;17:1;21:17;38:19;49:15 difficult (2) 14:15;41:21 difficulty (1) 35:19 digital (2) 8:14;29:14 direct (4) 8:21;34:12;53:9;55:5 directed (2) 47:16;56:15 direction (1) 30:10 directly (4) 20:25;36:16;38:7;47:18 director (8) 24:1,16;27:20;33:20;46:15;47:4;53:5,9 directors (1) 5:8 director's (2) 33:15;47:10 Disability (1) 19:4 discretionary (2) 52:18,19 discuss (1) 50:24 discussed (4) 12:19;26:13;51:19;52:4 discussion (11) 3:12;4:11;5:10;18:6;26:18;38:21;39:17;46:22;47:13;52:24;54:15 discussions (1) 13:1 district-specific (2) 31:18,25 DJ (1) 25:20 dollars (2) 37:14,20 donation (1) 40:10 donations (2) 36:16;42:9 done (6) 4:20;39:4;44:14;45:23;49:5,14 donors (1) 40:15 double-check (1) 15:15 down (5) 12:1;16:14;24:2;27:18;31:6 draft (3) 52:25;53:10,20 draw (1) 28:13 drive (4) 5:22;18:13;22:2;29:15 driver's (1) 11:1 during (1) 33:4
D				
dates (2) 29:7,19 David (1) 44:2 day (8) 10:17;11:3;28:5;33:5;45:13,22;46:3;57:5 days (2) 20:18;21:2 day-to-day (1) 43:7 deal (3) 40:7;45:21;54:25 deals (1) 45:1 debate (4) 30:5,13,14,19 debates (1) 30:4 December (1) 35:9 decide (1) 42:3 decided (2) 5:18;44:24 decision (1) 39:7 dedicate (1) 25:12 dedicated (1) 25:13 definitely (3) 18:21,25;57:8 deliver (2) 37:18;45:13 delivery (2) 17:13;19:23 demo (2) 6:25;13:4 departments (1) 20:4 depending (1) 12:22 depends (2) 16:18,22 deposit (1) 39:22 deposited (1) 38:7 depublication (2) 49:12,17 Deputy (3) 36:11;47:10;48:5 design (6) 23:12;31:4,4,6,7,7 designates (1) 40:3 designing (1) 30:25 detail (2) 6:3;12:20 detailed (1) 5:3 deter (1) 15:4 determine (1) 12:24 developed (2) 19:10,11 developers (1) 20:9 developing (2) 10:23;46:2 different (7) 12:21;				
E				
early (3) 11:9;29:9;57:6 easier (2) 17:2;31:21 easily (1) 44:5 easy (3) 10:24;21:10;43:22 Education (20) 4:12,17;6:2,5,13,17,18,22;17:18;19:5,13;26:23;27:1,25;29:5;30:23;31:7;34:13;49:24;57:13				

<p>effect (2) 12:10;48:7 effective (1) 57:16 efficient (5) 21:13; 30:21;32:1;43:13; 57:16 effort (4) 19:5,10;20:5; 28:19 efforts (9) 10:13;11:13; 19:6;20:3;26:6;27:7; 29:5;31:5;34:13 either (1) 50:12 election (33) 5:8,20,22; 7:7,8,17,23,24;8:13,20; 9:4;10:17;11:3,17; 15:22,25;21:4;24:3,5,7, 8;26:19,21;28:11;29:7, 19,21,23;30:1;34:11; 36:22;40:1;57:12 election-related (2) 28:13;33:25 Elections (18) 3:4;5:12; 6:10;8:16;9:22;17:16; 20:13;28:1;29:3,4; 34:18;39:3;42:4;46:23; 48:20;54:16;57:12,17 electronic (2) 40:3;45:7 electronically (1) 40:5 eligible (2) 32:13;40:10 else (2) 54:12;57:22 elsewhere (1) 13:22 email (1) 20:18 empowerment (1) 34:4 encourage (1) 15:5 end (8) 20:10,16; 22:11;45:13,21;46:3; 51:16;56:10 ends (1) 28:24 enforced (3) 47:18,19, 20 engaged (3) 9:7;37:2,3 engagement (2) 29:13; 31:5 engaging (2) 7:11;8:11 enough (5) 14:1;18:16; 36:24;47:12;50:4 enrolled (1) 14:2 enrollment (1) 15:22 ensure (5) 17:16,18; 36:1;40:9;48:19 entire (4) 7:13;12:6; 19:13;33:5 entities (1) 17:1 E-Qual (9) 20:23,25; 36:13;39:24;40:25; 42:20;44:12;45:2,11 Eric (1) 49:19 especially (2) 36:23; 45:15 essentially (2) 36:15; 38:9 esteemed (1) 56:14 evaluate (1) 35:16 even (7) 14:25;20:22;</p>	<p>23:11;30:12,13;31:2; 43:7 event (6) 5:7;28:6,25; 30:17;33:5;34:6 events (4) 9:14;14:6; 24:12;27:17 everybody (3) 4:21; 27:9;58:17 everybody's (1) 4:23 everyone (2) 31:19; 36:21 exact (1) 43:5 exactly (2) 16:13,22 example (1) 17:11 examples (1) 29:14 excessive (2) 50:1,2 excited (2) 4:14;20:14 Excuse (1) 25:4 executive (28) 24:1,16; 27:20;33:15,20;47:7, 10;50:19,22,24;51:1, 12,14,16,20;52:1;53:9; 54:23,24;55:5,6,12,15, 17,19;56:6,8,10 exercises (1) 50:2 exist (1) 6:15 existence (1) 49:7 exists (1) 9:8 expand (1) 35:11 expanded (1) 5:20 expansion (2) 34:3; 35:7 experience (9) 10:25; 21:24;26:21;30:18; 31:3,8,13;32:2;43:7 expertise (1) 23:15 explain (2) 12:15;17:1 exploring (1) 43:13 extend (1) 5:18 extent (1) 12:24 external (1) 9:10 extremely (1) 40:22 eye (1) 37:4</p>	<p>23:13;24:23;29:12; 30:7;31:12,17,22;33:7; 37:5;46:1 feel (3) 6:19;18:2; 38:16 felt (4) 5:17;6:23; 11:15;56:24 few (9) 6:7;8:14;18:8, 18;20:18;21:2;24:13; 26:8;39:1 figure (1) 44:5 file (2) 39:6,14 filed (1) 34:1 filing (2) 39:3;40:24 finalized (1) 20:15 Finally (1) 36:10 finance (2) 36:8;48:21 financing (1) 48:18 find (4) 12:15;21:10; 43:12;50:12 finding (1) 22:8 finds (1) 11:6 fine (1) 37:8 firm (1) 54:20 first (11) 4:15,21;5:6, 16;33:20,22,22;37:23; 40:11;47:14;49:21 first-hand (1) 5:12 fits (1) 49:12 five (1) 55:13 flagged (1) 38:14 flagging (1) 38:20 flip (1) 32:11 flipping (1) 43:22 FM (2) 25:4,4 focuses (1) 31:4 folks (13) 5:11;6:9; 7:18;18:21;22:17;36:1; 37:2,6;38:11;40:17; 43:14;45:12;50:12 follow (2) 11:4;17:17 following (5) 7:13; 40:20;51:13;55:4;56:7 forefront (2) 18:21;19:1 Forgive (1) 12:23 forgot (1) 34:20 forgotten (1) 34:20 form (2) 12:7;20:24 format (1) 13:4 forms (4) 10:21;12:21; 13:7;16:2 forward (7) 9:7;27:9; 34:14;37:7;38:21;43:3; 46:2 found (2) 10:15;35:17 Foundation (1) 34:18 four (6) 7:7;8:19,24; 18:23;29:3,19 fourth (1) 40:1 frankly (2) 41:9;45:25 free (1) 19:12 frequent (1) 18:5 frequently (1) 19:23</p>	<p>full (2) 7:16;35:14 functionality (2) 20:9,15 Fund (6) 34:18;36:17; 38:8;39:21,23;40:14 funded (1) 36:6 funding (1) 36:3 funds (2) 37:15;38:9 fungible (1) 37:11 further (3) 15:17;32:16; 33:8 furthermore (1) 6:16 FYI (1) 35:6</p>	<p>31:7,10;32:6 guides (2) 11:1;31:19</p>
			G	
			<p>Gen (1) 23:8 general (5) 19:23; 21:19;29:20;32:23; 34:10 generally (1) 35:18 generations (1) 23:10 gets (1) 12:25 Gila (4) 24:2,16,19; 27:21 Gina (3) 8:10;14:12,24 given (1) 35:23 giving (1) 25:10 glad (1) 14:12 glance (1) 14:1 goal (1) 22:9 goes (2) 13:11;34:9 Gold (1) 24:17 Goliath (1) 44:2 good (22) 7:20;15:21; 17:22;21:8;22:18,21; 24:21;25:2,10,20,24; 26:1,18;27:23;28:25; 29:1,12;30:10,16; 33:11;35:17;43:19 governing (1) 14:21 government (2) 23:2; 28:8 governments (2) 12:14; 30:12 Governor's (3) 46:24; 49:18,21 gracious (1) 23:14 Graham (1) 24:20 Grapevine (1) 25:17 grassroots (1) 27:23 great (8) 5:24;7:18;8:7, 12;11:2;17:5;22:15; 56:24 greater (1) 5:10 ground (1) 5:11 group (1) 27:7 growing (2) 21:14,15 GRRC's (1) 50:1 guess (3) 39:2;44:8; 46:6 guesswork (4) 10:23; 11:11,15;32:11 guide (5) 30:23,25;</p>	<p>H</p> <p>half (3) 11:18;18:19; 26:9 hampered (1) 43:16 hand (1) 19:25 handling (1) 40:17 hands (1) 39:13 happened (1) 26:19 happening (1) 29:18 happens (2) 38:6;46:5 happy (4) 15:17;32:25; 37:5;53:2 hard (3) 18:22;41:24, 25 hear (3) 6:15;23:2;33:7 heard (5) 6:9;25:16; 33:3;44:21;48:11 hearing (1) 19:17 held (2) 5:7;24:17 help (8) 8:17;11:8; 12:12,15;13:17;27:1; 28:13,24 helpful (3) 26:6;27:5,22 helping (1) 29:10 hey (1) 8:15 high (1) 30:9 higher (1) 33:2 highlight (1) 33:25 hit (1) 31:19 home (3) 8:23;19:7,19 hope (6) 11:16,17; 20:15;21:1;28:9,12 hopeful (1) 30:17 hopefully (2) 23:12,15 host (3) 5:19;25:20; 38:25 hosting (1) 30:14 hour (1) 25:6 house (2) 29:16,25 houses (1) 22:3 huge (1) 32:8</p>
	F			I
	<p>face (2) 15:11,18 Facebook (4) 7:3,4;9:9, 20 fact (10) 17:3;35:21; 36:2,22;37:13;38:8; 42:23;45:6,19;52:22 fair (2) 27:13,15 fairs (2) 24:12;27:11 FAQs (1) 10:7 far (4) 4:20;7:17;8:6; 29:6 favor (5) 4:2;51:5;54:4; 55:24;58:9 February (2) 57:6,6 federal (1) 29:23 feedback (15) 5:15; 7:15;13:6;21:8;22:16;</p>			<p>ID (20) 10:11,17,18,22; 11:7,21,24;12:8,10,25; 13:7,13,25;15:9,16; 16:3,15,23;18:1;28:22 idea (6) 15:21;22:21; 36:14;41:15;43:11; 44:8 identified (1) 42:16 identify (1) 6:18 identifying (1) 27:2 IDs (3) 12:21;13:12,12 II (2) 3:9,12 III (1) 33:15 illogical (1) 42:11 impact (3) 31:8;34:12,</p>

<p>13 impediment (1) 17:20 implementation (1) 46:4 important (7) 42:19; 43:2;44:18;49:13; 52:21;57:14,16 importantly (1) 32:3 impressed (1) 32:20 improve (2) 23:19;30:8 incorporate (1) 30:11 incorrect (3) 48:8,9; 50:1 increase (2) 19:5;20:9 increasing (1) 31:5 increments (1) 40:14 indicated (1) 52:13 individual (1) 28:24 inflows (1) 39:20 inform (2) 14:18;28:14 information (32) 5:22; 6:23;7:20,22,24;12:2; 13:14;16:16;20:1,2,11; 21:3,4,10,14,21;22:4, 16;23:6;25:11;26:25; 27:3;28:11;29:7,17; 31:1,9,25;40:22;48:18, 25;50:14 informational (1) 19:25 informing (1) 9:3 initial (2) 36:14;44:22 installed (1) 9:20 instead (1) 5:19 instructed (1) 55:5 instructions (1) 20:19 integrated (1) 9:24 integrating (1) 10:5 integration (1) 40:7 intend (3) 13:3,5;20:18 intent (1) 19:14 interacted (2) 7:12; 31:20 interaction (1) 29:13 Interagency (6) 47:2; 48:14;49:25;52:6;53:1, 12 interested (1) 40:20 interests (1) 38:19 interfere (2) 48:24; 49:10 internal (1) 31:1 interrupt (1) 53:16 inter-tribal (2) 24:11; 26:10 intertwined (1) 49:3 intimidating (1) 32:4 into (22) 4:20;5:1,6;3; 8:19;9:9;14:6;21:3; 23:3;38:7;42:2;47:7; 48:4;50:19,22,23; 51:12;52:1;54:23,24; 55:11,17,19 invitation (2) 5:20; 30:20</p>	<p>invitations (1) 27:19 invited (3) 5:7,21;27:18 involve (1) 30:9 involved (3) 30:15; 43:4;44:16 iOS (1) 20:7 irony (1) 36:9 irritated (1) 44:7 ISA (3) 49:2;52:9,11 issue (13) 10:15;11:14; 12:17;13:2;16:8,25; 35:21;38:2;39:20; 45:16;50:16,24;52:5 issues (34) 5:12;6:9, 12;13:10;14:23;18:5,9, 17,20,20,25;26:13,19, 24;36:18,18,23;39:1; 41:6;42:16;44:14,15, 21;45:20,20;46:22; 49:15,24,24,25;52:2,2; 54:17,25 ITCA (2) 10:13;13:1 Item (10) 4:10,11; 46:18,21;51:19;54:13, 14,15;56:16,17 items (1) 18:6 IV (3) 46:21;51:19; 54:13</p> <p>J</p> <p>Jaime (1) 22:20 job (3) 17:5;40:25; 57:11 Joe (3) 34:23;54:19; 55:1 July (4) 3:13,18,21;7:2 jump (2) 4:10,20 jurisdictions (2) 7:8; 8:19</p> <p>K</p> <p>Kanefield (2) 54:20; 55:3 keep (6) 37:4;38:3; 41:22;42:2;43:23;47:6 key (4) 22:19,25;23:13; 29:7 kick (1) 40:13 kicking (1) 30:5 KIMBLE (27) 3:15,16, 17,21;8:8,9,10,13;9:17, 21,24;10:9;32:17,18, 19;51:3,4;53:6,7,8,15, 19,23;55:21,23;58:6,7 kind (10) 11:10;36:8; 37:12;41:8;42:1,16; 44:2,16,17;50:4 knowing (1) 21:20 Knox (2) 56:22,22 KYAY (1) 25:3</p>	<p>L</p> <p>lack (1) 13:14 land (1) 50:5 language (1) 52:9 large (1) 10:14 larger (1) 6:1 last (5) 7:7;47:9,9; 49:16;55:4 late (4) 33:18,21,22,23 later (1) 4:11 latest (1) 55:9 laudatory (1) 32:22 launch (4) 7:10;9:6; 11:16;44:22 launched (1) 7:1 law (9) 12:11;19:4; 37:10;47:21,22;50:7,8, 8;54:20 laws (1) 52:15 lawsuit (1) 48:24 lawyer (1) 48:7 lawyers (1) 21:18 lay (1) 50:5 lead (3) 20:2;45:24,24 leaders (2) 5:21;26:14 leadership (1) 55:7 League (3) 56:23;57:3, 4 learn (2) 7:10;8:4 least (3) 25:7;44:18; 47:25 leave (2) 22:6;55:1 Lee (1) 36:12 Legacy (1) 34:17 legal (5) 36:17;45:19, 20;49:24;53:10 legislative (1) 36:24 legislators (3) 57:7,9,15 legislature (2) 44:24; 57:6 legwork (1) 39:4 less (2) 31:21;32:3 letter (1) 53:21 letters (2) 47:24;52:17 leverage (2) 8:5;23:15 license (1) 11:2 likely (1) 20:5 limited (1) 45:5 limiting (1) 5:19 link (4) 8:22;9:10; 20:25;35:3 linked (1) 9:2 links (2) 20:22,23 list (7) 5:21;14:24,25; 15:15;16:13,14,17 listed (1) 11:25 listening (2) 26:3,3 lists (1) 12:10 litigation (1) 55:11 little (8) 5:6;9:13;33:17, 17;38:13;44:1,2,7</p>	<p>live (4) 7:2;13:21; 17:11;18:3 Livestream (1) 35:3 Livestreamed (1) 35:3 logical (1) 49:8 long (4) 25:5;37:15,25; 43:17 look (10) 9:9;10:3; 16:12;23:11;27:9;30:5; 31:11;32:7;36:24; 50:12 looked (1) 34:21 looking (8) 7:18;8:7; 10:22;15:6;21:11;30:8; 31:2;34:14 lot (19) 6:8;12:1;13:10; 16:5,6,7;17:10;18:5; 21:7;22:15;26:12,16, 24;28:7,19,25;29:12, 16;42:9 love (4) 13:8;14:13; 15:1,1 lucky (2) 27:15;31:10</p> <p>M</p> <p>Ma'am (4) 13:24;24:15; 56:21;57:20 mail (2) 17:12;32:6 main (2) 15:10;16:25 maintain (2) 20:13; 24:10 makes (2) 42:11;45:10 making (4) 8:3;18:22; 43:5;45:22 Maledon (1) 34:24 manage (2) 20:10; 21:13 mandate (1) 17:17 manner (2) 48:24; 52:20 many (3) 13:20;22:16; 34:19 Marine (1) 14:5 Mary (2) 48:1;50:17 match (2) 12:11;16:16 matches (1) 16:24 material (1) 19:25 materials (4) 9:12,15; 27:25;45:13 matter (4) 42:23;46:3; 48:24;54:21 matters (1) 48:13 may (16) 11:7;12:22; 13:21;15:15;16:4,8; 34:12,20;36:22;38:1,1; 43:7,8,13;44:22;54:24 maybe (12) 3:9,9;12; 10:7;12:13,16;14:22; 15:6;22:21,22;23:19; 42:10;47:25 mean (16) 25:4;35:14; 37:12;39:2,16;41:16,</p>	<p>19,25;42:23;44:3,6,21; 45:24;46:12;49:25; 53:16 meaningful (1) 22:8 means (3) 17:5;37:7; 39:3 meant (2) 23:18,18 meantime (2) 10:6; 13:16 media (8) 6:6;8:18; 20:22;21:19,25;22:1; 29:5,12 meeting (19) 3:4,5; 18:18;23:5;25:2;26:10, 12;27:5,8,19;47:9; 51:13,16;55:4,7;56:7, 10,17;58:2 meetings (3) 23:24; 24:4;33:19 meets (2) 42:21;46:4 member (2) 14:3,13 members (6) 5:23; 13:22;55:3;56:25;57:7, 10 mention (1) 33:24 mentioned (7) 6:2;9:5; 11:12;26:8;27:11; 29:15;39:9 message (1) 29:9 messages (1) 27:2 Messenger (3) 7:4;9:9, 20 MEYER (7) 22:12,13, 14;23:17;31:15,16,24 Miller (2) 36:12;48:5 Miller's (2) 47:11;52:14 mind (7) 34:12;38:25; 39:2,8,10;42:19;45:24 minded (1) 42:10 minimal (1) 35:19 minutes (7) 3:13,18,21; 18:18;25:6,8;55:13 mirrors (1) 20:12 missing (1) 16:15 mix (1) 12:11 mix-and-match (1) 12:12 mock (1) 30:14 modified (2) 53:22;54:1 modify (1) 53:20 moment (1) 7:12 money (10) 37:11,24; 39:22;40:14,18;41:17, 17;42:4,4,9 month (1) 11:18 more (19) 7:10;8:3; 10:4;21:13;22:20; 23:19;30:18,20;32:1; 35:22;43:13;45:10; 46:14;50:17;55:12; 56:24;57:7,14,15 most (8) 6:4,11,19; 7:18;13:13;32:3;37:9;</p>
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44:18 mostly (1) 23:8 mother (1) 25:13 motion (17) 3:20,24; 4:8;50:18,21;51:11; 53:14,17,20,23;54:1,3, 10;55:14;56:5;57:25; 58:15 motions (3) 50:25; 55:18;58:3 Mountain (1) 27:13 move (8) 3:17;36:20; 38:15;50:23;53:8; 54:14;55:16;58:1 much (4) 6:3;31:20; 41:17;46:7 multiple (2) 21:20; 28:12	notice (3) 52:10,25; 53:11 November (2) 11:17; 15:24 Number (5) 3:11,12; 19:12;24:19;33:15 numbers (1) 34:16	17;12:15,15;17:4,22; 19:25;21:1,9,15;22:1; 23:1,11;25:11,23;26:3; 27:3,9;31:24;33:18; 36:6,23;38:12;40:6,11, 14,21;44:5;50:3;52:5 outflows (1) 39:20 out-of-state (1) 28:21 outreach (11) 9:14; 10:12;11:13;18:22; 19:5,9;20:5;24:11; 27:7,24;44:15 outreaches (1) 24:12 outset (2) 39:25;52:14 outstanding (2) 33:5; 57:11 over (4) 45:7;49:16; 52:25;57:10 overwhelmingly (1) 5:17 own (4) 14:16,20;16:2; 24:8	people (22) 5:5;6:11; 8:11;12:16;13:21; 14:25;16:1;17:2,10,15, 22;22:2;25:23;26:3; 28:16;32:21,21,24; 39:8;41:6,17,23 per (1) 30:9 percent (1) 6:11 performs (1) 23:3 period (1) 29:8 permanent (2) 19:6,16 person (2) 41:20;49:6 personally (1) 38:16 perspective (2) 6:1; 23:2 perspectives (1) 6:7 pertinent (1) 52:3 petition (1) 39:5 Phoenix (1) 7:9 phone (4) 9:20;10:19; 15:8;19:12 photograph (4) 12:2,8; 15:12;20:21 picture (1) 12:16 piece (2) 16:15;49:3 pilot (3) 7:6;29:10;30:9 Pinal (1) 24:20 place (4) 40:11;43:14; 45:12;49:22 places (1) 18:16 plan (1) 27:1 planning (1) 57:5 PO (7) 16:5,6,9,19; 17:10;18:13,14 point (5) 5:9;13:24; 29:6;36:6;37:8 pointing (1) 31:24 points (2) 7:14;43:5 police (1) 20:4 policy (6) 36:17,23; 41:8,9;42:16;45:20 political (1) 31:5 poll (4) 15:14;16:12,21, 24 polling (1) 18:15 polls (3) 10:11,22; 13:14 populated (1) 21:3 population (1) 10:14 positive (6) 5:17;6:14, 24;30:18;31:17,22 possibility (1) 10:1 possible (6) 3:12;4:12; 36:21,22;46:22;54:16 possibly (4) 11:9; 16:21;30:13;39:11 post (1) 19:24 posted (1) 43:23 posters (2) 19:11,15 posts (1) 8:18 potential (3) 23:19; 35:22;55:10 practical (2) 37:9;38:1	praise (1) 33:4 precinct (1) 18:10 precincting (1) 18:11 preliminary (2) 39:19; 42:18 preparatory (1) 47:23 prepare (1) 4:19 prepared (1) 54:14 Prescott (1) 7:9 presence (3) 4:23; 27:14;29:11 present (5) 23:23; 26:15,16;27:6;47:12 presentations (2) 4:25; 6:4 presented (1) 48:18 press (1) 44:16 pretty (2) 29:2,23 previously (1) 49:6 primary (2) 21:4;29:20 printed (4) 9:12,15; 16:20,23 privileged (1) 57:3 probably (2) 15:18; 24:23 problem (3) 40:16,16; 50:14 problems (1) 39:11 proceed (2) 55:5;56:15 proceedings (1) 58:18 process (19) 5:14;12:6, 12;13:18;19:21;28:15; 30:6,20;31:6;34:6; 35:18,20,24;37:3; 40:12;41:3;43:16; 45:18,22 production (1) 30:24 profile (2) 20:20,20 program (5) 6:17,22; 39:25;42:20;46:8 programs (1) 32:23 progress (1) 38:18 project (1) 19:2 promise (1) 55:12 proper (3) 10:16,18; 11:7 proposal (1) 37:21 provide (8) 6:20;13:6; 19:13;20:1;27:24;31:9; 32:2;49:8 provided (5) 6:1;7:15; 23:4;29:7;45:25 provides (3) 17:20; 21:23;28:3 providing (6) 6:23;21:4, 15;23:6;48:15,16 provision (1) 49:10 provisionally (1) 39:21 public (13) 21:19;35:7; 44:17;48:17;49:24; 50:16;51:16;52:3,4; 56:10,18,19;57:22 publication (1) 49:11
N	O	P		
name (3) 15:12;20:21; 56:22 named (2) 16:7;39:1 names (1) 37:18 Nation (2) 26:15;27:15 National (1) 28:4 nations (2) 14:16,19 Native (4) 10:12,15; 11:13;26:11 Navajo (3) 24:20; 26:15;27:15 navigate (2) 13:17; 21:10 necessarily (2) 39:18; 50:13 necessary (2) 12:1; 14:21 need (18) 6:16;10:17; 15:14;16:3;17:15,22, 24;21:16,22;22:5; 29:17;36:24;38:18; 41:18;50:12;51:23; 54:23;56:24 needs (3) 6:2;22:4; 42:21 neutral (1) 22:20 Nevertheless (1) 48:11 new (7) 6:25;7:4;8:2,6, 16;44:21,21 newest (1) 24:6 news (2) 33:25;34:1 next (4) 11:18;20:18; 21:2;46:18 nice (5) 7:21;10:3; 28:10;33:7;47:11 nine (1) 29:25 nonsensical (1) 42:1 non-standard (1) 18:9 note (3) 22:19,25;23:13 noted (1) 18:5 notes (4) 4:24,25;5:4; 23:11	objected (1) 49:7 obligated (1) 46:9 observed (2) 43:21; 45:11 obtain (1) 48:25 obviously (2) 14:20; 36:5 occurred (1) 4:17 occurring (2) 6:10;28:1 off (1) 30:5 offer (1) 23:14 office (18) 15:22,22; 19:24;32:24;34:7; 36:20;38:15;42:25; 44:25;45:3,12;46:1; 47:1;48:1;52:7;53:11; 54:17;55:8 officer (2) 24:5;40:24 offices (2) 22:18;29:21 officially (1) 16:7 officials (4) 5:20;24:3,7, 8 often (1) 24:2 one (16) 5:19;10:16; 11:24;16:14;21:11; 25:12;28:18;29:24; 32:12;39:23;47:25; 48:15;50:3;52:2;56:24; 57:8 ongoing (2) 33:25; 38:21 online (2) 10:24;30:20 only (11) 5:7;6:18; 14:3;18:14;28:11;32:1, 13;36:6;39:2;42:22; 45:16 open (5) 32:7,10; 43:12;51:24;56:12 opportunity (2) 27:23; 36:1 Opposed (5) 4:4;51:7; 54:6;56:1;58:11 optimal (1) 23:6 options (1) 11:25 oral (2) 34:16,22 order (1) 3:5 Osborn (1) 34:23 others (1) 24:21 otherwise (3) 35:4; 38:8;47:15 ought (2) 48:3;49:9 out (37) 8:15,17;9:6; 10:12,23;11:11,13,16,	packet (1) 47:25 packets (1) 4:23 page (1) 8:23 pamphlet (1) 30:3 parents (1) 30:15 part (7) 6:4,11;13:13; 36:3;39:17;40:15; 52:12 partially (1) 40:16 participants (2) 5:3; 6:18 participate (4) 6:17; 26:22;30:13;36:2 participated (1) 23:25 participating (6) 20:23; 34:15;35:8,11;36:3; 41:2 participation (1) 5:24 particular (8) 8:13;9:4; 13:21;15:9;18:9,20; 27:7;48:6 parties (1) 49:1 partner (1) 28:9 partnership (1) 19:3 partnerships (1) 27:16 pass (3) 14:6;37:10; 47:17 passes (1) 51:11 path (2) 11:4;28:11 paths (1) 28:12 PATON (20) 11:19,21; 12:4,13;13:20;16:4,25; 17:8,9;41:13,14,15; 42:7,14;43:24,25;44:1, 7,10;55:22 Paton's (1) 30:10 paying (1) 49:11 payment (2) 40:4,8		

publicly (2) 36:6;41:7 pulling (1) 50:3 purpose (1) 43:14 purposes (1) 48:14 put (8) 10:1,6;12:16; 14:24;27:4;37:8;48:3; 55:1 putting (1) 40:21	recertification (1) 24:9 recognize (1) 38:18 recommend (5) 50:18, 20;52:8,23;57:9 record (1) 57:18 recorder (1) 24:1 recorders (5) 5:8; 10:14;24:19;26:16; 27:16 recorder's (3) 22:18; 24:17;34:8 redesign (4) 20:11; 21:7;22:10,23 reduce (1) 22:7 referenced (2) 6:12; 21:9 referendum (1) 34:1 reflect (2) 40:2;47:18 reflects (1) 47:22 refrain (2) 48:23;52:20 regarding (1) 53:12 register (3) 19:18,21; 28:21 registered (1) 16:19 Registration (1) 28:5 regular (1) 51:19 Regulatory (4) 46:24; 48:23;49:18,21 rehash (1) 51:24 reinforce (1) 6:21 related (5) 46:22,25; 47:1;52:5;54:17 relationships (1) 23:24 relying (1) 48:10 remainder (1) 28:2 remains (1) 47:15 remarkable (1) 25:20 remarks (1) 25:24 report (9) 5:2;27:8; 33:11,15;35:4;46:19; 47:10;48:20;55:9 reporting (3) 48:21; 49:1,24 reports (1) 36:8 representation (1) 5:25 Representative (1) 29:25 represented (3) 30:2; 50:9,9 representing (1) 56:23 required (2) 10:21;35:2 requirement (1) 52:12 requirements (4) 14:17, 19;15:10,23 requires (1) 21:16 reservation (7) 13:21; 14:6;16:6;17:10,14,21; 24:18 reserve (1) 37:15 reserves (1) 37:25 residence (3) 15:13; 19:7,17 resource (3) 6:20;21:5;	32:9 resources (2) 28:3; 35:24 respect (1) 44:11 respecting (2) 44:12; 52:14 response (15) 4:5,7; 33:10;46:16;47:11; 50:6;51:8,10;54:7,9; 56:2,4;57:23;58:12,14 responses (1) 5:17 responsibility (2) 45:4,5 responsible (1) 45:1 restructure (1) 21:23 restructuring (1) 21:16 resulted (2) 27:19,19 resumes (2) 51:17; 56:11 return (2) 19:23;52:1 review (6) 14:10;15:20; 30:5;46:24;49:18,21 reviewed (1) 36:8 revising (1) 31:2 revolved (1) 6:5 right (6) 6:21;30:4; 37:11;41:25;42:6; 43:10 rights (1) 52:22 risk (1) 49:2 Rivko (1) 56:22 road (4) 17:12,14;46:4, 4 ROBERTS (18) 4:13; 8:12;9:19,23;10:10; 11:23;12:5,18;14:7; 15:2;16:10;18:4;22:24; 23:21;26:5;31:23;33:6, 13 rodeo (1) 27:14 role (3) 45:19;46:12; 57:16 rolling (1) 38:6 rollout (1) 44:12 roster (3) 16:16,20,23 Roth (1) 34:23 roundtable (12) 4:22; 5:1,7,16;6:8,25;22:15; 23:22;31:18;32:20; 33:4;57:2 rule (3) 18:7;35:9; 50:12 rules (13) 35:8;36:4; 40:2;47:1,14,16,17,17, 18;48:3;49:12;50:11, 11 running (1) 20:17	saw (1) 26:19 saying (3) 41:23;46:6; 48:2 scan (1) 9:15 scared (1) 32:7 scholarships (1) 34:4 schools (1) 30:9 script (2) 7:13,19 seat (1) 29:24 seats (1) 29:25 second (11) 3:23,24; 51:2,3;53:24,25;55:20, 21,22;58:5,6 Seconded (1) 3:25 seconds (2) 54:2;58:8 Secretary (21) 34:7; 36:11,12,14;38:15; 39:19;40:3,6,23,25; 41:4;46:25;47:3,11; 48:5;49:20;50:7;52:11, 18;53:11,13 Secretary's (9) 36:20; 42:25;44:25;45:3,12; 46:1,9;48:1;52:6 section (3) 48:6;51:13; 56:7 seeing (1) 5:13 seemed (1) 11:14 seems (2) 44:20;49:8 segment (1) 17:21 select (1) 35:15 Senate (2) 29:24;34:2 send (5) 31:10;35:4; 52:25;53:18,20 sending (1) 27:9 senior (1) 55:7 sense (2) 35:13;50:16 sent (3) 47:24;48:1; 52:17 separate (2) 51:14;56:8 September (3) 28:6; 34:17,22 serious (2) 35:22;44:4 serve (2) 16:15;21:20 service (6) 23:9;47:2; 48:14;49:7;52:6;53:1 services (4) 48:15;49:4, 10;53:12 session (27) 5:16; 26:12;47:8;50:19,22, 24;51:1,12,14,16,19, 20,24;52:1,3;54:24,25; 55:5,6,12,15,17,19; 56:6,8,10,13 sessions (2) 5:1;32:22 set (6) 10:21;11:3; 18:16;20:24;35:6,24 several (1) 44:25 share (5) 5:2;13:4,5; 45:4,5 shared (1) 8:23 sharing (1) 27:17 shelter (1) 19:22	shelters (3) 19:15;20:1, 3 shiny (1) 10:3 side (1) 29:24 signature (1) 34:6 signatures (2) 39:5; 43:19 significant (5) 36:24; 37:9,19,23;39:11 simple (3) 10:2,25; 42:10 simplifies (2) 39:22,24 simplify (1) 41:3 simply (1) 48:10 site (2) 21:21;22:6 sites (1) 15:25 situation (3) 48:10; 49:17,23 slash (1) 36:17 slides (1) 26:8 smacks (1) 44:2 small (1) 40:14 social (6) 6:6;8:18; 20:22;22:1;29:5,11 soft (2) 7:9;9:6 solution (3) 6:12,19; 11:10 solutions (1) 6:15 solve (1) 13:10 somebody (4) 41:22; 42:2,8;44:4 somebody's (1) 12:23 someplace (1) 44:5 sometimes (1) 12:6 somewhere (1) 9:10 song (2) 25:13,16 songs (1) 25:12 soon (1) 21:5 sophisticated (2) 8:3; 10:4 sort (5) 9:5;21:21;37:1; 40:11;45:9 sovereign (2) 14:16,19 space (1) 27:17 Spahr (1) 54:20 speaker (1) 22:19 speaking (3) 23:8,22; 35:18 specific (2) 10:21;15:15 specifically (3) 13:6; 32:24;48:19 Spencer (1) 49:20 sponsor (1) 18:7 sponsored (1) 26:10 squeezing (1) 21:22 staff (19) 4:18;14:14; 17:5;19:2,10;20:8,10; 21:13;23:24;24:2,6,8; 43:7;44:14;52:24; 56:25;57:2,12,13 stakeholder (6) 36:18; 42:22;45:16,17,17,22 stakeholders (3) 5:21;
Q				
QR (2) 9:11,14 qualifications (1) 36:15 qualify (2) 38:3,12 qualifying (6) 20:24; 29:8;36:15;37:18; 43:15,19 quality (1) 33:3 quals (1) 39:5 quick (1) 13:25 quickly (3) 36:20; 38:15;51:24 quite (2) 28:16;30:24 quitting (1) 7:21 quo (1) 48:12				
R				
R2-20-109 (1) 48:3 R2-20-111 (1) 48:3 radio (4) 8:25;25:3,4,20 raised (1) 42:15 raises (1) 38:25 ran (1) 8:14 rate (1) 22:7 rather (1) 36:16 reach (4) 17:22;23:11, 19;25:23 reached (1) 21:9 reaching (2) 21:1;26:7 read (1) 32:10 ready (2) 3:11;34:25 Reagan's (1) 49:20 real (3) 37:8;41:17; 51:24 realize (1) 10:18 really (28) 5:18,25; 6:14;7:6,11;11:12; 12:24;14:23;15:1; 16:14;21:25;27:5,22; 28:23,25;29:5;30:17; 31:6,10,19,22,22;32:2; 33:24;38:8;42:12; 49:25;57:14 reason (4) 5:9;14:4; 38:14;41:8 reasons (2) 37:22; 39:23 recall (1) 18:6 received (3) 21:7;30:7; 31:17 receives (1) 32:6 receiving (1) 27:10				
		S		
		same (4) 26:13;37:17; 39:6;47:16 San (4) 14:3;15:25; 24:18;25:3		

23:23;42:21 stand (2) 42:24,25 stands (3) 50:5,6,7 start (4) 8:11;29:8; 30:25;38:12 state (23) 5:25;6:2; 14:17,17,18;15:25; 17:16,18,19,23;18:24; 19:14,15;23:25;25:23; 26:14;36:12;40:16,18; 47:3;52:11;53:13; 57:11 statement (2) 12:9;30:3 statements (1) 52:14 State's (4) 34:7;38:15; 46:25;53:11 statewide (2) 29:20; 35:10 statewides (2) 29:22; 30:1 station (1) 25:3 status (3) 12:23;47:13; 48:12 statute (4) 34:4;37:17; 45:1;50:13 statutes (2) 47:18,19 stay (4) 21:11;22:8,22; 23:14 staying (1) 23:5 step (3) 21:22;23:10; 30:25 still (7) 11:7,8;12:3; 15:1;38:4;43:17;47:19 stipulate (1) 49:9 stop (1) 7:14 strains (2) 49:15;50:3 strategy (1) 26:11 streets (1) 16:7 strong (2) 29:6;46:6 structure (2) 31:12; 36:13 structured (1) 39:25 stuck (1) 3:7 Student (6) 13:12;28:8; 21,24;30:12,12 students (4) 13:12; 28:19;29:1;30:11 stuff (1) 43:17 subject (2) 35:10;52:23 sufficient (1) 37:15 suggest (1) 55:11 suggestions (1) 13:9 suit (1) 44:4 summarized (1) 5:2 summary (3) 4:24;6:3; 47:6 Surcharge (1) 54:16 sure (15) 9:1;10:1,6; 11:3;12:24;14:8;16:1, 10;18:6,22;22:5,7; 26:6;35:23,25 survey (1) 5:16 surveys (1) 30:7	switch (1) 43:22 system (9) 36:2,3,13; 40:4,8,9;41:6;45:7; 48:21 T talk (12) 9:13;15:17; 18:8,18;24:22,23; 25:10;28:17,23;37:6; 51:23;57:9 talked (4) 23:22;32:21; 36:14;51:25 talking (2) 6:11;44:3 talks (3) 10:13;14:2,2 tangible (1) 27:24 target (1) 8:18 taught (1) 16:5 teach (1) 24:6 teams (1) 30:13 technology (8) 6:5;7:5; 11;8,2,5;21:12;40:15; 41:20 telling (1) 14:24 tendered (1) 38:10 tension (2) 45:2;46:7 tentatively (1) 57:5 term (2) 34:4,5 terms (5) 5:13;6:22; 34:13;45:19;57:13 test (2) 8:17;9:6 testify (1) 41:19 testimony (1) 43:6 theme (4) 6:6;20:13; 23:4;26:23 theory (1) 34:10 therefore (1) 52:16 third (1) 55:22 thought (1) 33:5 thoughts (2) 22:23; 30:11 three (3) 12:10;15:10; 49:15 throughout (3) 4:18; 13:23;20:14 timeline (1) 22:10 times (1) 18:14 TITLA (62) 3:3,16,20, 25;4:4,6,8,8;9;11;20; 13:24;14:9;15:19;17:7; 22:13;24:15;25:1,9,16, 19,21;26:2;31:15; 32:18;33:8,11,14; 38:23;41:14;43:25; 46:14,17,21;50:21,25; 51:4,7,9,11,18;53:4,7, 14,22;54:2,6,8,10,15; 55:14,18,23;56:1,3,5, 12;57:20,24;58:3,7,11, 13,15 today (3) 50:5,6,7 together (3) 11:5; 14:24;49:15	told (2) 42:24;48:9 toll (1) 19:12 Tom (10) 3:7;4:11; 24:15,23;25:10,24; 27:12;38:24;40:19; 46:19 tomorrow (1) 27:12 Tom's (1) 25:13 took (3) 4:24;6:8;52:19 tool (9) 7:1;8:6,16;9:3; 10:10,11;11:15;13:3; 32:9 tools (1) 28:3 top (1) 21:12 total (1) 12:10 touch (1) 23:14 touched (1) 29:5 towards (4) 8:3;18:22; 26:20;37:14 track (1) 6:22 traffic (3) 3:8;28:7; 29:16 trained (1) 16:12 training (3) 12:19;24:5, 10 trainings (1) 13:1 transaction (1) 35:15 transactions (4) 35:16, 16,17;40:18 transparent (1) 30:21 transportation (1) 18:15 traveling (1) 27:12 trends (1) 21:12 tribal (9) 11:21,24; 12:14,21;13:7,22,25; 15:22;27:13 tribe (2) 14:3,13 tribes (7) 12:20;13:19; 14:14,16;16:2;26:15, 16 tri-county (1) 18:7 tried (1) 44:16 trivia (2) 28:10,13 true (1) 16:1 try (2) 43:11;47:6 trying (2) 17:1;25:22 Tucson (1) 7:9 Tuesday (2) 7:7,17 turn (2) 36:23;42:2 turned (2) 6:19;38:5 turning (1) 38:5 Twitter (1) 41:5 two (6) 10:18;26:9; 37:22;47:24;48:19; 49:15 twofold (1) 48:15 type (1) 12:25 U ultimately (1) 11:5 unanimously (2) 4:9; 54:11	under (6) 10:6;45:11, 11;51:14;52:22;56:8 undergrad (1) 28:8 underserved (1) 20:6 underway (1) 34:7 unfortunately (2) 13:13; 19:17 unique (2) 28:20,20 universities (1) 13:15 unless (2) 47:15;50:17 unnecessarily (1) 43:16 up (20) 6:9;14:23;15:7; 16:24;18:16,25;20:17, 24;26:13,24;27:6,12; 28:2,5,24;29:25;35:6, 24;50:3;52:15 update (8) 4:17;10:8; 28:9,13;31:1;36:11; 47:8;54:22 updates (1) 4:12 upfront (1) 41:18 URL (3) 8:21;10:1,6 use (9) 10:24;12:9; 15:16;16:17;21:10; 31:21;37:14,24;42:3 used (1) 34:5 useful (1) 33:2 user (6) 10:25;20:10; 21:24;31:2,13;32:2 using (1) 16:9 utility (1) 12:9 utilizing (3) 8:4;16:19; 19:22 V valid (1) 12:3 various (2) 12:14;24:12 verification (2) 34:6; 43:18 verify (1) 16:21 versus (2) 34:18;44:2 veteran (1) 14:5 VI (6) 3:9,11;4:10,10, 11;56:16 view (5) 39:21;43:11; 44:17;47:15;52:16 viewpoint (1) 23:7 VII (1) 56:17 violations (1) 35:22 visible (1) 20:20 vote (19) 7:25;10:17; 14:1;15:1,23,24;16:1; 17:3,19,24,25;18:2; 19:19;22:4;26:11; 28:21;29:17;32:12,14 Voter (31) 4:12,17;6:1, 5,13,16,18,22;11:1,6; 15:4;16:18;17:17; 18:22;19:5,13,16;22:4, 5;26:23;27:25;28:4; 29:4;30:22;31:7,19; 32:3,5;40:9,10;57:13	voters (49) 5:13;6:10, 20,23;7:10,12,22;8:4, 19,22;9:1,3,6,8,15; 10:15,16;12:5,12; 13:17;15:5;17:20; 18:10,16,23;19:6,7,18; 20:2;21:5,8,15,18,24; 23:7,20;26:7,21;27:3, 24;28:14;29:13,17; 30:7,18;31:13;41:1; 56:23;57:4 voter's (1) 31:8 voting (3) 11:9;15:4; 29:9 vouchers (1) 34:5 W wait (1) 4:10 walk (1) 12:5 waned (1) 57:1 wants (1) 38:17 way (8) 7:19;9:16,17; 38:18;39:24;41:3; 42:20;43:12 ways (1) 23:19 website (20) 8:23;9:2; 20:12,22;21:7,8,13,16; 22:3,3,9,14,16,19,23; 23:2;27:4;29:15,16; 31:7 week (3) 18:19;26:9; 47:9 weeks (1) 26:9 welcome (2) 35:1;37:5 what's (7) 6:9;7:25; 14:20,25;28:2;29:18; 47:13 Whereupon (1) 58:18 White (1) 27:13 whole (2) 38:25;44:8 whose (1) 36:7 wishes (1) 56:19 within (8) 7:3;8:19; 11:17,25;20:18;21:2; 36:22;45:20 without (2) 49:18,19 Women (2) 56:23;57:4 wonderful (1) 57:2 word (1) 46:7 work (14) 8:3;10:20,22; 11:5,22,24;15:10,18; 16:22;26:20;27:1;29:1; 30:6;42:17 worker (3) 15:14;16:21, 24 workers (1) 16:12 working (15) 10:11; 14:14;18:22;19:2;20:8, 11,14;21:6;27:8;28:7; 30:8,19,23;31:3;44:19 wow (1) 34:22 wrapped (1) 50:3
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wrestling (1) 49:16 wrinkle (1) 38:13 wristband (1) 19:11 written (2) 37:10;53:10 wrong (2) 12:23;44:22	80-something (1) 33:19			
Y	9			
year (8) 4:18,21;20:16; 21:6;22:11;24:13;29:6, 22 years (4) 16:6;18:8; 44:25;49:17 Yuma (2) 7:9;8:24	9:30 (2) 3:3,5 91.1 (1) 25:4 958 (1) 48:20 99 (1) 6:11			
1				
1 (1) 16:14 10:30 (1) 51:12 10:40 (1) 34:17 100 (1) 5:5 11 (1) 16:6 11:28 (1) 51:17 11:31 (1) 56:6 11:43 (1) 56:11 11:44 (1) 58:16 11:45 (1) 58:19 11th (2) 34:17,22 1431 (1) 34:2 16-941 (1) 46:23 16-941d (1) 48:20				
2				
2 (1) 16:17 20 (2) 3:13,21 2015 (1) 5:7 2016 (3) 21:7;26:19; 30:6 2017 (9) 3:13,14,18,19, 22;28:2;29:3;47:1; 53:12 2018 (7) 4:19;21:4; 26:20;27:1;28:2;29:18; 34:10 20th (1) 3:18 22 (1) 3:13 22nd (2) 3:19,22 26 (1) 28:6 27th (1) 7:2 29th (1) 7:6				
3				
30 (2) 25:5,8				
7				
7 (1) 57:6				
8				
800 (1) 57:10				

**CITIZENS CLEAN ELECTIONS COMMISSION
EXECUTIVE DIRECTOR REPORT
September 28, 2017**

Announcements:

- The public can view Commission meetings live via the internet at www.livestream.com/cleanelections. A link is available on our website.

Voter Education:

- National Voter Registration Day was held on Tuesday, September 26th. Staff partnered with ASU's Undergraduate Student Government to host a voter registration event at ASU's Tempe Campus. This is the third year the Commission has participated in National Voter Registration Day, which is the largest, coordinated one-day effort across the nation to register voters. To support this effort and engage with students, the chatbot was updated with election related trivia for students to test their voting knowledge.
- The Commission's voter education materials were also distributed on National Voter Registration Day by the Yuma County Recorder as well as the Arizona Center for Disability Law.
- The next election date is November 7, 2017. Local elections will be held across the state with issues such as school district bonds, budget overrides, taxation, franchises and candidates.
 - Voter Registration Deadline: Tuesday, October 10, 2017
 - Early Voting Begins: Wednesday, October 11, 2017

2018 Candidate Information:

- Participating Legislative Candidates: **22**
- Participating Statewide Candidates: **12**
- Clean Elections Training Workshops: **5**

Enforcement – 2017 Election Cycle:

Complaints Pending: 1

- MUR 17-001 – Jesus Rubalcava – currently during investigation phase.

Enforcement – 2014 Election Cycle:

Complaints Pending: 3

- MUR 14-006, -015 (consolidated/conciliated): Horne - pending completion of items in conciliation agreement.
 - MUR 14-007: Legacy Foundation Action Fund (LFAF) – Oral Argument was held Monday, September 11, 2017. For details see below.
- MUR 14-027: Veterans for a Strong America (VSA)

Miscellaneous

- **Arizona Supreme Court.** The Arizona Supreme Court heard oral arguments in *Legacy Foundation Action Fund v. Citizens Clean Elections Commission* took place September

11, 2017. Joe Roth argued for the Commission. A link to the argument is here: http://supremestateaz.granicus.com/MediaPlayer.php?view_id=2&clip_id=2315.

- **Update on Voter Registration Security.** In 2016, the Secretary of State took the voter registration system and the related E-Qual qualifying contribution system off-line due to an apparent hacking attempt. The Commission held a meeting to address concerns related to E-Qual at that time. On Friday, September 23, 2017, Secretary of State Michele Reagan released a tweet stating that the U.S. Department of Homeland Security had “let us know that the Russian government targeted our voter registration systems in 2016.” See Tweet of Secretary Reagan, <https://twitter.com/SecretaryReagan/status/911724863437418496>. Arizona was one of 21 states that Russia attempted to infiltrate, the Secretary’s office told The Arizona Republic. See Alia Beard Rau, “Russia tried to hack Arizona voter-registration system, federal officials say,” The Arizona Republic, available at <http://www.azcentral.com/story/news/politics/arizona/2017/09/22/russia-trying-hack-arizona-voter-registration-system-federal-officials-say/695057001/>. This does *not* involve election results. See Tweet by Secretary of State Spokesman Matt Roberts, <https://twitter.com/MattFlackAZ/status/911372355364036608>.

In August 2016, the Secretary of State’s spokesman told the USA Today that “authorities believe the source of the attempted intrusion was a Russian hacker.” Elizabeth Weise and Kevin Johnson, “Hackers hit Arizona, Illinois voter databases,” USA Today, available at <http://www.azcentral.com/story/tech/news/2016/08/29/hackers-hit-arizona-illinois-voter-databases/89547326/?from=global>. The same day, Yahoo News reported that “The FBI has uncovered evidence that foreign hackers penetrated two state election databases in recent weeks, prompting the bureau to warn election officials across the country to take new steps to enhance the security of their computer systems, according to federal and state law enforcement officials.” Michael Isikoff, “FBI says foreign hackers penetrated state election systems,” Yahoo News, available at <https://www.yahoo.com/news/fbi-says-foreign-hackers-penetrated-000000175.html>. Illinois and Arizona were the subject of both stories.

It’s not yet completely clear how the DHS notice differs from the attempts reported in 2016. One may infer the information is more detailed as the Secretary’s spokesman told the Republic that the Secretary is frustrated with the delay in providing detail to states. See Rau, available at <http://www.azcentral.com/story/news/politics/arizona/2017/09/22/russia-trying-hack-arizona-voter-registration-system-federal-officials-say/695057001/>. The office told the Republic that no actual breach occurred. *Id.* Rau indicated in a Facebook post that this is first time DHS “has given Arizona official confirmation that Russia tried to hack Arizona voter registration systems.”



NOTICES OF PROPOSED EXEMPT RULEMAKING

This section of the *Arizona Administrative Register* contains Notices of Proposed Exempt Rulemaking. An agency may be exempt from rulemaking standards outlined in the Arizona Administrative Procedures Act (APA).

An agency's exemption is listed in the Preamble of the rulemaking as specified under: A.R.S. §§ 41-1005 or 41-1057; or a specific statute; or if a rule is promulgated by the Corporation Commission, it is exempt from Attorney General review under a court decision as determined by the Commission.

If an agency determines it is exempt under the law or court decision, the law may still require publication of the Proposed Exempt Rulemaking in this section to solicit and review public comments on the rulemaking.

Some agencies, even though completely exempt, may still elect to follow certain provisions of the APA, such as circulating its exempt rulemaking for comment. If an agency chooses this option, our office encourages filing the notice with our office for publication in the *Register*.

Please note, if a statute dictates that an agency is completely exempt from the rulemaking process, the agency is authorized to file a Notice of Exempt Rulemaking.

In all cases, an agency must still follow the procedures as established by our office in order to have its rulemaking package published.

The Office of the Secretary of State is the filing office and publisher of these rules. Questions about the interpretation of the proposed exempt rule should be directed to the agency proposing them. Refer to Item #5 of the Preamble to contact the person charged with the rulemaking.

NOTICE OF PROPOSED EXEMPT RULEMAKING TITLE 2. ADMINISTRATION CHAPTER 20. CITIZENS CLEAN ELECTIONS COMMISSION

[R17-125]

PREAMBLE

1. **Article, Part, or Section Affected (as applicable)** **Rulemaking Action**
R2-20-402.01 Amend
2. **The statutory authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**
Authorizing statute: A.R.S. § 16-940, *et seq.*
Implementing statute: A.R.S. § 16-956(C).
3. **The effective date of the rules:**
Not applicable
4. **A list of all previous notices appearing in the *Register* addressing the exempt rule:**
Not applicable
5. **The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**
Name: Thomas M. Collins, Executive Director
Address: Citizens Clean Elections Commission
1616 W. Adams St., Suite 110
Phoenix, AZ 85007
Telephone: (602) 364-3477
Fax: (602) 364-3487
E-mail: thomas.collins@azcleelections.gov
6. **An explanation of the rule, including the agency's reasons for initiating the rule, including the statutory citation to the exemption from regular rulemaking procedures:**
On June 22, 2017, the Commission approved for publication proposed amendments to Commission rule R2-20-402.01. Commissioners would like to solicit public feedback on the proposed amendments regarding auditing all participating legislative candidates to ensure public funds are being appropriately utilized by the candidates. The following are the proposed amendments to the rule at issue:
Amends R2-20-402.01 to audit all legislative candidates during the election cycle rather than conduct random audits of candidates.
7. **A reference to any study relevant to the rule that the agency reviewed and either relied on in its evaluation of or justification for the rule or did not rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:**
Not applicable
8. **A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:**
Not applicable



9. **The summary of the economic, small business, and consumer impact:**
Not applicable
10. **A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):**
Not applicable
11. **A summary of the comments made regarding the rule and the agency response to them:**
On June 22, 2017, the Commission approved the proposed amendments publication on the Commission's website and in the Administrative Register. The Commission is soliciting public comment for 60 days. No action has been taken on the proposed amendments.
12. **Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:**
Not applicable
13. **Incorporations by reference and their location in the rules:**
Not applicable
14. **Was this rule previously made as an emergency rule? If so, please indicate the Register citation:**
Not applicable
15. **The full text of the rules follows:**

TITLE 2. ADMINISTRATION

CHAPTER 20. CITIZENS CLEAN ELECTIONS COMMISSION

ARTICLE 4. AUDITS

Section

R2-20-402.01. Random audits of participating legislative candidates.

ARTICLE 4. AUDITS

R2-20-402.01. Random audits of participating legislative candidates.

To ensure compliance with the Act and Commission rules, the Commission shall conduct ~~random~~ audits of all participating legislative candidates after each ~~election primary election period and each general election period~~. Candidates who win their primary election will not be subject to an audit until after the general election. ~~Random audits~~ Audits shall include the review of campaign finance reports for the entire election cycle and related documentation in accordance with procedures established by the Commission. The Commission may hire independent accounting firms to carry out the ~~random~~ audits. ~~The selection of legislative candidates for audit shall be determined by random lot at a Commission meeting. Candidates shall not be subject to selection for random audit for the general election period that were selected for random audit following the primary election period.~~

R2-20-106. Distribution of Funds to Certified Candidates

- A.** Before the initial disbursement of funds, the Commission shall review the candidate's funding application and all relevant facts and circumstances and:
1. Verify that the number of signatures on the candidate's nominating petitions equals or exceeds the number required pursuant to A.R.S. § 16-322 as follows:
 - a. If the application is submitted before the March 1 voter registration list is determined, the Commission shall verify that the number of signatures on the candidate's nominating petitions equals or exceeds 115 percent of the number required pursuant to A.R.S. § 16-322 based on the prior election voter registration list as determined by the Secretary of State; or
 - b. If the application is submitted after the current year March 1 voter registration list is determined the Commission shall verify that the number of signatures on the candidate's nominating petitions is equal to or greater than the number required pursuant to A.R.S. § 16-322.
 2. Determine that the required number of qualifying contributions have been received and paid to the Secretary of State for deposit in the Fund; and
 3. Determine whether the candidate is opposed in the election.
- B.** In making the determinations described in subsection (A)(3), the Commission shall consider all relevant facts and circumstances, and it shall not be bound by election formalities such as the filing of nominating petitions by others in determining whether an applicant is opposed. Among other evidence the Commission may consider is the existence of exploratory committees or filings made to organize campaign committees of opponents and other like indicia.
- C.** The Commission may review and affirm or change its determination that the candidate is or is not opposed until the ballot for the election is established.
- D.** Within seven days after a primary election and before the Secretary of State completes the canvass, the Commission shall disburse funds for general election campaigns to the participating candidates who received the greatest number of votes at each primary election, provided that the candidate with the highest number of votes out of the total number of votes, has at least two percentage points greater than the candidate with the next highest votes based on the unofficial results as of that date. In a legislative race for the Arizona House of Representatives, the Commission shall disburse funds for general election campaigns to participating candidates with the highest or second highest number of votes cast, provided such candidate received votes totaling at least two percentage points, of the total ballots cast, larger than the vote total cast for the candidate with the third highest vote total.
- E.** Promptly after the Secretary of State completes the canvass, the Commission shall disburse funds for general election campaigns to all eligible participating candidates to whom payment has not been made. If a participating candidate has received funds from the Commission pursuant to subsection (D) and the canvass or recount determines that the candidate is not eligible to appear on the general election ballot, the participating candidate shall return all unused funds to the Fund within 10 days after such determination is made. That candidate shall make no from general election funds from the date of the canvass.
- F.** The Commission may refuse to distribute funds to participating candidates in cases in which the Commission finds evidence of fraud or illegal activity committed by the participating candidate.

- G.** Pursuant to A.R.S. § 16-953(A), a participating candidate shall return to the Fund:
1. ~~All of his or her~~ primary election funds not committed to expenditures (1) during the primary election period; and (2) for goods or services directed to the primary election. A candidate shall not be deemed to have violated A.R.S. § 16-953(A) or this subsection on account of failure to use all materials purchased with primary election funds prior to the primary election, provided such candidate exercises good faith and diligent efforts to comply with the requirement that goods and services purchased with primary election funds be directed to the primary election. Subject to A.R.S. § 16-953(A) and this subsection, a candidate may continue to use goods purchased with primary election funds during the general election period.
 2. All general funds not committed to expenditures (1) during the general election period; and (2) for goods or services directed to the general election.
- H.** All funds returned to the Commission pursuant to subsection (G) of this rule, shall be returned to the Fund by a cashier's check drawn on the candidate's campaign bank account. Any fee associated with the issuance of a cashier's check shall be deemed a direct campaign expenditure and reported on the candidate's campaign finance report.
- I.** If a participating candidate does not account for any outstanding expenditures in the amount of the funds returned to the Commission, the participating candidate must reconcile the outstanding expenditures with personal monies. Participating candidates may not exceed the primary or general election spending limits.
- J.** Commission staff may waive the return of funds if:
1. The Commission staff determines the amount to be returned is de minimus;
 2. The cost of recovery exceeds the amount of the return;
 3. The funds to be returned do not exceed \$25; and
 4. The Commission is notified of any waiver the return of funds.



Within the stated calendar quarter, this Title contains all rules made, amended, repealed, renumbered, and recodified; or rules that have expired or were terminated due to an agency being eliminated under sunset law. These rules were either certified by the Governor's Regulatory Review Council or the Attorney General's Office; or exempt from the rulemaking process, and filed with the Office of the Secretary of State. Refer to the historical notes for more information. Please note that some rules you are about to remove may still be in effect after the publication date of this Supplement. Therefore, all superseded material should be retained in a separate binder and archived for future reference.

TITLE 2. Administration

Chapter 20. Citizens Clean Elections Commission

Sections, Parts, Exhibits, Tables or Appendices modified
R2-20-109, R2-20-111

☐ REMOVE Supp. 16-4
Pages: 1 - 26

☐ REPLACE with Supp. 17-2, version 2
Pages: 1 - 27

The Governor's Regulatory Review Council and the Citizens Clean Elections Commission dispute whether R2-20-109 and R2-20-111 have expired. Those interested in that issue should consult counsel.

The Council can answer questions about expired rules in this Chapter:

Name: Governor's Regulatory Review Council
Address: 100 N. 15th Ave #305
Phoenix, AZ 85007
Telephone: (602) 542-2058
Website: <https://grrc.az.gov/>

The agency's contact person who can answer questions about rules in this Chapter:

Agency: Citizens Clean Elections Commission
Name: Thomas M. Collins, Executive Director
Address: 1616 W. Adams St., Suite 110, Phoenix, AZ 85007
Phone: (602) 364-3477
Fax: (602) 364-3487
E-mail: thomas.collins@azcleelections.gov

Disclaimer: Please be advised the person listed is the contact of record as submitted in the rulemaking package for this supplement. The contact and other information may change and is provided as a public courtesy.

PUBLISHER
Arizona Department of State
Office of the Secretary of State, Administrative Rules Division

PREFACE

Under Arizona law, the Department of State, Office of the Secretary of State (Office), accepts state agency rule filings and is the publisher of Arizona rules. The Office of the Secretary of State does not interpret or enforce rules in the Administrative Code. Questions about rules should be directed to the state agency responsible for the promulgation of the rule.

Scott Cancelosi, Director
ADMINISTRATIVE RULES DIVISION
June 30, 2017

RULES

A.R.S. § 41-1001(17) states: “‘Rule’ means an agency statement of general applicability that implements, interprets, or prescribes law or policy, or describes the procedures or practice requirements of an agency.”

THE ADMINISTRATIVE CODE

The Arizona Administrative Code is where the official rules of the state of Arizona are published. The Code is the official codification of rules that govern state agencies, boards, and commissions. Virtually everything in your life is affected in some way by rules published in the Arizona Administrative Code, from the quality of air you breathe to the licensing of your dentist. This chapter is one of more than 230 in the Code compiled in 21 Titles.

ADMINISTRATIVE CODE SUPPLEMENTS

Rules filed by an agency to be published in the Administrative Code are updated quarterly. Supplement release dates are printed on the footers of each chapter:

First Quarter: January 1 - March 31
Second Quarter: April 1 - June 30
Third Quarter: July 1 - September 30
Fourth Quarter: October 1 - December 31

For example, the first supplement for the first quarter of 2017 is cited as Supp. 17-1.

HOW TO USE THE CODE

Rules may be in effect before a supplement is released by the Office. Therefore, the user should refer to issues of the Arizona Administrative Register for recent updates to rule Sections.

ARTICLES AND SECTIONS

Rules in chapters are divided into Articles, then Sections. The “R” stands for “rule” with a sequential numbering and lettering system separated into subsections.

HISTORICAL NOTES AND EFFECTIVE DATES

Historical notes inform the user when the last time a Section was updated in the Administrative Code. Be aware, since the Office publishes each quarter by entire chapters, not all Sections are updated by an agency in a supplement release. Many times just one Section or a few Sections may be updated in the entire chapter.

ARIZONA REVISED STATUTE REFERENCES

The Arizona Revised Statutes (A.R.S.) are available online at the Legislature’s website, www.azleg.gov. An agency’s authority note to make rules is often included at the beginning of a chapter. Other Arizona statutes may be referenced in rule under the A.R.S. acronym.

SESSION LAW REFERENCES

Arizona Session Law references in the introduction of a chapter can be found at the Secretary of State’s website, www.azsos.gov/services/legislative-filings.

EXEMPTIONS FROM THE APA

It is not uncommon for an agency to be exempt from the steps outlined in the rulemaking process as specified in the Arizona Administrative Procedures Act, also known as the APA (Arizona Revised Statutes, Title 41, Chapter 6, Articles 1 through 10). Other agencies may be given an exemption to certain provisions of the Act.

An agency’s exemption is written in law by the Arizona State Legislature or under a referendum or initiative passed into law by Arizona voters.

When an agency files an exempt rulemaking package with our Office it specifies the law exemption in what is called the preamble of rulemaking. The preamble is published in the Arizona Administrative Register online at www.azsos.gov/rules, click on the Administrative Register link.

In the Administrative Code the Office includes editor’s notes at the beginning of a chapter indicating that certain rulemaking Sections were made by exempt rulemaking. Exempt rulemaking notes are also included in the historical note at the end of a rulemaking Section.

The Office makes a distinction to certain exemptions because some rules are made without receiving input from stakeholders or the public. Other exemptions may require an agency to propose exempt rules at a public hearing.

EXEMPTIONS AND PAPER COLOR

If you are researching rules and come across rescinded chapters on a different paper color, this is because the agency filed a Notice of Exempt Rulemaking. At one time the office published exempt rules on either blue or green paper. Blue meant the authority of the exemption was given by the Legislature; green meant the authority was determined by a court order. In 2001 the Office discontinued publishing rules using these paper colors.

PERSONAL USE/COMMERCIAL USE

This chapter is posted as a public courtesy online, and is for private use only. Those who wish to use the contents for resale or profit should contact the Office about Commercial Use fees. For information on commercial use fees review A.R.S. § 39-121.03 and 1 A.A.C. 1, R1-1-113.

Public Services managing rules editor, Rhonda Paschal, assisted with the editing of this chapter.

TITLE 2. ADMINISTRATION

CHAPTER 20. CITIZENS CLEAN ELECTIONS COMMISSION

Editor's Note: The Citizen's Clean Elections Commission has filed a Notice of Public Information with the Office of the Secretary of State (Office) stating the Governor's Regulatory Review Council (G.R.R.C.) "cannot effectively repeal the rules" in this Chapter. The Notice also states, "persons subject to the Act and Rules are advised that it is the Commission's position [sic] that an action of G.R.R.C.... cannot relieve them of their obligations under the Act and Rules." [published at 23 A.A.R. 1761] The Office has received a Notice of Rule Expiration from the G.R.R.C. stating R2-20-109 and R2-20-111 have automatically expired [published at 23 A.A.R. 1757]. Under A.R.S. § 41-1056(G), our Office publishes filed G.R.R.C. notices and has included the rule expiration in this Chapter. Since the Office is merely the publisher, it has not, nor will it interpret the legality of the G.R.R.C. authority to "effectively repeal rules."

Editor's Note: The Office of the Secretary of State publishes all Code Chapters on white paper (Supp. 02-1).

Editor's Note: This Chapter contains rules that were adopted under an exemption from the rulemaking provisions of the Arizona Administrative Procedure Act (A.R.S. Title 41, Chapter 6) pursuant to A.R.S. § 16-956(D). Exemption from A.R.S. Title 41, Chapter 6 means that these rules were not certified by the Attorney General or the Governor's Regulatory Review Council. Because this Chapter contains rules that are exempt from the regular rulemaking process, the Chapter is printed on blue paper. The rules affected by this exemption appear throughout this Chapter.

ARTICLE 1. GENERAL PROVISIONS

Article 1, consisting of Sections R2-20-101 through R2-20-113, repealed by exempt rulemaking at 8 A.A.R. 588, effective October 17, 2001; new Article 1, consisting of Sections R2-20-101 through R2-20-112, made by exempt rulemaking at 8 A.A.R. 588, effective October 17, 2001 (Supp. 02-1).

Article 1, consisting of Sections R2-20-101 through R2-20-113, adopted by exempt rulemaking at 6 A.A.R. 1567, effective June 21, 2000 (Supp. 00-2).

Section

R2-20-101.	Definitions	3
R2-20-102.	Repealed	4
R2-20-103.	Communications: Time and Method	4
R2-20-104.	Certification as a Participating Candidate	4
R2-20-105.	Certification for Funding	5
R2-20-106.	Distribution of Funds to Certified Candidates	6
R2-20-107.	Candidate Debates	7
R2-20-108.	Termination of Participating Candidate Status	8

DISPUTED SECTION R2-20-109

R2-20-109.	Independent Expenditure Reporting Requirements	8
R2-20-109.	Expired	10
R2-20-110.	Participating Candidate Reporting Requirements	10

DISPUTED SECTION R2-20-111

R2-20-111.	Non-participating Candidate Reporting Requirements and Contribution Limits	11
R2-20-111.	Expired	12
R2-20-112.	Political Party Exceptions	12
R2-20-113.	Candidate Statement Pamphlet	12
R2-20-114.	Candidate Campaign Bank Account	12
R2-20-115.	Books and Records Requirements	13

ARTICLE 2. COMPLIANCE AND ENFORCEMENT PROCEDURES

Article 2, consisting of Sections R2-20-201 through R2-20-231, made by exempt rulemaking at 8 A.A.R. 588, effective October 17, 2001 (Supp. 02-1).

Section

R2-20-201.	Scope	13
R2-20-202.	Initiation of Compliance Matters	13
R2-20-203.	Complaints	13

R2-20-204.	Initial Complaint Processing; Notification	14
R2-20-205.	Opportunity for No Action on Complaint-generated Matters	14
R2-20-206.	Executive Director's Recommendation on Complaint-generated Matters	14
R2-20-207.	Internally Generated Matters; Referrals	14
R2-20-208.	Complaint Processing; Notification	15
R2-20-209.	Investigation	15
R2-20-210.	Written Questions Under Order	15
R2-20-211.	Subpoenas and Subpoenas Duces Tecum; Depositions	15
R2-20-212.	Repealed	15
R2-20-213.	Motions to Quash or Modify a Subpoena	15
R2-20-214.	The Probable Cause to Believe Recommendation; Briefing Procedures	15
R2-20-215.	Probable Cause to Believe Finding	16
R2-20-216.	Conciliation	16
R2-20-217.	Enforcement Proceedings	16
R2-20-218.	Repealed	16
R2-20-219.	Repealed	16
R2-20-220.	Ex Parte Communications	16
R2-20-221.	Representation by Counsel; Notification	17
R2-20-222.	Civil Penalties	17
R2-20-223.	Notice of Appealable Agency Action	17
R2-20-224.	Request for an Administrative Hearing	17
R2-20-225.	Informal Settlement Conference	17
R2-20-226.	Administrative Hearing	17
R2-20-227.	Review of Administrative Decision by Commission	17
R2-20-228.	Judicial Review	18
R2-20-229.	Repealed	18
R2-20-230.	Repealed	18
R2-20-231.	Repealed	18

ARTICLE 3. STANDARD OF CONDUCT FOR COMMISSIONERS AND EMPLOYEES

Article 3, consisting of Sections R2-20-301 through R2-20-312, made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1).

Section

R2-20-301.	Purpose and Applicability	18
R2-20-302.	Definitions	18
R2-20-303.	Notification to Commissioners and Employees	18
R2-20-304.	Interpretation and Advisory Service	18
R2-20-305.	Reporting Suspected Violations	19
R2-20-306.	Disciplinary and Other Remedial Action	19
R2-20-307.	General Prohibited Conduct	19
R2-20-308.	Outside Employment or Activities	19

Citizens Clean Elections Commission

R2-20-309.	Financial Interests	20
R2-20-310.	Political and Organization Activity	20
R2-20-311.	Membership in Associations	21
R2-20-312.	Use of State Property	21

ARTICLE 4. AUDITS

Article 4, consisting of Sections R2-20-401 through R2-20-406, made by exempt rulemaking at 11 A.A.R. 4518, effective May 18, 2005 (Supp. 05-4).

Section		
R2-20-401.	Purpose and Scope	21
R2-20-402.	General	21
R2-20-402.01.	Random Audits of Participating Legislative Candidates	21
R2-20-402.02.	Audits of Participating Statewide Candidates ...	21
R2-20-403.	Conduct of Fieldwork	21
R2-20-404.	Preliminary Audit Report	21
R2-20-405.	Final Audit Report	22
R2-20-406.	Release of Audit Report	22

ARTICLE 5. RULEMAKING

Article 5, consisting of Sections R2-20-501 through R2-20-506, made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1).

Section		
R2-20-501.	Purpose and Scope	22
R2-20-502.	Procedural Requirements	22
R2-20-503.	Processing of Petitions	22
R2-20-504.	Disposition of Petitions	22
R2-20-505.	Commission Considerations	23

R2-20-506.	Administrative Record	23
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ARTICLE 6. EX PARTE COMMUNICATIONS

Article 6, consisting of Sections R2-20-601 through R2-20-604, made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1).

Section		
R2-20-601.	Purpose and Scope	23
R2-20-602.	Definitions	23
R2-20-603.	Audits, Investigations, and Litigation	23
R2-20-604.	Sanctions	23

ARTICLE 7. USE OF FUNDS AND REPAYMENT

Article 7, consisting of Sections R2-20-701 through R2-20-710, made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1).

Section		
R2-20-701.	Purpose and Scope	23
R2-20-702.	Use of Campaign Funds	24
R2-20-702.01.	Use of Assets	25
R2-20-703.	Documentation for Direct Campaign Expenditures	25
R2-20-704.	Repayment	25
R2-20-705.	Additional Audits or Repayment Determinations	26
R2-20-706.	Repealed	26
R2-20-707.	Repealed	26
R2-20-708.	Repealed	26
R2-20-709.	Repealed	27
R2-20-710.	Repealed	27

ARTICLE 1. GENERAL PROVISIONS**R2-20-101. Definitions**

In addition to the definitions provided in A.R.S. § 16-961, the following shall apply to the Chapter, unless the context otherwise requires:

1. "Act" means the Citizens Clean Elections Act set forth in the Arizona Revised Statutes, Title 16, Chapter 6, Article 2.
2. "Audit" means a written report pertaining to an examination of a candidate's campaign finances that is reviewed by the Commission in accordance with A.A.C. Title 2, Chapter 20, Article 4.
3. "Campaign account" means an account at a financial institution designated by a political committee that is used solely for political campaign purposes.
4. "Candidate" means a natural person who receives or gives consent for receipt of a contribution for the person's nomination for or election to any office in this state, and includes the person's campaign committee, the political committee designated and authorized by the person, or any agents or personnel of the person. When not otherwise specified by statute or these rules, "Candidate" includes a Candidate for Statewide Office or a Legislative Candidate.
5. "Candidate for Statewide Office" means: A natural person seeking the office of governor, attorney general, secretary of state, treasurer, superintendent of public instruction, or mine inspector.
6. "Current campaign account" means a campaign account used solely for election campaign purposes in the present election cycle.
7. "Direct campaign purpose" includes, but is not limited to, materials, communications, transportation, supplies and expenses used toward the election of a candidate. This does not include the candidate's personal appearance, support, or support of a candidate's family member.
8. "Early contributions" means private contributions that are permitted pursuant to A.R.S. § 16-945.
9. "Examination" means an inspection by the Commission or agent of the Commission of a candidate's books, records, accounts, receipts, disbursements, debts and obligations, bank account records, and campaign finance reports related to the candidate's campaign, which may include fieldwork, or a visit to the campaign headquarters, to ensure compliance with campaign finance laws and rules.
10. "Executive Director" means the highest ranking Commission staff member, who is appointed pursuant to A.R.S. § 16-955(J) and is responsible for directing the day-to-day operations of the Commission.
11. "Expressly advocates" means:
 - a. Conveying a communication containing a phrase such as "vote for," "elect," "re-elect," "support," "endorse," "cast your ballot for," "(name of candidate) in (year)," "(name of candidate) for (office)," "vote against," "defeat," "reject," or a campaign slogan or words that in context can have no reasonable meaning other than to advocate the election or defeat of one or more clearly identified candidates.
 - b. Making a general public communication, such as in broadcast medium, newspaper, magazine, billboard, or direct mailer referring to one or more clearly identified candidates and targeted to the electorate of that candidate(s) that in context can have no reasonable meaning other than to advocate the election or defeat of the candidate(s), as evidenced by factors such as the presentation of the candidate(s) in a favorable or unfavorable light, the targeting, placement, or timing of the communication, or the inclusion of statements of the candidate(s) or opponents.
 - c. A communication within the scope of subsection (10)(b) shall not be considered as one that "expressly advocates" merely because it presents information about the voting record or position on a campaign issue of three or more candidates, so long as it is not made in coordination with a candidate, political party, agent of the candidate or party, or a person who is coordinating with a candidate or candidate's agent.
12. "Extension of credit" means the delivery of goods or services or the promise to deliver goods or services to a candidate in exchange for a promise from the candidate to pay for such goods or services at a later date.
13. "Family member" means parent, grandparent, spouse, child, or sibling of the candidate or a parent or spouse of any of those persons.
14. "Fair market value" means the amount at which property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or sell and both having reasonable knowledge of the relevant facts.
15. "Fixed Asset" means tangible property usable in a capacity that will benefit the candidate for a period of more than one year from the date of acquisition.
16. "Fund" means the Citizens Clean Elections Fund established pursuant to A.R.S. § 16-949(D).
17. "Future campaign account" means a campaign account that is used solely for campaign election purposes in an election that does not include the present or prior primary or general elections.
18. "Independent candidate" means a candidate who is registered as an independent or with no party preference or who is registered with a political party that is not eligible for recognition on the ballot.
19. "Legislative Candidate" means: A natural person seeking the office of state senator or state representative.
20. "Officeholder" means a person who has been elected to a statewide office or the legislature in the most recent election, as certified by the Secretary of State, or who is appointed to or otherwise fills a vacancy in such office.
21. "Person," unless stated otherwise, or having context requiring otherwise, means: A corporation, company, partnership, firm, association or society, as well as a natural person.
22. "Prior campaign account" means a campaign account used solely for campaign election purposes in a prior election.
23. "Public funds" includes all funds deposited into the Citizens Clean Elections Fund and all funds disbursed by the Commission to a participating candidate.
24. "Solicitor" means a person who is eligible to be registered to vote in this state and seeks qualifying contributions from qualified electors of this state.
25. "Unopposed" means in reference to state senate candidates and statewide candidates other than Corporation Commission, that the candidate is opposed by no candidates who will appear on the ballot. In reference to candidates for the House of Representatives and Corporation Commission, "unopposed" means that no more candidates will appear on the ballot than the number of seats available for the office sought.

Historical Note

New Section adopted by exempt rulemaking at 6 A.A.R. 1567, effective June 21, 2000 (Supp. 00-2). Section repealed; new Section made by exempt rulemaking at 8 A.A.R. 588, effective October 17, 2001 (Supp. 02-1). Amended by exempt rulemaking at 11 A.A.R. 4518, effective May 28, 2005 (Supp. 05-4). Amended by exempt rulemaking at 13 A.A.R. 2434, effective August 27, 2007 (Supp. 07-2). Amended by exempt rulemaking at 15 A.A.R. 1156, effective August 31, 2009 (Supp. 09-2). Amended by exempt rulemaking at 19 A.A.R. 3515, effective September 27, 2013 (Supp. 13-4). Amended by final exempt rulemaking at 23 A.A.R. 113, effective December 15, 2016 (Supp. 16-4).

R2-20-102. Repealed**Historical Note**

New Section adopted by exempt rulemaking at 6 A.A.R. 1567, effective June 21, 2000 (Supp. 00-2). Section repealed; new Section made by exempt rulemaking at 8 A.A.R. 588, effective October 17, 2001 (Supp. 02-1). Repealed by exempt rulemaking at 19 A.A.R. 3518, effective September 27, 2013 (Supp. 13-4).

R2-20-103. Communications: Time and Method

- A. General rule: in computing any period of time prescribed or allowed by the Act or these rules, unless otherwise specified, days are calculated by calendar days, and the day of the act, event, or default from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, a Sunday, or a legal holiday. The term "legal holiday" includes New Year's Day, Martin Luther King Jr. Day, President's Day, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans Day, Thanksgiving Day, Christmas Day, and any other day appointed as a holiday for employees of the state.
- B. Special rule for periods less than seven days: when the period of time prescribed or allowed is less than seven days, intermediate Saturdays, Sundays, and legal holidays shall be excluded in the computation.
- C. Whenever the Commission or any person has the right or is required to do some act within a prescribed period after the service of any paper by or upon the Commission by regular mail, three calendar days shall be added to the prescribed period.
- D. Whenever the Commission or any person is required to do some act within a prescribed period after the service of paper by or upon the Commission by overnight delivery, the time period shall begin on the date the recipient signs for the overnight delivery.
- E. The Commission shall use the address of the candidate that is provided on the application for certification filed pursuant to A.R.S. § 16-947. A candidate may designate in writing for the Commission to send written correspondence to a person other than the candidate.
- F. If possible, the Commission shall furnish a copy of all communications electronically.
- G. Delivery of subpoenas, orders and notifications to a natural person may be made by handing a copy to the person, or leaving a copy at his or her office with the person in charge thereof, by leaving a copy at his or her dwelling place or usual place of abode with a person of suitable age and discretion residing therein, by mailing a copy by overnight delivery to his or her last known address, or by any other method whereby actual notice is given.
- H. When the person to be served is not an individual, delivery of subpoenas, orders and notifications may be made by mailing a

copy by overnight delivery to the person at its place of business or by handing a copy to a registered agent for service, or to any officer, director, or agent in charge of any office of such person, or by mailing a copy by overnight delivery to such representative at his or her last known address, or by any other method whereby actual notice is given.

Historical Note

New Section adopted by exempt rulemaking at 6 A.A.R. 1567, effective June 21, 2000 (Supp. 00-2). Section repealed; new Section made by exempt rulemaking at 8 A.A.R. 588, effective October 17, 2001 (Supp. 02-1). Amended by exempt rulemaking at 11 A.A.R. 4518, effective May 28, 2005 (Supp. 05-4). Amended by exempt rulemaking at 12 A.A.R. 758, effective February 15, 2006 (Supp. 06-1). Amended by exempt rulemaking at 13 A.A.R. 2434, effective August 27, 2007 (Supp. 07-2).

R2-20-104. Certification as a Participating Candidate

- A. A nonparticipating candidate who accepts contributions up to the limits authorized by A.R.S. § 16-941(B), but later chooses to run as a participating candidate, shall:
 1. Make the change to participating candidate status during the exploratory and qualifying periods only;
 2. Return the amount of each contribution in excess of the individual contribution limit for participating candidates;
 3. Return all Political Action Committee (PAC) monies received;
 4. Not have made expenditures exceeding the early contribution limit, or have spent any part of a contribution exceeding the early contribution limit;
 5. Comply with all provisions of A.R.S. § 16-941 and Commission rules.
 6. Return all contributions received from another candidate's candidate committee.
- B. Money from prior election. If a nonparticipating candidate has a cash balance remaining in the campaign account from the prior election cycle, the candidate may seek certification as a participating candidate in the current election after:
 1. Transferring money from the prior campaign account to the candidate's current election campaign account. The amount transferred shall not exceed the permitted personal monies, early contributions, and debt-retirement contributions, as defined in A.R.S. § 16-945(C), and shall contain contributions received from individuals only;
 2. Spending the money lawfully prior to April 30 of an election year in a way that does not constitute a direct campaign purpose and does not meet the definition of "expenditure" under A.R.S. § 16-901(24); and the event or item purchased is completed or otherwise used and depleted prior to April 30 of an election year;
 3. Remitting the money to the Fund; or
 4. Holding the money in the prior election campaign account, not to be used during the current election, except as provided pursuant to this Section.
- C. Application for certification as a participating candidate. Pursuant to A.R.S. § 16-947, a candidate seeking certification shall file with the Secretary of State a Commission-approved application and a campaign finance report reflecting all campaign activity to date. In the application, a candidate shall certify under oath that the candidate:
 1. Agrees to use all Clean Elections funding for direct campaign purposes only;
 2. Has filed a campaign finance report, showing all campaign activity to date in the current election cycle;

Citizens Clean Elections Commission

3. Will comply with all requirements of the Act and Commission rules;
 4. Is subject to all enforcement actions by the Commission as authorized by the Act and Commission rules;
 5. Has the burden of proving that expenditures made by or on behalf of the candidate are for direct campaign purposes;
 6. Will keep and furnish to the Commission all documentation relating to expenditures, receipts, funding, books, records (including bank records for all accounts), and supporting documentation and other information that the Commission may request;
 7. Will permit an audit or examination by the Commission of all receipts and expenditures including those made by the candidate. The candidate shall also provide any material required in connection with an audit, investigation, or examination conducted by the Commission. The candidate shall facilitate the audit by making available in one central location, such as the Commission's office space, records and such personnel as are necessary to conduct the audit or examination, and shall pay any amounts required to be repaid;
 8. Will submit the name and mailing address of the person who is entitled to receive primary and general election funding on behalf of the candidate and the name and address of the campaign depository designated by the candidate. Changes in the information required by this subsection shall not be effective until submitted to the Commission in a letter signed or submitted electronically, by the candidate or the committee treasurer;
 9. Will pay any civil penalties included in a conciliation agreement or otherwise imposed against the candidate;
 10. Will timely file all campaign finance reports with the Secretary of State in an electronic format; and
 11. Will file an amended application for certification reporting any change in the information prescribed in the application for certification within five days after the change.
- D.** If certified as a participating candidate, the candidate shall:
1. Only accept early contributions from individuals during the exploratory and qualifying periods in accordance with A.R.S. § 16-945. No contributions may be accepted from political action committees, political parties or corporations;
 2. Not accept any private contributions, other than early contributions and a limited number of \$5 qualifying contributions;
 3. Make expenditures of personal monies of no more than the amounts prescribed in A.R.S. § 16-941(A)(2) for legislative candidates and for statewide office candidates;
 4. Conduct all campaign activity through a single campaign account. A participating candidate shall only deposit early contributions, qualifying contributions and Clean Elections funds into the candidate's current campaign account. The campaign account shall not be used for any non-direct campaign purpose as provided in Article 7 of these rules;
 5. Attend a Commission sponsored candidate training class within 60 days of being certified or within 60 days of the beginning of the qualifying period if the candidate is certified before the beginning of the qualifying period. If the candidate is unable to attend a training class, the candidate shall:
 - a. Notify the Commission that the candidate is unable to attend a training class. The Commission then will send that person the Commission training materials; and
 - b. The candidate shall sign and send to the Commission a statement certifying that he or she has received and reviewed the Commission training materials; and
 6. Limit campaign expenditures. Prior to qualifying for Clean Elections funding, a candidate shall not incur debt, or make an expenditure in excess of the amount of cash on hand. Upon approval for funding by the Secretary of State, a candidate may incur debt, or make expenditures, not to exceed the sum of the cash on hand and the applicable spending limit.
- E.** Loans. A participating candidate may accept an individual contribution as a loan or may loan his or her campaign committee personal monies during the exploratory and qualifying periods only. The total sum of the contribution received or personal funds and loans shall not exceed the expenditure limits set forth in A.R.S. § 16-941(A)(1) and (2). If the loan is to be repaid, the loans shall be repaid promptly upon receipt of Clean Elections funds if the participating candidate qualifies for Clean Elections funding. Loans from a financial institution or bank, to a candidate used for the purpose of influencing that candidate's election shall be considered personal monies and shall not exceed the personal monies expenditure limits set forth in A.R.S. § 16-941(A)(2).
- F.** A participating candidate may raise early contributions for election to one office and choose to run for election to another office.
- G.** Contributions to officeholder expense accounts are subject to the restrictions of A.R.S. § 41-1234.01, contributions prohibited during session; exceptions.

Historical Note

New Section adopted by exempt rulemaking at 6 A.A.R. 1567, effective June 21, 2000 (Supp. 00-2). Section repealed; new Section made by exempt rulemaking at 8 A.A.R. 588, effective October 17, 2001 (Supp. 02-1). Amended by exempt rulemaking at 9 A.A.R. 3506, effective April 2, 2002 (Supp. 03-3). Amended by exempt rulemaking at 11 A.A.R. 4518, effective May 28, 2005 (Supp. 05-4). Amended by exempt rulemaking at 12 A.A.R. 758, effective February 15, 2006 (Supp. 06-1). Amended by exempt rulemaking at 13 A.A.R. 3597, effective January 1, 2008 (Supp. 07-4). Amended by exempt rulemaking at 15 A.A.R. 1156, effective August 31, 2009 (Supp. 09-2). Amended by exempt rulemaking at 15 A.A.R. 1420, effective April 30, 2010 (Supp. 09-3). Subsection R2-20-104(C)(8) amended by exempt rulemaking at 19 A.A.R. 1685, effective October 6, 2011; Subsection R2-20-104(D)(5) amended by exempt rulemaking at 19 A.A.R. 1685, effective May 23, 2013 (Supp. 13-2). Amended by final exempt rulemaking at 23 A.A.R. 115, effective December 15, 2016 (Supp. 16-4).

R2-20-105. Certification for Funding

- A.** After a candidate is certified as a participating candidate, pursuant to A.R.S. § 16-947, in accordance with the procedure set forth in R2-20-104, that candidate may collect qualifying contributions only during the qualifying period.
- B.** A participating candidate must submit to the Secretary of State, a list of names of persons who made qualifying contributions, an application for funding prescribed by the Secretary of State, the minimum number of original reporting slips, and an amount equal to the sum of the qualifying contributions collected pursuant to A.R.S. § 16-950 no later than one week after the end of the qualifying period. Any and all expenses associated with obtaining the qualifying contributions, including credit card processing fees must be paid for from the candi-

date's early contributions or personal monies. A candidate may develop his or her own three-part reporting slip for qualifying contributions, or one that is photocopied or computer reproduced, if the form substantially complies with the form prescribed by the Commission. The candidate must comply with the Act and ensure that the original qualifying slip is tendered to the Secretary of State, a copy remains with the candidate, and that a copy is given to the contributor.

- C. A candidate may accept electronic \$5 qualifying contributions for the elected office sought by the candidate. The Secretary of State's secured internet portal must be used to collect electronic \$5 qualifying. A \$5 contribution must accompany every \$5 qualifying contribution form and must be submitted via the Secretary of State's portal using a private electronic payment service, specified by the Secretary of State's Office, bank account, credit or debit card. A non-refundable transaction fee may be assessed on electronic \$5 qualifying contribution transactions. The transaction fee is not a contribution to the candidate's campaign and is paid by the contributor. If excess funds are accumulated by the candidate's campaign based on the transaction fee then all excess funds must be given to the Commission and must be entered into the candidate's campaign finance report in a manner that indicates the transaction fees have been accumulated and transferred.
- D. A solicitor who seeks signatures and qualifying contributions on behalf of a participating candidate shall provide his or her residential address, typed or printed name and signature on each reporting slip. The solicitor shall also sign a sworn statement on the contribution slip avowing that the contributor signed the slip, that the contributor contributed the \$5, that based on information and belief, the contributor's name and address are correctly stated and that each contributor is a qualified elector of this state. If a contribution is received unsolicited, the candidate or contributor may sign the qualifying contribution form as the solicitor and is accountable for all of the responsibilities of a solicitor. Nothing in this rule shall prohibit the use of direct mail or the internet to obtain qualifying contributions as long as an original signature is provided on the qualifying contribution form. The candidate may sign the qualifying contribution form as the solicitor and is accountable for all of the responsibilities of a solicitor. For qualifying contributions received in accordance with subsection (C) of this Section, the residential address and signature of the solicitor is not required.
- E. The Secretary of State has the authority to approve or deny a candidate for Clean Elections funding, pursuant to A.R.S. § 16-950(C) based upon the verification of the qualifying contribution forms by the appropriate county recorder. The county recorder shall disqualify any qualifying contribution forms that are:
 1. Unsigned by the contributor;
 2. Undated; or
 3. That the recorder is unable to verify as matching signature of a person who is registered to vote, on the date specified inside the electoral district the candidate is seeking.
- F. The Secretary of State will notify the candidate and the Commission regarding the approval or denial of Clean Elections funds. A candidate who is denied Clean Elections funding after all of the slips are verified is eligible to submit supplemental qualifying contribution forms for one additional opportunity to be approved for funding pursuant to subsection (G) of this rule.
- G. The amount equal to the sum of the qualifying contributions collected and tendered to the Secretary of State pursuant to A.R.S. § 16-950(B) will be deposited into the fund, and the

amount tendered will not be returned to a candidate if a candidate is denied Clean Elections funding.

- H. In accordance with the procedure set forth at A.R.S. § 16-950(C), if the Secretary of State determines that the result of the five percent random sample is less than 110 percent of the slips needed to qualify for funding, then the Secretary of State shall send all of the slips for verification. If the county recorder has verified all of the candidate's signature slips and there is an insufficient number of valid qualifying contribution slips to qualify the candidate for funding, the candidate may make only one supplemental filing of additional qualifying contribution slips and qualifying contributions to the Secretary of State if all of the following apply:
 1. The candidate files at least the minimum number of additional slips needed to qualify for funding;
 2. The slips are not receipts for duplicate contributions from individuals who have previously contributed to that candidate; and
 3. The period for filing qualifying contributions slips has not expired.
- I. The Secretary of State shall forward facsimiles of all of the supplemental qualifying contribution slips to the appropriate county recorders for the county of the contributors' addresses as shown on the contribution slips. The county recorder shall verify all of the supplemental slips within 10 business days after receipt of the facsimiles and shall provide a report to the Secretary of State identifying as disqualified any slips that are unsigned by the contributor or undated or that the recorder is unable to verify as matching the signature of a person who is registered to vote, on the date specified on the slip, inside the electoral district of the office the candidate is seeking. On receipt of the report of the county recorder on all supplemental slips, the Secretary of State shall calculate the candidate's total number of valid qualifying contribution slips and shall approve or deny the candidate for funds.

Historical Note

New Section adopted by exempt rulemaking at 6 A.A.R. 1567, effective June 21, 2000 (Supp. 00-2). Section repealed; new Section made by exempt rulemaking at 8 A.A.R. 588, effective October 17, 2001 (Supp. 02-1). Amended by exempt rulemaking at 9 A.A.R. 3506, effective April 30, 2002 (Supp. 03-3). Amended by exempt rulemaking at 13 A.A.R. 2434, effective August 27, 2007 (Supp. 07-2). Amended by exempt rulemaking at 16 A.A.R. 1200, effective February 28, 2008 (Supp. 10-2). Subsection R2-20-105(C) amended by exempt rulemaking at 19 A.A.R. 1688, effective October 6, 2011; Subsection R2-20-105(J) amended by exempt rulemaking at 19 A.A.R. 1688, effective May 23, 2013 (Supp. 13-2). Amended by final exempt rulemaking at 23 A.A.R. 117, effective January 1, 2017 (Supp. 16-4).

R2-20-106. Distribution of Funds to Certified Candidates

- A. Before the initial disbursement of funds, the Commission shall review the candidate's funding application and all relevant facts and circumstances and:
 1. Verify that the number of signatures on the candidate's nominating petitions equals or exceeds the number required pursuant to A.R.S. § 16-322 as follows:
 - a. If the application is submitted before the March 1 voter registration list is determined, the Commission shall verify that the number of signatures on the candidate's nominating petitions equals or exceeds 115 percent of the number required pursuant to A.R.S. § 16-322 based on the prior election voter registration list as determined by the Secretary of State; or

Citizens Clean Elections Commission

- b. If the application is submitted after the current year March 1 voter registration list is determined, the Commission shall verify that the number of signatures on the candidate's nominating petitions is equal to or greater than the number required pursuant to A.R.S. § 16-322.
 2. Determine that the required number of qualifying contributions have been received and paid to the Secretary of State for deposit in the Fund; and
 3. Determine whether the candidate is opposed in the election.
- B.** In making the determinations described in subsection (A)(3), the Commission shall consider all relevant facts and circumstances, and it shall not be bound by election formalities such as the filing of nominating petitions by others in determining whether an applicant is opposed. Among other evidence the Commission may consider is the existence of exploratory committees or filings made to organize campaign committees of opponents and other like indicia.
- C.** The Commission may review and affirm or change its determination that the candidate is or is not opposed until the ballot for the election is established.
- D.** Within seven days after a primary election and before the Secretary of State completes the canvass, the Commission shall disburse funds for general election campaigns to the participating candidates who received the greatest number of votes at each primary election, provided that the candidate with the highest number of votes out of the total number of votes, has at least two percentage points greater than the candidate with the next highest votes based on the unofficial results as of that date. In a legislative race for the Arizona House of Representatives, the Commission shall disburse funds for general election campaigns to participating candidates with the highest or second highest number of votes cast, provided such candidate received votes totaling at least two percentage points, of the total ballots cast, larger than the vote total cast for the candidate with the third highest vote total.
- E.** Promptly after the Secretary of State completes the canvass, the Commission shall disburse funds for general election campaigns to all eligible participating candidates to whom payment has not been made. If a participating candidate has received funds from the Commission pursuant to subsection (D) and the canvass or recount determines that the candidate is not eligible to appear on the general election ballot, the participating candidate shall return all unused funds to the Fund within 10 days after such determination is made. That candidate shall make no expenditures from general election funds from the date of the canvass.
- F.** The Commission may refuse to distribute funds to participating candidates in cases in which the Commission finds evidence of fraud or illegal activity committed by the participating candidate.
- G.** Pursuant to A.R.S. § 16-953(A), a participating candidate shall return to the Fund all of his or her primary election funds not committed to expenditures (1) during the primary election period; and (2) for goods or services directed to the primary election. A candidate shall not be deemed to have violated A.R.S. § 16-953(A) or this subsection on account of failure to use all materials purchased with primary election funds prior to the primary election, provided such candidate exercises good faith and diligent efforts to comply with the requirement that goods and services purchased with primary election funds be directed to the primary election. Subject to A.R.S. § 16-953(A) and this subsection, a candidate may continue to use goods purchased with primary election funds during the general election period.

Historical Note

New Section adopted by exempt rulemaking at 6 A.A.R. 1567, effective June 21, 2000 (Supp. 00-2). Section repealed; new Section made by exempt rulemaking at 8 A.A.R. 588, effective October 17, 2001 (Supp. 02-1). Amended by exempt rulemaking at 13 A.A.R. 2434, effective August 27, 2007 (Supp. 07-2).

R2-20-107. Candidate Debates

- A.** The Commission shall sponsor debates among statewide and legislative office candidates prior to the primary and general elections. Except as set forth in the subsection below, the Commission shall not be required to sponsor a debate if there is no participating candidate in the election for a particular office.
- B.** In the primary election period, the Commission shall sponsor political party primary election debates for every office in which:
1. There are more candidates appearing on the ballot than there are seats available for the political party's nomination for general election candidates, and
 2. At least one of the candidates is a participating candidate.
- C.** The following candidates will not be invited to participate in debates as follows:
1. In the primary election, write-in candidates for the primary election, independent candidates, no party affiliation or unrecognized party candidates.
 2. In the general election, write-in candidates.
- D.** In the event that there is no participating candidate in a primary or general election but there is an election involving candidates who are not unopposed, a candidate may request that the Commission sponsor a debate pursuant to this rule. If the requesting candidate is the sole participant in the debate the format shall be as prescribed in R2-20-107(K).
1. A nonparticipating candidate who requests a debate pursuant to this rule shall complete and return the invitation form sent to the candidate by the Commission by the deadline identified on the form. Forms received by the Commission past the deadline may still be considered at the discretion of the Commission. Commission staff shall notify all invited candidates if a debate will be sponsored by the Commission and which candidates will participate.
 2. If a candidate requests that the Commission sponsor a debate and fails or refuses to attend the debate, or a candidate agrees to participate in a debate and subsequently fails or refuses to attend the debate sponsored by the Commission, each candidate who fails or refuses to attend the debate shall reimburse the Commission for the cost of debate preparations not to exceed \$10,000 for a non-participating candidate for the legislature and \$25,000 for a non-participating candidate for statewide office. In the event that a candidate requests a general election debate or agrees to participate in a general election debate but does not advance to the general election, the candidate shall not be liable for the reimbursement.
- E.** Pursuant to A.R.S. § 16-956(A)(2), all participating candidates certified pursuant to A.R.S. § 16-947 shall attend and participate in the debates sponsored by the Commission. No proxies or representatives are permitted to participate for any candidate and no statements may be read on behalf of an absent candidate.
- F.** Unless exempted, if a participating candidate fails to participate in any Commission-sponsored debate, the participating candidate shall be fined \$500.00. For purposes of this Section, each primary or general election shall be considered a separate election.

Citizens Clean Elections Commission

- G. A participating candidate may request to be exempt from participating in a required debate by doing the following:
 1. Submit a written request to the Commission at least one week prior to the scheduled debate, and
 2. State the reasons and circumstances justifying the request for exemption.
- H. After examining the request to be exempt, the Commission will exempt a candidate from participating in a debate if at least three Commissioners determine that the circumstances are:
 1. Beyond the control of the candidate; or
 2. Of such nature that a reasonable person would find the failure to attend justifiable or excusable.
- I. A participating candidate who fails to participate in a required debate may submit a request for excused absence to the Commission.
 1. The candidate's request for excused absence shall:
 - a. State the reason the candidate failed to participate in the debate, and
 - b. State the reason the candidate failed to request an exemption in advance, and
 - c. Be submitted to the Commission no later than five business days after the date of the debate the candidate failed to attend.
 2. After examining the request for excused absence, the Commission may excuse a candidate from the penalties imposed if at least three Commissioners determine that the circumstances were:
 - a. Beyond the control of the candidate; or
 - b. Of such nature that a reasonable person would find the failure to attend justifiable or excusable.
- J. When a participating candidate is not opposed in the general election, the candidate shall be exempt from participating in a Commission-sponsored debate for the general election.
- K. In the event that a participating candidate is opposed in the primary election or general election but is the only candidate taking part in a primary election period or general election period debate, as applicable, the debate will be held and will consist of a 30-minute question and answer session for the single participating candidate. If more than one candidate takes part in the debate, regardless of participation status, the debate will be held in accordance with the procedures established by the Commission staff.

Historical Note

New Section adopted by exempt rulemaking at 6 A.A.R. 1567, effective June 21, 2000 (Supp. 00-2). Section repealed; new Section made by exempt rulemaking at 8 A.A.R. 588, effective October 17, 2001 (Supp. 02-1). Section repealed by exempt rulemaking at 11 A.A.R. 4518, effective May 28, 2005 (Supp. 05-4). New Section made by exempt rulemaking at 12 A.A.R. 758, effective February 15, 2006 (Supp. 06-1). Amended by exempt rulemaking at 13 A.A.R. 2434, effective August 27, 2007 (Supp. 07-2). Amended by exempt rulemaking at 15 A.A.R. 1156, effective August 31, 2009 (Supp. 09-2). Amended by exempt rulemaking at 19 A.A.R. 1690, effective October 6, 2011 (Supp. 13-2). Amended by exempt rulemaking at 19 A.A.R. 4213, effective November 21, 2013 (Supp. 13-4). Amended by final exempt rulemaking at 21 A.A.R. 1627, effective July 23, 2015 (Supp. 15-3). Amended by final exempt rulemaking at 23 A.A.R. 119, effective December 15, 2016 (Supp. 16-4).

R2-20-108. Termination of Participating Candidate Status

- A. A candidate may voluntarily request termination of his or her participating candidate status at any time prior to notification

by the Commission that such candidate has qualified for Clean Elections funding. To withdraw from participating candidate status, a candidate shall send a letter to the Commission stating the candidate's intent to withdraw and the reason for the withdrawal. The candidate shall not accept any private monies until the withdrawal is approved by the Commission. The Commission shall act on the withdrawal request within seven days. If the Commission takes no action within the seven-day time period, the withdrawal is automatic.

- B. A candidate's participating candidate status shall automatically terminate if:
 1. The candidate fails to make such submissions to the Secretary of State as prescribed in R2-20-105(B) within seven days after the end of the qualifying period, or
 2. The candidate is denied Clean Elections funding by the Secretary of State and the candidate is ineligible to make a supplemental filing with the Secretary of State in accordance with R2-20-105(G).
- C. A candidate whose participating candidate status has been terminated in accordance with this Section shall be ineligible to receive Clean Elections funding for that election cycle unless he/she reapplies for certification and is in compliance with R2-20-104(A) and (C).
- D. In the event that a candidate who has collected qualifying contributions decides not to seek certification as a participating candidate, the candidate shall return all qualifying contributions received from contributors who have not given written permission to use their qualify contributions as campaign contributions. Written permission may include a check box on the original \$5 form that authorizes a candidate to treat the qualifying contribution as a general campaign contribution if he or she decides not to participate in the Clean Elections system. If a good faith attempt to return the funds to the contributor is unsuccessful, the contributions shall be submitted to the Fund.

Historical Note

New Section adopted by exempt rulemaking at 6 A.A.R. 1567, effective June 21, 2000 (Supp. 00-2). Section repealed; new Section made by exempt rulemaking at 8 A.A.R. 588, effective October 17, 2001 (Supp. 02-1). Amended by exempt rulemaking at 13 A.A.R. 2434, effective August 27, 2007 (Supp. 07-2). Amended by exempt rulemaking at 17 A.A.R. 1950, effective August 25, 2011 (Supp. 11-3).

DISPUTED SECTION R2-20-109

Editor's Note: The Governor's Regulatory Review Council and the Citizens Clean Elections Commission dispute whether R2-20-109 has expired. Those interested in that issue should consult counsel.

R2-20-109. Independent Expenditure Reporting Requirements

- A. In accordance with A.R.S. § 16-958(E), all persons obligated to file any campaign finance report under any provisions of Chapter 6, Article 2 of the Arizona Revised Statutes shall file such reports using the Secretary of State's Internet-based finance-reporting system, except if:
 1. Expressly provided otherwise by another Commission rule; or
 2. That system, or the necessary function on the system, is unavailable, in which case the executive director shall implement a substitute process.
- B. Independent Expenditure Reporting Requirements.
 1. Any person making independent expenditures cumulatively exceeding the amount prescribed in A.R.S. § 16-941(D) in an election cycle shall file campaign finance

Citizens Clean Elections Commission

reports in accordance with A.R.S. § 16-958 and Commission rules.

2. Any person who fails to file a timely campaign finance report pursuant to A.R.S. § 16-941(D), A.R.S. § 16-958, shall be subject to a civil penalty as prescribed in A.R.S. § 16-942(B). Subsection R2-20-109(B)(4) does not apply to reports pursuant to A.R.S. §§ 16-941(D) and 16-958 or this subsection. Any expenditure advocating against one or more candidates shall be considered an expenditure on behalf of any opposing candidate(s). Penalties shall be assessed as follows:
 - a. For an election involving a candidate for statewide office, the civil penalty shall be \$300 per day.
 - b. For an election involving a legislative candidate, the civil penalty shall be \$100 per day.
 - c. The penalties in (a) and (b) shall be doubled if the amount not reported for a particular election cycle exceeds ten (10%) percent of the applicable adjusted primary election spending limit or adjusted general election spending limit.
 - d. The dollar amounts in items (a) and (b), and the spending limits in item (c) are subject to adjustment of A.R.S. § 16-959.
 - e. Penalties imposed pursuant to this subsection shall not exceed twice the amount of expenditures not reported.
3. A.R.S. § 16-942(B) applies to any entity including political committees that accepts contributions or makes expenditures on behalf of any candidate regardless of any other contributions taken or expenditures made and fails to timely file a campaign finance report under Chapter 6 of Title 16, Arizona Revised Statutes. Any expenditure advocating against one or more candidates shall be considered an expenditure on behalf of any opposing candidate(s). Penalties shall be assessed as follows:
 - a. For an election involving a candidate for statewide office, the civil penalty shall be \$300 per day.
 - b. For an election involving a legislative candidate, the civil penalty shall be \$100 per day.
 - c. The penalties in (a) and (b) shall be doubled if the amount not reported for a particular election cycle exceeds ten (10%) percent of the applicable adjusted primary election spending limit or adjusted general election spending limit.
 - d. The dollar amounts in items (a) and (b), and the spending limits in item (c) are subject to adjustment of A.R.S. § 16-959.
 - e. Penalties imposed pursuant to this subsection shall not exceed twice the amount of expenditures not reported.
4. For the purposes of A.A.C. R2-20-109(B)(3), the following apply:
 - a. An entity shall not be found to have the predominant purpose of influencing elections unless, a preponderance of the evidence establishes that during a two-year legislative election cycle, the total reportable contributions made by the entity plus the total reportable expenditures made by the entity, in any combination, in a calendar year exceeds \$1,000 and is more than fifty percent (50%) of the entity's total spending during the election cycle.
 - i. For purposes of this provision, a "reportable contribution" or "reportable expenditure" shall be limited to a contribution or expenditure, as defined in title 16 of the Arizona revised statutes, that must be reported to the Arizona secretary of state, the Arizona citizens clean elections commission, or local filing officer in Arizona. A contribution or expenditure that must be reported to the federal election commission or to the election authority of any other state, but not to the Arizona secretary of state, the Arizona citizens clean elections commission or a local filing officer in Arizona, shall not be considered a reportable contribution or reportable expenditure.
 - ii. For purposes of this provision, "total spending" shall not include volunteer time or fundraising and administrative expenses but shall include all other spending by the organization.
 - iii. For purposes of this provision, grants to other organizations shall be treated as follows:
 - (1) A grant made to a political committee or an organization organized under section 527 of the internal revenue code shall be counted in total spending and as a reportable contribution or reportable expenditure, unless expressly designated for use outside Arizona or for federal elections, in which case such spending shall be counted in total spending but not as a reportable contribution or reportable expenditure.
 - (2) If the entity making a grant takes reasonable steps to ensure that the transferee does not use such funds to make a reportable contribution or reportable expenditure, such a grant shall be counted in total spending but not as a reportable contribution or reportable expenditure.
 - vi. If the entity making a grant earmarks the grant for reportable contributions or reportable expenditures, knows the grant will be used to make reportable contributions or reportable expenditures, knows that a recipient will likely use a portion of the grant to make reportable contributions or reportable expenditures, or responds to a solicitation for reportable contributions or reportable expenditures, the grant shall be counted in total spending and the relevant portion of the grant as set forth in subsection (F)(12)(a)(v) shall count as a reportable contribution or reportable expenditure.
 - v. Notwithstanding subsections (F)(12)(a)(iii) and (iv) the amount of a grant counted as a reportable contribution or reportable expenditure shall be limited to the lesser of the grant or the following:
 - (1) The amount that the recipient organization spends on reportable contributions and reportable expenditures, plus
 - (2) The amount that the recipient organization gives to third parties but not more than the amount that such third parties fund reportable contributions or reportable expenditures.
 - b. Notwithstanding subsection (a), the commission may nonetheless determine that an entity is not a political committee if, taking into account all the facts and circumstances of grants made by an entity, it is not persuaded that the preponderance of the evidence establishes that the entity is a political com-

mittee as defined in title 16 of Arizona Revised Statutes.

Historical Note

New Section adopted by exempt rulemaking at 6 A.A.R. 1567, effective June 21, 2000 (Supp. 00-2). Section repealed; new Section made by exempt rulemaking at 8 A.A.R. 588, effective October 17, 2001 (Supp. 02-1). Amended by exempt rulemaking at 11 A.A.R. 4518, effective May 28, 2005 (Supp. 05-4). Amended by exempt rulemaking at 13 A.A.R. 3597, effective January 1, 2008 (Supp. 07-4). Amended by exempt rulemaking at 15 A.A.R. 1156, effective August 31, 2009 (Supp. 09-2). Amended by exempt rulemaking at 16 A.A.R. 152, effective January 29, 2010 (Supp. 10-1). Subsections R2-20-109(A), (A)(4), and (B) through (E) amended by exempt rulemaking at 19 A.A.R. 2923, effective October 6, 2011; Subsections R2-20-109(A) and (C)(2) amended by exempt rulemaking at 19 A.A.R. 2923, effective August 29, 2013; Subsection R2-20-109(C)(3) amended by exempt rulemaking at 19 A.A.R. 2923, effective January 1, 2014 (Supp. 13-3). Amended by exempt rulemaking at 19 A.A.R. 3519, effective September 27, 2013 (Supp. 13-4). Amended by exempt rulemaking at 20 A.A.R. 1329, effective May 22, 2014 (Supp. 14-2). Amended by exempt rulemaking at 20 A.A.R. 2804, effective September 11, 2014 (Supp. 14-3). Subsection R2-20-109(D) amended by final exempt rulemaking at 21 A.A.R. 3168 effective October 29, 2015; subsection R2-20-109(F) amended by final exempt rulemaking at 21 A.A.R. 3168 effective October 30, 2015 (Supp. 15-4). Amended by exempt rulemaking at 22 A.A.R. 2892, effective January 1, 2017 (Supp. 16-3). Amended by final exempt rulemaking at 23 A.A.R. 121, effective January 1, 2017 (Supp. 16-4). Section retained at the request of the Commission at 23 A.A.R. 1761 (Supp. 17-2, version 2).

DISPUTED SECTION R2-20-109

Editor's Note: The Governor's Regulatory Review Council and the Citizens Clean Elections Commission dispute whether R2-20-109 has expired. Those interested in that issue should consult counsel.

R2-20-109. Expired

Historical Note

The Governor's Regulatory Review Council has filed a notice that this Section expired under A.R.S. § 41-1056(G) at 23 A.A.R. 1757, effective June 7, 2017 (Supp. 17-2, version 2).

R2-20-110. Participating Candidate Reporting Requirements

- A.** All participating candidates shall file campaign finance reports that include all receipts and disbursements for their current campaign account as follows:
1. Expenditures for consulting, advising, or other such services to a candidate shall include a detailed description of what is included in the service, including an allocation of services to a particular election. When appropriate, the Commission may treat such expenditures as though made during the general election period.
 2. If a participating candidate makes an expenditure on behalf of the campaign using personal funds, the candidate's campaign shall reimburse the candidate within seven calendar days of the expenditure. After the 7 day period has passed, the expenditure shall be deemed an in-kind contribution subject to all applicable limits.

3. A candidate may authorize an agent to purchase goods or services on behalf of such candidate, provided that:
 - a. Expenditures shall be reported as of the date that the agent promises, agrees, contracts or otherwise incurs an obligation to pay for the goods or services;
 - b. The candidate shall have sufficient funds in the candidate's campaign account to pay for the amount of such expenditure at the time it is made and all other outstanding obligations of the candidate's campaign committee; and
 - c. Within seven calendar days of the date upon which the amount of the expenditure is known, the candidate shall pay such amount from the candidate's campaign account to the agent who purchases the goods or services.
4. A joint expenditure is made when two or more candidates agree to share the cost of goods or services. Candidates may make a joint expenditure on behalf of one or more other campaigns, but must be authorized in advance by the other candidates involved in the expenditure, and must be reimbursed within seven days. Participating candidates may participate in joint expenditures for the cost of goods and services with one or more candidates, subject to the following:
 - a. Joint expenditures must be allocated fairly among candidates. An allocated share of a joint expenditure paid by one candidate pursuant to such an agreement must be reimbursed within seven days.
 - b. Any violator of part (a) shall be liable for a penalty pursuant to R2-20-222, in addition to penalties prescribed by any other law.
 - c. If a fairly allocated share of any joint expenditure is not reimbursed to a candidate, the unreimbursed amount of the joint expenditure fairly allocated to that candidate shall be deemed a contribution to that candidate by the campaign committee of the candidate obligated to reimburse the share.
 - d. If a fairly allocated share of any joint expenditure is not reimbursed to a participating candidate, the candidate obligated to reimburse the share shall reimburse the fund for the unreimbursed amount of the joint expenditure fairly allocated to the obligated candidate, in addition to any penalty specified by law.
 - e. A candidate's payment for an advertisement, literature, material, campaign event or other activity shall be considered a joint expenditure including, but not limited to, the following criteria:
 - i. The activity includes express advocacy of the election or defeat of more than 2 candidates;
 - ii. The purpose of the material or activity is to promote or facilitate the election of a second candidate;
 - iii. The use and prominence of a second candidate or his or her name or likeness in the material or activity;
 - iv. The material or activity includes an expression by a second candidate of his or her view on issues brought up during the election campaign;
 - v. The timing of the material or activity in relation to the election of a second candidate;
 - vi. The distribution of the material or the activity is targeted to a second candidate's electorate; or
 - vii. The amount of control a second candidate has over the material or activity.

5. For the purposes of the Act and Commission rules, a candidate or campaign shall be deemed to have made an expenditure as of the date upon which the candidate or campaign promises, agrees, contracts or otherwise incurs an obligation to pay for goods or services.
- B. Timing of reporting expenditures.**
1. Except as set forth in subsection (A)(2) above, a participating candidate shall report a contract, promise or agreement to make an expenditure resulting in an extension of credit as an expenditure, in an amount equal to the full future payment obligation, as of the date the contract, promise or agreement is made.
 2. In the alternative to reporting in accordance with subsection (A)(1) above, a participating candidate may report a contract, promise or agreement to make an expenditure resulting in an extension of credit as follows:
 - a. For a month-to-month or other such periodic contract or agreement that is terminable by a candidate at will and without any termination penalty or payment, the candidate may report an expenditure, in an amount equal to each future periodic payment, as of the date upon which the candidate's right to terminate the contract or agreement and avoid such future periodic payment elapses.
 - b. For a contract, promise or agreement to provide goods or services during the general election period that is contingent upon a candidate advancing to the general election period, the candidate may report an expenditure, in an amount equal to the general election period payment obligation, as of the date upon which such contingency is satisfied.
 - c. For a contract, promise or agreement to pay rent, utility charges or salaries payable to individuals employed by a candidate's campaign committee as staff, the candidate may report an expenditure, in an amount equal to each periodic payment, as of the date that is the sooner of (i) the date upon which payment is made; or (ii) the date upon which payment is due.
- C. Reports and Refunds of Excess Monies by Participating Candidates.**
1. In addition to any campaign finance report required by Chapter 6 of Title 16, Arizona Revised Statutes, participating candidates shall file the following campaign finance reports and dispose of excess monies as follows:
 - a. Prior to filing the application for funding pursuant to A.R.S. § 16-950, participating candidates shall file a campaign finance report with the names of the persons who have made qualifying contributions to the candidate.
 - b. At the end of the qualifying period, a participating candidate shall file a campaign finance report consisting of all early contributions received, including personal monies and the expenditures of such monies.
 - i. The campaign finance report shall be filed with the Secretary of State no later than five days after the last day of the qualifying period and shall include all campaign activity through the last day of the qualifying period.
 - ii. If the campaign finance report shows any amount of unspent monies, the participating candidate, within five days after filing the campaign finance report, shall remit all unspent contributions to the Fund, pursuant to A.R.S. § 16-945(B). Any unspent personal monies shall be returned to the candidate or the candidates' family member within five days.
 2. Each participating candidate shall file a campaign finance report consisting of all expenditures made in connection with an election, all contributions received in the election cycle in which such election occurs, and all payments made to the Clean Elections Fund. If the campaign finance report shows any amount unspent, the participating candidate, within five days after filing the campaign finance report, shall send a check from the candidate's campaign account to the Commission in the amount of all unspent monies to be deposited in the Fund.
 - a. The campaign finance report for the primary election shall be filed within five days after the primary election day and shall reflect all activity through the primary election day.
 - b. The campaign finance report for the general election shall be filed within five days after the general election day and shall reflect all activity through the general election day.
 3. In the event that a participating candidate purchases goods or services from a subcontractor or other vendor through an agent pursuant to subsection (A)(3), the candidate's campaign finance report shall include the same detail as required in A.R.S. § 16-948(C) for each such subcontractor or other vendor. Such detail is also required when petty cash funds are used for such expenditures.

Historical Note

New Section adopted by exempt rulemaking at 6 A.A.R. 1567, effective June 21, 2000 (Supp. 00-2). Section repealed; new Section made by exempt rulemaking at 8 A.A.R. 588, effective October 17, 2001 (Supp. 02-1). Amended by exempt rulemaking at 19 A.A.R. 1693, effective May 23, 2013 (Supp. 13-2). Amended by final exempt rulemaking at 21 A.A.R. 1629, effective July 23, 2015 (Supp. 15-3). Section R2-20-110 renumbered to Section R2-20-114; new Section R2-20-110 made by exempt rulemaking at 22 A.A.R. 2897, effective January 1, 2017 (Supp. 16-3). Amended by final exempt rulemaking at 23 A.A.R. 124, effective January 1, 2017 (Supp. 16-4).

DISPUTED SECTION R2-20-111

Editor's Note: The Governor's Regulatory Review Council and the Citizens Clean Elections Commission dispute whether R2-20-111 has expired. Those interested in that issue should consult counsel.

R2-20-111. Non-participating Candidate Reporting Requirements and Contribution Limits

- A.** Any person may file a complaint with the Commission alleging that any non-participating candidate or that candidate's campaign committee has failed to comply with or violated A.R.S. § 16-941(B). Complaints shall be processed as prescribed in Article 2 of these rules. In addition to those penalties outlined in R2-20-222(B), a non-participating candidate or candidate's campaign committee violating A.R.S. § 16-941(B) shall be subject to penalties prescribed in A.R.S. § 16-941(B) and A.R.S. § 16-942(B) and (C) as applicable:
- B.** Penalties under A.R.S. § 16-942(B), for a violation by or on behalf of any non-participating candidate or that candidate's campaign committee of any reporting requirement imposed by chapter 6 of title 16, Arizona Revised Statutes, in association with any violation of A.R.S. § 16-941(B):
 1. For an election involving a candidate for statewide office, the civil penalty shall be \$300 per day.

2. For an election involving a legislative candidate, the civil penalty shall be \$100 per day.
 3. The penalties in (B)(1) and (B)(2) shall be doubled if the amount not reported for a particular election cycle exceeds ten percent (10%) of the applicable one of the adjusted primary election spending limit or adjusted general election spending limit.
 4. The dollar amounts in items (B)(1) and (B)(2), and the spending limits in item (B)(3) are subject to adjustment of A.R.S. § 16-959.
- C.** Penalties under A.R.S. § 16-942(C): Where a campaign finance report filed by a non-participating candidate or that candidate's campaign committee indicates a violation of A.R.S. § 16-941(B) that involves an amount in excess of ten percent (10%) of the sum of the adjusted primary election spending limit and the adjusted general election spending limits specified by A.R.S. § 16-961(G) and (H) as adjusted pursuant to A.R.S. § 16-959, that violation shall result in disqualification of a candidate or forfeiture of office.
- D.** Penalties under A.R.S. § 16-941(B): Regardless of whether or not there is a violation of a reporting requirement, a person who violates A.R.S. § 16-941(B) is subject to a civil penalty of three times the amount of money that has been received, expended, or promised in violation of A.R.S. § 16-941(B) or three times the value in money for an equivalent of money or other things of value that have been received, expended, or promised in violation of A.R.S. § 16-941(B).
- E.** The twenty percent reduction in A.R.S. § 16-941(B) applies to all campaign contributions limits on contributions that are permitted to be accepted by nonparticipating candidates.
- F.** Contribution limits as adjusted by A.R.S. § 16-931 shall be the base level contribution limits subject to reduction pursuant to A.R.S. § 16-941(B).

Historical Note

New Section adopted by exempt rulemaking at 6 A.A.R. 1567, effective June 21, 2000 (Supp. 00-2). Section repealed; new Section made by exempt rulemaking at 8 A.A.R. 588, effective October 17, 2001 (Supp. 02-1). Amended by exempt rulemaking at 11 A.A.R. 4518, effective May 28, 2005 (Supp. 05-4). Amended by exempt rulemaking at 13 A.A.R. 2434, effective August 27, 2007 (Supp. 07-2). Amended by exempt rulemaking at 13 A.A.R. 3597, effective January 1, 2008 (Supp. 07-4). Amended by exempt rulemaking at 15 A.A.R. 1156, effective August 31, 2009 (Supp. 09-2). Amended by final exempt rulemaking at 21 A.A.R. 1631, effective July 23, 2015 (Supp. 15-3). Section R2-20-111 renumbered to R2-20-115 at 22 A.A.R. 2904; new Section R2-20-111 made by exempt rulemaking at 22 A.A.R. 2899 effective January 1, 2017 (Supp. 16-3). Amended by final exempt rulemaking at 23 A.A.R. 126, effective January 1, 2017 (Supp. 16-4). Section retained at the request of the Commission at 23 A.A.R. 1761 (Supp. 17-2, version 2).

DISPUTED SECTION R2-20-111

Editor's Note: The Governor's Regulatory Review Council and the Citizens Clean Elections Commission dispute whether R2-20-111 has expired. Those interested in that issue should consult counsel.

R2-20-111. Expired

Historical Note

The Governor's Regulatory Review Council has filed a notice that this Section expired under A.R.S. § 41-

1056(G) at 23 A.A.R. 1757, effective June 7, 2017 (Supp. 17-2, version 2).

R2-20-112. Political Party Exceptions

The provisions of A.R.S. § 16-911(B)(4) shall apply to a candidate, whether participating or nonparticipating, who becomes a nominee as defined in A.R.S. § 16-901(38).

Historical Note

New Section adopted by exempt rulemaking at 6 A.A.R. 1567, effective June 21, 2000 (Supp. 00-2). Section repealed; new Section made by exempt rulemaking at 8 A.A.R. 588, effective October 17, 2001 (Supp. 02-1). Section repealed by exempt rulemaking at 11 A.A.R. 4518, effective May 28, 2005 (Supp. 05-4). New Section made by exempt rulemaking at 13 A.A.R. 3597, effective January 1, 2008 (Supp. 07-4). Amended by exempt rulemaking at 15 A.A.R. 1423, effective October 22, 2009 (Supp. 09-3). Amended by final exempt rulemaking at 23 A.A.R. 128, effective January 1, 2017 (Supp. 16-4).

R2-20-113. Candidate Statement Pamphlet

- A.** The Commission shall publish a candidate statement pamphlet in both the primary and general elections as required by A.R.S. § 16-956(A)(1). Commission staff shall send invitations for submission of a 200 word statement to every statewide and legislative candidate who has qualified for the ballot.
- B.** The following candidates will not be invited to submit a statement for the candidate statement pamphlet:
1. In the primary election: write-in candidates for the primary election, independent candidates, no party affiliation or unrecognized party candidates.
 2. In the general election: write in candidates.

Historical Note

New Section adopted by exempt rulemaking at 6 A.A.R. 1567, effective June 21, 2000 (Supp. 00-2). Section repealed by exempt rulemaking at 8 A.A.R. 588, effective October 17, 2001 (Supp. 02-1). New Section made by exempt rulemaking at 11 A.A.R. 4518, effective May 28, 2005 (Supp. 05-4). Amended by exempt rulemaking at 13 A.A.R. 2434, effective August 27, 2007 (Supp. 07-2). Amended by exempt rulemaking at 13 A.A.R. 3597, effective January 1, 2008 (Supp. 07-4). Amended by exempt rulemaking at 15 A.A.R. 1156, effective August 31, 2009 (Supp. 09-2). Amended by exempt rulemaking at 15 A.A.R. 1423, effective October 22, 2009 (Supp. 09-3). Amended by exempt rulemaking at 15 A.A.R. 1567, effective September 2, 2009 (Supp. 09-3). Amended by exempt rulemaking at 16 A.A.R. 1200, effective January 8, 2010 (Supp. 10-2). Repealed by exempt rulemaking at 19 A.A.R. 1694, effective October 6, 2011 (Supp. 13-2). New Section made by final exempt rulemaking at 21 A.A.R. 1633, effective July 23, 2015 (Supp. 15-3).

R2-20-114. Candidate Campaign Bank Account

- A.** Each participating candidate shall designate a single campaign bank account for conducting campaign financial activity. During an election cycle, each participating candidate shall conduct all campaign financial activities through a single, current election campaign bank account and any petty cash accounts as are permitted by law.
- B.** A participating candidate may maintain a campaign bank account other than the current election campaign bank account described in subsection (A) if the other campaign bank account is for a campaign in a prior election cycle in which the candidate was not a participating candidate.

Citizens Clean Elections Commission

- C. During the exploratory period, a candidate may receive debt-retirement contributions for a campaign during a prior election cycle if the funds are deposited in the bank account for that prior campaign. A candidate shall not deposit debt-retirement contributions into the current election campaign bank account.

Historical Note

New Section R2-20-114 renumbered from R2-20-110 by exempt rulemaking at 22 A.A.R. 2897 and 22 A.A.R. 2902, effective January 1, 2017 (Supp. 16-3).

R2-20-115. Books and Records Requirements

- A. All candidates shall maintain, at a single location within the state, the books and records of financial transactions, and other information required by A.R.S. § 16-904.
- B. All candidates shall ensure that the books and records of accounts and transactions of the candidate are recorded and preserved as follows:
1. The treasurer of a candidate's campaign committee is the custodian of the candidate's books and records of accounts and transactions, and shall keep a record of all of the following:
 - a. All contributions or other monies received by or on behalf of the candidate.
 - b. The identification of any individual or political committee that makes any contribution together with the date and amount of each contribution and the date of deposit into the candidate's campaign bank account.
 - c. Cumulative totals contributed by each individual or political committee.
 - d. The name and address of every person to whom any expenditure is made, and the date, amount and purpose or reason for the expenditure.
 - e. All periodic bank statements or other statements for the candidate's campaign bank account.
 - f. In the event that the campaign committee uses a petty cash account the candidate's campaign finance report shall include the same detail for each petty cash expenditure as required in A.R.S. § 16-948(C) for each vendor.
 2. No expenditure may be made for or on behalf of a candidate without the authorization of the treasurer or his or her designated agent.
 3. Unless specified by the contributor or contributors to the contrary, the treasurer shall record a contribution made by check, money order or other written instrument as a contribution by the person whose signature or name appears on the bottom of the instrument or who endorses the instrument before delivery to the candidate. If a contribution is made by more than one person in a single written instrument, the treasurer shall record the amount to be attributed to each contributor as specified.
 4. All contributions other than in-kind contributions and qualifying contributions must be made by a check drawn on the account of the actual contributor or by a money order or a cashier's check containing the name of the actual contributor or must be evidenced by a written receipt with a copy of the receipt given to the contributor and a copy maintained in the records of the candidate.
 5. The treasurer shall preserve all records set forth in subsection (B) and copies of all campaign finance reports required to be filed for three years after the filing of the campaign finance report covering the receipts and disbursements evidenced by the records.
 6. If requested by the attorney general, the county, city or town attorney or the filing officer, the treasurer shall pro-

vide any of the records required to be kept pursuant to this Section.

- C. Any request to inspect a candidate's records under A.R.S. § 16-958(F) shall be sent to the candidate, with a copy to the Commission, 10 or more days before the proposed date of the inspection. If the request is made within two weeks before the primary or general election, the request shall be delivered at least two days before the proposed date of inspection. Every request shall state with reasonable particularity the records sought.
1. The inspection shall occur at a location agreed upon by the candidate and the person making the request. If no agreement can be reached, the inspection shall occur at the Commission office. The inspection shall occur during the Commission's regular business hours and shall be limited to a two-hour time period.
 2. The requesting party may obtain copies of records for a reasonable fee. The Commission shall not be responsible for making copies. The person in possession of the records shall produce copies within a reasonable time of the receipt of the copying request and fees.
 3. The Commission will not permit public inspection of records if it determines that the inspection is for harassment purposes.
 4. If a person who requests to inspect a candidate's records under A.R.S. § 16-958(F) is denied such a request, the requesting party may notify the Commission. The Commission may enforce the public inspection request by issuing a subpoena pursuant to A.R.S. § 16-956(B) for the production of any books, papers, records, or other items sought in the public inspection request. The subpoena shall order the candidate to produce:
 - a. All papers, records, or other items sought in the public inspection request;
 - b. No later than two business days after the date of the subpoena; and
 - c. To the Commission's office during regular business hours.
 5. Any person who believes that a candidate or a candidate's campaign committee has not complied with this Section may appeal to Superior Court.

Historical Note

New Section R2-20-115 renumbered from R2-20-111 by exempt rulemaking at 22 A.A.R. 2899 and 22 A.A.R. 2904, effective January 1, 2017 (Supp. 16-3).

ARTICLE 2. COMPLIANCE AND ENFORCEMENT PROCEDURES**R2-20-201. Scope**

These rules provide procedures for processing possible violations of the Citizens Clean Elections Act.

Historical Note

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1).

R2-20-202. Initiation of Compliance Matters

Compliance matters may be initiated by a complaint or on the basis of information ascertained by the Commission in the normal course of carrying out its statutory responsibilities.

Historical Note

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1).

R2-20-203. Complaints

- A. Any person who believes that a violation of any statute or rule over which the Commission has jurisdiction has occurred or is

about to occur may file a complaint in writing to the Executive Director.

- B.** A complaint shall conform to the following:
 1. Provide the full name and address of the complainant; and
 2. Contents of the complaint shall be sworn to and signed in the presence of a notary public and shall be notarized.
- C.** All statements made in a complaint are subject to the statutes governing perjury. The complaint shall differentiate between statements based upon personal knowledge and statements based upon information and belief.
- D.** The complaint shall conform to the following provisions:
 1. Clearly identify as a respondent each person or entity who is alleged to have committed a violation;
 2. Statements which are not based upon personal knowledge shall be accompanied by an identification of the source of information which gives rise to the complainant's belief in the truth of such statements;
 3. Contain a clear and concise recitation of the facts which describe a violation of a statute or rule over which the Commission has jurisdiction; and
 4. Be accompanied by any documentation supporting the facts alleged if such documentation is known of, or available to, the complainant.

Historical Note

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1).
Amended by exempt rulemaking at 9 A.A.R. 3511, effective May 21, 2002 (Supp. 03-3). Amended by exempt rulemaking at 11 A.A.R. 4518, effective May 28, 2005 (Supp. 05-4).

R2-20-204. Initial Complaint Processing; Notification

- A.** Upon receipt of a complaint, the Administrative Counsel shall review the complaint for substantial compliance with the technical requirements of R2-20-203, and, if it complies with those requirements, shall within five days after receipt notify each respondent that the complaint has been filed, advise each respondent of Commission compliance procedures, and provide each respondent a copy of the complaint.
- B.** If a complaint does not comply with the requirements of R2-20-203, the Administrative Counsel shall so notify the complainant and any person or entity identified therein as respondent, within the five-day period specified in subsection (A), that no action should be taken on the basis of that complaint. A copy of the complaint shall be provided with the notification to each respondent.

Historical Note

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1).
Amended by final exempt rulemaking at 21 A.A.R. 1634, effective July 23, 2015 (Supp. 15-3).

R2-20-205. Opportunity for No Action on Complaint-generated Matters

- A.** A respondent shall be afforded an opportunity to demonstrate that no action should be taken on the basis of a complaint by submitting, within 5 days from receipt of a written copy of the complaint, a letter or memorandum setting forth reasons why the Commission should take no action.
- B.** The Commission shall not take any action, or make any finding, against a respondent other than action dismissing the complaint, unless it has considered such response or unless no such response has been served upon the Commission within the 5 day period specified in subsection A.

- C.** The respondent's response shall be sworn to and signed in the presence of a notary public and shall be notarized. The respondent's failure to respond in accordance with subsection A within 5 days of receiving the written copy of the complaint may be viewed as an admission to the allegations made in the complaint for purposes of the reason to believe finding pursuant to A.A.C. R2-20-206.

Historical Note

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1).
Amended by exempt rulemaking at 11 A.A.R. 4518, effective May 28, 2005 (Supp. 05-4). Amended by final exempt rulemaking at 21 A.A.R. 1636, effective July 23, 2015 (Supp. 15-3).

R2-20-206. Executive Director's Recommendation on Complaint-generated Matters

- A.** Following either the expiration of the 5 day period specified by A.A.C. R2-20-205 or the receipt of a response as specified by A.A.C. R2-20-205(A), whichever occurs first, the Executive Director:
 1. May recommend to the Commission whether it should find reason to believe that a respondent has committed or is about to commit a violation of a statute or rule over which the Commission has jurisdiction;
 2. May recommend that the Commission find that there is no reason to believe that a violation of a statute or rule over which the Commission has jurisdiction has been committed or is about to be committed, or that the Commission otherwise dismiss a complaint without regard to the provisions of A.A.C. R2-20-205(A); or
 3. May close the complaint generated matter without a reason to believe recommendation from the Executive Director based upon Respondent complying with the statute or rule on which the complaint is founded and in such case shall notify the Commission.
- B.** Neither the complainant nor the respondent has the right to appeal the Executive Director's recommendation made pursuant to subsection (A) because the recommendation is not an appealable agency action.
- C.** If the complaint relates to a violation of A.R.S. § 16-941(B) by a non-participating candidate or that candidate's campaign committee, the Executive Director shall not proceed pursuant to R2-20-206(A) or R2-20-207(A), without first receiving Commission approval to initiate an inquiry.
- D.** The respondent shall not have the right to appeal the Commission's decision to authorize an inquiry pursuant to subsection (C) because the Commission's decision whether or not to authorize an inquiry is not an appealable agency action.

Historical Note

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1).
Amended by exempt rulemaking at 11 A.A.R. 4518, effective May 28, 2005 (Supp. 05-4). Amended by exempt rulemaking at 12 A.A.R. 758, effective February 15, 2006 (Supp. 06-1). Amended by exempt rulemaking at 20 A.A.R. 1332, effective May 22, 2014 (Supp. 14-2). Amended by final exempt rulemaking at 21 A.A.R. 1638, effective July 23, 2015 (Supp. 15-3).

R2-20-207. Internally Generated Matters; Referrals

- A.** On the basis of information ascertained by the Commission in the normal course of carrying out its statutory responsibilities, or on the basis of a referral from an agency of the state, the Executive Director may recommend in writing that the Commission find reason to believe that a person or entity has com-

mitted or is about to commit a violation of a statute or rule over which the Commission has jurisdiction.

- B.** If the Commission finds reason to believe that a violation of a statute or rule over which the Commission has jurisdiction has occurred or is about to occur, the Executive Director shall notify the respondent of the Commission's decision and shall include a copy of a staff report setting forth the legal basis and the alleged facts which support the Commission's action.

Historical Note

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1). Amended by exempt rulemaking at 13 A.A.R. 3524, effective January 1, 2008 (Supp. 07-3).

R2-20-208. Complaint Processing; Notification

- A.** If the Commission, either after reviewing a complaint-generated recommendation as described in R2-20-206 and any response of a respondent submitted pursuant to R2-20-205, or after reviewing an internally-generated recommendation as described in R2-20-207, determines by an affirmative vote of at least three of its members that it has reason to believe that a respondent has violated a statute or rule over which the Commission has jurisdiction, the Commission shall notify such respondent of the Commission's finding, setting forth the sections of the statute or rule alleged to have been violated and the alleged factual basis supporting the finding. In accordance with A.R.S. § 16-957(A), the Commission shall serve on the respondent an order requiring compliance within 14 days. During that period, the respondent may provide any explanation to the Commission, comply with the order, or enter into a public administrative settlement with the Commission.
- B.** If the Commission finds no reason to believe that a violation of a statute or rule over which the Commission has jurisdiction has occurred, or otherwise terminates its proceedings, the Executive Director shall so notify both the complainant and respondent.
- C.** The complainant may bring an action in Superior Court in accordance with A.R.S. § 16-957(C) if the Commission finds there is no reason to believe a violation of a statute or rule over which the Commission has jurisdiction has occurred or otherwise terminates its proceedings.

Historical Note

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1). Amended by exempt rulemaking at 11 A.A.R. 4518, effective May 28, 2005 (Supp. 05-4). Amended by exempt rulemaking at 12 A.A.R. 758, effective February 15, 2006 (Supp. 06-1).

R2-20-209. Investigation

- A.** The Commission shall conduct an investigation in any case in which the Commission finds reason to believe that a violation of a statute or rule over which the Commission has jurisdiction has occurred or is about to occur.
- B.** The Commission's investigation may include, but is not limited to, field investigations, audits, and other methods of information gathering.

Historical Note

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1).

R2-20-210. Written Questions Under Order

The Commission may issue an order requiring any person to submit sworn, written answers to written questions and may specify a date by which such answers must be submitted to the Commission.

Historical Note

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1). Amended by exempt rulemaking at 9 A.A.R. 3511, effective May 21, 2002 (Supp. 03-3).

R2-20-211. Subpoenas and Subpoenas Duces Tecum; Depositions

- A.** The Commission may authorize its Executive Director or Assistant Attorney General to issue subpoenas requiring the attendance and testimony of any person by deposition and to issue subpoenas duces tecum for the production of documentary or other tangible evidence in connection with a deposition or otherwise.
- B.** If the Commission orders oral testimony to be taken by deposition or for documents to be produced, the subpoena shall so state and shall advise the deponent or person subpoenaed that all testimony will be under oath. The Commission may authorize its Executive Director to take a deposition and have the power to administer oaths.
- C.** The deponent shall have the opportunity to review and sign depositions taken pursuant to this rule.

Historical Note

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1). Amended by exempt rulemaking at 13 A.A.R. 3524, effective January 1, 2008 (Supp. 07-3).

R2-20-212. Repealed

Historical Note

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1). Section repealed by exempt rulemaking at 11 A.A.R. 4518, effective May 28, 2005 (Supp. 05-4).

R2-20-213. Motions to Quash or Modify a Subpoena

- A.** Any person to whom a subpoena is directed may, prior to the time specified therein for compliance, but in no event more than five days after the date of receipt of such subpoena, apply to the Commission to quash or modify such subpoena, accompanying such application with a brief statement of the reasons therefore.
- B.** The Commission may deny the application, quash the subpoena or modify the subpoena.
- C.** The person subpoenaed and the Executive Director may agree to change the date, time, or place of a deposition or for the production of documents without affecting the force and effect of the subpoena, but such agreements shall be confirmed in writing.

Historical Note

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1). Amended by exempt rulemaking at 13 A.A.R. 3524, effective January 1, 2008 (Supp. 07-3).

R2-20-214. The Probable Cause to Believe Recommendation; Briefing Procedures

- A.** Upon completion of the investigation conducted pursuant to R2-20-209, the Executive Director shall prepare a brief setting forth his or her position on the factual and legal issues of the case and containing a recommendation on whether the Commission should find probable cause to believe that a violation of a statute or rule over which the Commission has jurisdiction has occurred or is about to occur.
- B.** The Executive Director shall notify each respondent of the recommendation and enclose a copy of his or her brief.

- C. Within five days from receipt of the Executive Director's brief, the respondent may file a brief with the Commission setting forth the respondent's position on the factual and legal issues of the case.
- D. After reviewing the respondent's brief, the Executive Director shall promptly advise the Commission in writing whether he or she intends to proceed with the recommendation or to withdraw the recommendation from Commission consideration.

Historical Note

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1). Amended by exempt rulemaking at 11 A.A.R. 4518, effective May 28, 2005 (Supp. 05-4). Amended by exempt rulemaking at 12 A.A.R. 758, effective February 15, 2006 (Supp. 06-1).

R2-20-215. Probable Cause to Believe Finding

- A. If the Commission, after having found reason to believe and after following the procedures set forth in R2-20-214, determines by an affirmative vote of at least three of its members that there is probable cause to believe that a respondent has violated a statute or rule over which the Commission has jurisdiction, the Commission shall authorize the Executive Director to so notify the respondent by an order, that states the nature of the violation, pursuant to A.R.S. § 16-957.
- B. If the Commission finds no probable cause to believe that a violation of a statute or rule over which the Commission has jurisdiction has occurred or otherwise orders a termination of Commission proceedings, it shall authorize the Executive Director to notify both respondent and complainant by letter that the proceeding has ended. The Executive Director's letter also will inform the parties that the Commission is not precluded from taking action on this matter in the future if evidence is discovered which may alter the decision of the Commission.

Historical Note

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1). Amended by exempt rulemaking at 9 A.A.R. 3511, effective May 21, 2002 (Supp. 03-3). Amended by exempt rulemaking at 13 A.A.R. 3524, effective January 1, 2008 (Supp. 07-3).

R2-20-216. Conciliation

- A. Upon a Commission finding of probable cause to believe that the respondent has violated a statute or rule over which the Commission has jurisdiction, the Executive Director shall attempt to settle the matter as authorized by A.R.S. § 16-957(A) by informal methods of administrative settlement or conciliation, and shall attempt to reach a tentative conciliation agreement with the respondent.
- B. A conciliation agreement pursuant to subsection (A) of this Section is not binding upon either party unless and until it is signed by the respondent and by the Executive Director upon approval by the affirmative vote of at least three members of the Commission.
- C. If a conciliation agreement is reached between the Commission and the respondent, the Executive Director shall send a copy of the signed agreement to both complainant and respondent.

Historical Note

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1).

Amended by exempt rulemaking at 9 A.A.R. 3511, effective May 21, 2002 (Supp. 03-3).

R2-20-217. Enforcement Proceedings

- A. Upon a finding of probable cause that the alleged violator remains out of compliance, the Executive Director may recommend to the Commission that the Commission authorize the issuance of an order and assessment of civil penalties pursuant to A.R.S. § 16-957(B).
- B. The Commission may, by an affirmative vote of at least three of its members, authorize the Executive Director to issue an order and assess civil penalties pursuant to A.R.S. § 16-957(B).
- C. Subsections (A) and (B) of this rule shall not preclude the Commission, upon request of a respondent, from entering into a conciliation agreement pursuant to R2-20-216 even after the Commission authorizes the Executive Director to issue an order and assess civil penalties pursuant to subsection (B). Any conciliation agreement reached under this subsection is subject to the provisions of R2-20-216(B) and shall have the same force and effect as a conciliation agreement reached under R2-20-216(D).

Historical Note

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1). Amended by exempt rulemaking at 9 A.A.R. 3511, effective May 21, 2002 (Supp. 03-3). Amended by exempt rulemaking at 11 A.A.R. 4518, effective May 28, 2005 (Supp. 05-4). Amended by exempt rulemaking at 12 A.A.R. 758, effective February 15, 2006 (Supp. 06-1).

R2-20-218. Repealed

Historical Note

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1). Section repealed by exempt rulemaking at 11 A.A.R. 4518, effective May 28, 2005 (Supp. 05-4).

R2-20-219. Repealed

Historical Note

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1). Section repealed by exempt rulemaking at 9 A.A.R. 3511, effective May 21, 2002 (Supp. 03-3).

R2-20-220. Ex Parte Communications

- A. In order to avoid the possibility of prejudice, real or apparent, to the public interest in enforcement actions pending before the Commission pursuant to its compliance procedures, except to the extent required for the disposition of ex parte matters as required by law (for example, during the normal course of an investigation or a conciliation effort), no interested person outside the agency shall make or cause to be made to any Commissioner or any member of any Commission staff any ex parte communication relative to the factual or legal merits of any enforcement action, nor shall any Commissioner or member of the Commission's staff make or entertain any such ex parte communications.
- B. This rule shall apply from the time a complaint is filed with the Commission or from the time that the Commission determines on the basis of information ascertained in the normal course of its statutory responsibilities that it has reason to believe that a violation of a statute or rule over which the Commission has jurisdiction has occurred or may occur, and remains in force until the Commission has finally concluded all action with respect to the matter in question.

Citizens Clean Elections Commission

- C. Nothing in this Section shall be construed to prohibit contact between a respondent or respondent's attorney and any attorney or the Administrative Counsel or the Assistant Attorney General in the course of representing the Commission or the respondent with respect to an enforcement proceeding or civil action. No statement made by a Commission attorney or staff member shall bind or estop the Commission.

Historical Note

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1).

R2-20-221. Representation by Counsel; Notification

- A. If a respondent wishes to be represented by counsel with regard to any matter pending before the Commission, respondent shall so advise the Commission by sending a letter of representation signed by the respondent, which letter shall state the following:
1. The name, address, and telephone number of the counsel; and
 2. A statement authorizing such counsel to receive any and all notifications and other communications from the Commission on behalf of respondent.
- B. Upon receipt of a letter of representation, the Commission shall have no contact with respondent except through the designated counsel unless authorized in writing by respondent. The Commission will send a copy of this letter to the respondent's attorney.

Historical Note

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1).

R2-20-222. Civil Penalties

- A. If the Commission has reason to believe by a preponderance of the evidence that a participating candidate is not in compliance with the Act or Commission rules, then in addition to other penalties under law, the Commission may decertify a candidate, deny or suspend funding, order repayment of funds, or impose a penalty not to exceed \$1,000 for a participating candidate for the legislature and 5,000 for a participating candidate for statewide office.
- B. If the Commission has reason to believe by a preponderance of the evidence that a person other than a participating candidate is not in compliance with the Act or Commission rules, then in addition to other penalties under law, the Commission may impose a penalty not to exceed \$1,000.

Historical Note

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1). Amended by exempt rulemaking at 13 A.A.R. 3524, effective January 1, 2008 (Supp. 07-3). Amended by exempt rulemaking at 19 A.A.R. 1697, effective May 23, 2013 (Supp. 13-2). Amended by exempt rulemaking at 19 A.A.R. 3524, effective September 27, 2013 (Supp. 13-4).

R2-20-223. Notice of Appealable Agency Action

If the Commission makes a probable cause finding pursuant to R2-20-215 or decides to initiate an enforcement proceeding pursuant to R2-20-217, the Assistant Attorney General (AAG) shall draft and serve notice of an appealable agency action pursuant to A.R.S. § 41-1092.03 and § 41-1092.04 on the respondent. The notice shall identify the following:

1. The statute or rule violated and specific facts constituting the violation;
2. A description of the respondent's right to request a hearing and to request an informal settlement conference; and

3. A description of what the respondent may do if the respondent wishes to remedy the situation without appealing the Commission's decision.

Historical Note

New Section made by exempt rulemaking at 8 A.A.R.

588, effective November 27, 2001 (Supp. 02-1).

Amended by exempt rulemaking at 11 A.A.R. 4518, effective May 28, 2005 (Supp. 05-4). Amended by final exempt rulemaking at 21 A.A.R. 2921, effective July 1, 2011; filed in the Office October 27, 2015 (Supp. 15-4).

R2-20-224. Request for an Administrative Hearing

- A. The respondent must file a request for a hearing with the Commission within 30 days of receipt of the notice prescribed in R2-20-223.
- B. If the respondent requests a hearing, the AAG shall notify the Office of Administrative Hearings (OAH) of the appeal and shall coordinate a hearing date with the Commission's AAG and Commission staff that may be called as witnesses and OAH. The hearing must be held within 60 days after the notice of appeal is filed with the Commission.
- C. The AAG shall prepare and serve a notice of hearing on all parties to the appeal at least 30 days before the hearing date, unless and expedited hearing is requested and granted. The notice of hearing shall be drafted in accordance with A.R.S. § 41-1092.05(D).

Historical Note

New Section made by exempt rulemaking at 8 A.A.R.

588, effective November 27, 2001 (Supp. 02-1).

R2-20-225. Informal Settlement Conference

- A. If the respondent requests an informal settlement conference, the informal settlement conference shall be held within 15 days after the Commission receives the request. A request for an informal settlement conference shall be in writing and must be filed with the Commission no later than 20 days before the hearing date. A person with the authority to act on behalf of the Commission must represent the Commission at the conference. The AAG shall attend the settlement conference, but shall not be the individual authorized to act on behalf of the Commission.
- B. The Commission representative shall notify the appellant in writing that the statements, either written or oral, made by the appellant at the conference, including a written document, created or expressed solely for the purpose of settlement negotiations, are inadmissible in any subsequent administrative hearing. The parties participating in the settlement conference waive their right to object to the participation of the agency representative in the final administrative decision.

Historical Note

New Section made by exempt rulemaking at 8 A.A.R.

588, effective November 27, 2001 (Supp. 02-1).

R2-20-226. Administrative Hearing

- A. If the matter continues to a hearing, the hearing shall be held in accordance with A.R.S. § 41-1092.07. The Administrative Law Judge (ALJ) must issue a written recommended decision within 20 days after the hearing is concluded.
- B. If the enforcement action occurs within six months of the primary or general election, the Commission will request an expedited review of the matter.

Historical Note

New Section made by exempt rulemaking at 8 A.A.R.

588, effective November 27, 2001 (Supp. 02-1).

R2-20-227. Review of Administrative Decision by Commis-

sion

- A.** Within 30 days after the date OAH sends a copy of the ALJ's decision to the Commission, the Commission may review the ALJ's decision and accept, reject or modify the decision.
- B.** If the Commission declines to review the ALJ's decision, the Commission shall serve a copy of the decision on all parties. If the Commission modifies or rejects the decision, the Commission shall file with OAH and serve on all parties, a copy of the ALJ's decision with the rejection or modification and a written justification setting forth the reasons for the rejection or modification. If the Commission accepts, rejects or modifies the decision, the Commission's decision will be certified as final.
- C.** If the Commission does not accept, reject or modify the decision within 30 days after OAH sends the ALJ's decision to the Commission, the ALJ's decision will be certified as final.

Historical Note

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1).

R2-20-228. Judicial Review

A party may appeal a final administrative decision pursuant to A.R.S. § 12-901 et seq. (Judicial Review of Administrative Decisions). A party does not have the right to judicial review unless that party first exhausts its administrative remedies by going through the above steps. After a hearing has been held and a final administrative decision has been entered pursuant to § 41-1092.08, a party is not required to file a motion for rehearing or review of the decision in order to exhaust the party's administrative remedies.

Historical Note

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1).

R2-20-229. Repealed**Historical Note**

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1). Section repealed by exempt rulemaking at 11 A.A.R. 4518, effective May 28, 2005 (Supp. 05-4).

R2-20-230. Repealed**Historical Note**

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1). Section repealed by exempt rulemaking at 11 A.A.R. 4518, effective May 28, 2005 (Supp. 05-4).

R2-20-231. Repealed**Historical Note**

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1). Section repealed by exempt rulemaking at 12 A.A.R. 758, effective February 15, 2006 (Supp. 06-1).

ARTICLE 3. STANDARD OF CONDUCT FOR COMMISSIONERS AND EMPLOYEES

R2-20-301. Purpose and Applicability

- A.** The Commission is committed to implementing the Act in an honest, independent, and impartial fashion and to seeking to uphold public confidence in the integrity of the electoral system. To ensure public trust in the fairness and integrity of the Arizona elections process, all Commissioners and employees must observe the highest standards of conduct. This Article prescribes standards of ethical conduct for Commissioners and employees of the Commission relating to conflicts of interest arising from outside employment, private businesses, profes-

sional activities, political activities, and financial interests. The avoidance of misconduct and conflicts of interest on the part of the Commissioners and the employees through informed judgment is indispensable to the maintenance of these prescribed ethical standards. Attainment of these goals necessitates strict and absolute fairness and impartiality in the administration of the law.

- B.** This Article applies to all persons included within the terms "employee" and "Commissioner" of the Commission.
- C.** These Standards of Conduct shall be construed in accordance with any applicable laws, regulations, and agreements between the Commission and a labor organization.
- D.** Pursuant to A.R.S. § 16-955(I), for three years after a Commissioner completes his or her tenure, Commissioners shall not seek or hold any public office, serve as an officer of any political committee, or employ or be employed as a lobbyist.

Historical Note

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1).

R2-20-302. Definitions

The following terms apply in all Citizens Clean Elections Act matters:

1. "Commission" means the Citizens Clean Elections Commission of Arizona.
2. "Commissioner" means a voting member of the Commission, appointed pursuant to A.R.S. § 16-955.
3. "Conflict of interest" means a situation in which a Commissioner's or an employee's private interest is or appears to be inconsistent with the efficient and impartial conduct of his or her official duties and responsibilities.
4. "Employee" means an employee or staff member of the Commission.
5. "Former employee" means one who was, and is no longer, an employee of the Commission.
6. "Official responsibility" means the direct administrative or operating authority, whether intermediate or final, to approve, disapprove, or otherwise direct Commission action. Official responsibility may be exercised alone or with others and either personally or through subordinates.
7. "Outside employment" or "outside activity" means any work, service or other activity performed by a Commissioner or employee other than in the performance of the Commissioner's or employee's official employment duties. It includes such activities as writing and editing, publishing, teaching, lecturing, consulting, self-employment, and other services or work performed, with or without compensation.
8. "Person" means an individual, corporation, company, association, firm, partnership, society, joint stock company, political committee, or other group, organization, or institution.

Historical Note

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1).

R2-20-303. Notification to Commissioners and Employees

The Executive Director shall provide to each Commissioner and employee of the Commission, upon commencement of his or her term or employment and at least annually thereafter, a copy of this Article and such other information regarding standards of conduct as the Commission and/or applicable law may prescribe.

Historical Note

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1).

Citizens Clean Elections Commission

Amended by exempt rulemaking at 13 A.A.R. 3527,
effective January 1, 2008 (Supp. 07-3).

R2-20-304. Interpretation and Advisory Service

Commissioners or employees seeking advice and guidance on questions of conflict of interest and on other matters covered by this Article shall consult with the Commission's Chair or Executive Director. The Commission's Chair or Executive Director shall be consulted prior to the undertaking of any action that might violate this Article governing the conduct of Commissioners or employees.

Historical Note

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1).

Amended by exempt rulemaking at 13 A.A.R. 3527,
effective January 1, 2008 (Supp. 07-3).

R2-20-305. Reporting Suspected Violations

- A. Commissioners and employees who have information, which causes them to believe that there has been a violation of a statute or a rule set forth in this Article, shall report promptly, in writing, such incident to the Commission's Chair or Executive Director.
- B. When information available to the Commission indicates a conflict between the interests of a Commissioner or employee and the performance of his or her Commission duties, the Commissioner or employee shall be provided an opportunity to explain the conflict or appearance of conflict in writing.

Historical Note

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1).

R2-20-306. Disciplinary and Other Remedial Action

- A. A violation of this Article by an employee may be cause for disciplinary action, which may be in addition to any penalty prescribed by law.
- B. When the Commission's Executive Director determines that an employee may have or appears to have a conflict of interest, the Commission's Executive Director may question the employee in the matter and gather other information. The Commission's Executive Director and the employee's supervisor shall discuss with the employee possible ways of eliminating the conflict or appearance of conflict. If the Commission's Executive Director, after consultation with the employee's supervisor, concludes that remedial action should be taken, he or she shall refer a statement to the Commission containing his or her recommendation for such action. The Commission, after consideration of the employee's explanation and the results of any investigation, may direct appropriate remedial action as it deems necessary.
- C. Remedial action pursuant to subsection (B) of this Section may include, but is not limited to:
 - 1. Changes in assigned duties;
 - 2. Divestment by the employee of his or her conflicting interest;
 - 3. Disqualification for particular action; or
 - 4. Disciplinary action.

Historical Note

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1).

R2-20-307. General Prohibited Conduct

- A. A Commissioner or employee shall avoid any action whether or not specifically prohibited by this Section that might result in, or create the appearance of:
 - 1. Using public office for unlawful private gain;

- 2. Giving favorable or unfavorable treatment to any person or organization due to any partisan or political consideration;
- 3. Impeding Commission efficiency or economy;
- 4. Losing impartiality.
- 5. Making a Commission decision without Commission approval; or
- 6. Adversely affecting the confidence of the public in the integrity of the Commission.

- B. A Commissioner or employee of the Commission shall not solicit or accept, directly or indirectly, any gift, gratuity, favor, entertainment, loan, or any other thing of monetary value, from a person who:

- 1. Has, or is seeking to obtain, contractual or other business or financial relations with the Commission;
- 2. Conducts operations or activities that are regulated or examined by the Commission; or
- 3. Has an interest that may be substantially affected by the performance or nonperformance of the Commissioner or employee's official duty.

- C. Subsection (B) of this Section shall not apply in the following circumstances:

- 1. When circumstances make it clear that obvious family or personal relationships, rather than the business of the persons concerned, are the motivating factors;
- 2. To the acceptance of food, refreshments, and accompanying entertainment of nominal value in the ordinary course of a social occasion or a luncheon or dinner meeting or other function where a Commissioner or an employee is properly in attendance;
- 3. To the acceptance of unsolicited advertising or promotional material or other items of nominal value such as pens, pencils, note pads, calendars; and
- 4. To the acceptance of loans from banks or other financial institutions on customary terms to finance proper and usual activities, such as home mortgage loans.

- D. A Commissioner or an employee shall not solicit a contribution from another employee for a gift to an official superior, make a donation as a gift to an official superior, or accept a gift from an employee receiving less pay than himself or herself. However, this subsection does not prohibit a voluntary gift of nominal value or donation in a nominal amount made on a special occasion such as birthday, holiday, marriage, illness, or retirement.

- E. This Section does not preclude a Commissioner or employee from receipt of reimbursement, unless prohibited by law, for expenses of travel and such other necessary subsistence as is compatible with this Article for which no state payment or reimbursement is made. However, this Section does not allow a Commissioner or employee to be reimbursed, or payment to be made on his or her behalf, for excessive personal living expenses, gifts, entertainment, or other personal benefits, nor does it allow a Commissioner or employee to be reimbursed by a person for travel on official business under Commission orders when reimbursement is prescribed by statute.

Historical Note

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1).

R2-20-308. Outside Employment or Activities

- A. A Commissioner or employee shall not engage in outside employment that is incompatible with the full discharge of his or her duties as a Commissioner or employee.
- B. Incompatible outside employment or other activities by Commissioners or employees include, but are not limited to:

Citizens Clean Elections Commission

1. Outside employment or other activities that involve illegal activities;
 2. Outside employment or other activities that would give rise to a real or apparent conflict of interest situation even though no violation of a specific statutory provision was involved;
 3. Acceptance of a fee, compensation, gift, payment of expense, or any other thing of monetary value in circumstances where acceptance may result in, or create the appearance of, a conflict of interest;
 4. Outside employment or other activities that might bring discredit upon the state or Commission;
 5. Outside employment or other activities that establish relationships or property interests that may result in a conflict between the Commissioner's or the employee's private interests and official duties;
 6. Outside employment or other activities which would involve any contractor or subcontractor connected with any work performed for the Commission or would involve any person or organization in a position to gain advantage in its dealings with the state through the Commissioner's or employee's exercise of his or her official duties;
 7. Outside employment or other activities that may be construed by the public to be the official acts of the Commission. In any permissible outside employment, care shall be taken to ensure that names and titles of Commissioners and employees are not used to give the impression that the activity is officially endorsed or approved by the Commission or is part of the Commission's activities;
 8. Outside employment or other activities which would involve use by a Commissioner or employee of his or her official duty time; use of official facilities, including office space, machines, or supplies, at any time; or use of the services of other employees during their official duty hours;
 9. Outside employment or other activities which impair the Commissioner's or employee's mental or physical capacities to perform Commission duties and responsibilities in an acceptable manner; or
 10. Use of information obtained as a result of state employment that is not freely available to the general public or would not be made available upon request. However, written authorization for the use of any such information may be given when the Commission determines that such use would be in the public interest.
- C.** Commissioners and employees shall not receive any salary or anything of monetary value from a private source as compensation for the Commissioner's or employee's services to the state.
- D.** Commissioners and employees are encouraged to engage in teaching, lecturing, and writing that is not prohibited by law or this Article. However, Commissioners and employees shall not, either with or without compensation, engage in teaching or writing that is dependent on information obtained as a result of his or her Commission employment, except when that information has been made available to the public or will be made available on request, or when the Commission gives written authorization for the use of nonpublic information on the basis that the use is in the public interest.
- E.** This Section does not preclude a Commissioner or employee from participating in the activities of or acceptance of an award for meritorious public contribution or achievement given by a charitable, religious, professional, social, fraternal, nonprofit, educational, recreational, public service, or civic organization.
- F.** An employee who intends to engage in outside employment shall obtain the approval of the Executive Director. The request shall include the name of the person, group, or organization for whom the work is to be performed, the nature of the services to be rendered, the proposed hours of work, or approximate dates of employment, and the employee's certification as to whether the outside employment (including teaching, writing, or lecturing) will depend in any way on information obtained as a result of the employee's official position. The employee will receive, from the Executive Director, written notice of approval or disapproval of any written request. A record of the decision shall be placed in each employee's official personnel folder.

Historical Note

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1).

R2-20-309. Financial Interests

- A.** Commissioners and employees shall not engage in, directly or indirectly, a financial transaction as a result of, or primarily relying on, information obtained through the Commissioner's or employee's duties or employment.
- B.** Commissioners and employees shall not have a direct or indirect financial interest that conflicts substantially, or appears to conflict substantially, with the Commissioner's or employee's official duties and responsibilities, except in cases where the Commissioner or employee makes full disclosure, and disqualifies himself or herself from participating in any decisions, approval, disapproval, recommendation, the rendering of advice, investigation, or in any proceeding of the Commission in which the financial interest is or appears to be affected. Full disclosure by a Commissioner or employee will require that individual to submit a written statement to the Executive Director or Chair disclosing the particular financial interest which conflicts substantially, or appears to conflict substantially, with the Commissioner's or employee's duties and responsibilities.
- C.** Commissioners and employees shall disqualify themselves from a proceeding in which the Commissioner's or employee's impartiality might reasonably be questioned, such as in a situation where the Commissioner or employee knows that he or she, or his or her family member, has an interest in the subject matter in controversy or is a party to the proceeding, or has any other interest that could be substantially affected by the outcome of the proceeding.
- D.** This Section does not preclude a Commissioner or employee from having a financial interest or engaging in financial transactions to the same extent as a private citizen not employed by the Commission, as long as the Commissioner's or employee's financial interest does not conflict with official Commission duties.

Historical Note

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1).

R2-20-310. Political and Organization Activity

- A.** Due to the Commission's role in the political process, the following restrictions on political activities are required:
1. Commissioners and employees shall not advocate for the election or defeat of a candidate, nor make contributions to a candidate, political party, or political committee subject to the jurisdiction of the Commission. Commissioners and employees, however, are not prohibited from signing candidate nomination petitions;
 2. Commissioners and employees shall not provide volunteer or paid services for a candidate, political party, or

Citizens Clean Elections Commission

political committee subject to the jurisdiction of the Commission; and

3. Commissioners and employees not shall display partisan buttons, badges, or other insignia on Commission premises.

- B. Employees on leave, leave without pay, or on furlough or terminal leave, even though the employees' resignations have been accepted, are subject to the restrictions of this Section. A separated employee who has received a lump-sum payment for annual leave, however, is not subject to the restrictions during the period covered by the lump-sum payment or thereafter, provided he or she does not return to state employment during that period. An employee is not permitted to take a leave of absence to work with a political candidate, committee, or organization or become a candidate for office despite any understanding that he or she will resign his or her position if nominated or elected.
- C. A Commissioner or employee is accountable for political activity by another person acting as his or her agent or under the Commissioner's or employee's direction or control if the Commissioner or employee is thus accomplishing what he or she may not lawfully do directly and openly.

Historical Note

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1).

R2-20-311. Membership in Associations

Commissioners or employees who are members of nongovernmental associations or organizations shall avoid activities on behalf of those associations or organizations that are incompatible with their official positions.

Historical Note

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1).

R2-20-312. Use of State Property

A Commissioner or employee shall not directly or indirectly use, or allow the use of, state property of any kind, including property leased to the state, for other than officially approved activities. Commissioners and employees have a positive duty to protect and conserve state property including equipment, supplies, and other property entrusted or issued to him or her.

Historical Note

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1).

ARTICLE 4. AUDITS**R2-20-401. Purpose and Scope**

This article prescribes procedures for conducting examinations and audits of participating candidates' campaign finances.

Historical Note

New Section made by exempt rulemaking at 11 A.A.R. 4518, effective May 28, 2005 (Supp. 05-4). Amended by exempt rulemaking at 19 A.A.R. 1699, effective October 6, 2011 (Supp. 13-2).

R2-20-402. General

The Commission may conduct an examination and audit of the receipts, disbursements, debts and obligations of each candidate. In addition, the Commission may conduct other examinations and audits as it deems necessary to carry out the provisions of the Act and regulations. Information obtained pursuant to any audit and examination may be used by the Commission as the basis, or partial basis, for its repayment determinations.

Historical Note

New Section made by exempt rulemaking at 11 A.A.R. 4518, effective May 28, 2005 (Supp. 05-4).

R2-20-402.01. Random Audits of Participating Legislative Candidates

To ensure compliance with the Act and Commission rules, the Commission shall conduct random audits of participating legislative candidates after each primary election period and each general election period. Random audits shall include the review of campaign finance reports and related documentation in accordance with procedures established by the Commission. The Commission may hire independent accounting firms to carry out the random audits. The selection of legislative candidates for audit shall be determined by random lot at a Commission meeting. Candidates shall not be subject to selection for random audit for the general election period that were selected for random audit following the primary election period.

Historical Note

New Section made by exempt rulemaking at 13 A.A.R. 3529, effective January 1, 2008 (Supp. 07-3). Amended by exempt rulemaking at 19 A.A.R. 1700, effective October 6, 2011 (Supp. 13-2). Amended by final exempt rulemaking at 21 A.A.R. 1640, effective July 23, 2015 (Supp. 15-3). Amended by final exempt rulemaking at 23 A.A.R. 130, effective December 15, 2016 (Supp. 16-4).

R2-20-402.02. Audits of Participating Statewide Candidates

All participating statewide candidates shall be audited after each primary election period and each general election period.

Historical Note

New Section made by final exempt rulemaking at 23 A.A.R. 131, effective December 15, 2016 (Supp. 16-4).

R2-20-403. Conduct of Fieldwork

- A. The Commission will provide the candidate two days notice of the Commission's intention to commence fieldwork on the audit and examination. The Commission will conduct fieldwork at a site provided by the candidate. During or after fieldwork, the Commission may request additional or updated information, which expands the coverage dates of information previously provided. During or after fieldwork, the Commission may also request additional information that was created by or becomes available to the candidate that is of assistance in the Commission's audit. The candidate shall produce the additional or updated information no later than two days after service of the Commission's request.
- B. On the date scheduled for the commencement of fieldwork, the candidate shall facilitate the examination or audit by making records available in one central location, such as the Commission's office space, or shall provide the Commission with office space and records. The candidate shall be present at the site of the fieldwork. The candidate shall be familiar with the candidate's records and shall be available to the Commission to answer questions and to aid in locating records.
- C. If the candidate fails to provide adequate office space, personnel or records, the Commission may seek judicial intervention to enforce the request or assess other penalties.
- D. If, in the course of the examination or audit process, a dispute arises over the documentation sought, the candidate may seek review by the Commission of the issues raised. To seek review, the candidate shall submit a written statement within five days after the disputed Commission request is made, describing the dispute and indicating the candidate's proposed alternatives.

Historical Note

New Section made by exempt rulemaking at 11 A.A.R. 4518, effective May 28, 2005 (Supp. 05-4).

R2-20-404. Preliminary Audit Report

- A.** After the completion of fieldwork, the auditors may prepare a written preliminary audit report, which will be provided to the candidate after it is reviewed by the Executive Director. The preliminary audit report may include:
1. An evaluation of procedures and systems employed by the candidate to comply with applicable provisions of the Act and Commission rules,
 2. The accuracy of statements and campaign finance reports filed with the Secretary of State by the candidate, and
 3. Preliminary findings.
- B.** The candidate may submit in writing within 10 days after receipt of the preliminary audit report, legal and factual materials disputing or commenting on the proposed findings contained in the preliminary audit report. In addition, the candidate shall submit any additional documentation requested by the Commission.
- C.** If the preliminary audit report cannot be completed, the Commission shall notify the candidate in writing that the audit report will not be completed.

Historical Note

New Section made by exempt rulemaking at 11 A.A.R. 4518, effective May 28, 2005 (Supp. 05-4). Amended by exempt rulemaking at 16 A.A.R. 1200, effective February 28, 2008 (Supp. 10-2).

R2-20-405. Final Audit Report

- A.** Before voting on whether to approve and issue a final audit report, the Commission will consider any written legal and factual materials timely submitted by the candidate in accordance with R2-20-404. The Commission-approved final audit report may address issues other than those contained in the preliminary audit report.
- B.** The final audit report may identify issues that warrant referral for possible enforcement proceedings.
- C.** Addenda to the final audit report may be approved and issued by the Commission from time to time as circumstances warrant and as additional information becomes available. Such addenda may be based on follow-up fieldwork conducted, or information ascertained by the Commission in the normal course of carrying out its responsibilities. The procedures set forth in R2-20-404 and subsections (A) and (B) will be followed in preparing such addenda.

Historical Note

New Section made by exempt rulemaking at 11 A.A.R. 4518, effective May 28, 2005 (Supp. 05-4).

R2-20-406. Release of Audit Report

- A.** The Commission will consider the final audit report specified in R2-20-405 in an open meeting. The Commission will provide the candidate with copies of the final audit report to be considered in an open meeting 24 hours prior to the public meeting.
- B.** Following Commission approval of the final audit report, the report will be forwarded to the candidate within five days after the public meeting.

Historical Note

New Section made by exempt rulemaking at 11 A.A.R. 4518, effective May 28, 2005 (Supp. 05-4).

ARTICLE 5. RULEMAKING**R2-20-501. Purpose and Scope**

This Article prescribes the procedures for the submission, consideration, and disposition of rulemaking petitions filed with the Commission, establishes the conditions under which the Commission may identify and respond to petitions for rulemaking, and informs the public of the procedures the agency follows in response to such petitions.

Historical Note

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1).

R2-20-502. Procedural Requirements

- A.** Any interested person may file with the Commission a written petition for the issuance, amendment, or repeal of an administrative rule implementing any of the Citizens Clean Elections Act.
- B.** The petition shall:
1. Include the name and address of the petitioner or agent. An authorized agent of the petitioner may submit the petition, but the agent shall disclose the identity of his or her principal;
 2. Identify itself as a petition for the issuance, amendment, or repeal of a rule;
 3. Identify the specific Section of the regulations to be affected;
 4. Set forth the factual and legal grounds on which the petitioner relies, in support of the proposed action; and
 5. Be addressed and submitted to the Commission.
- C.** The petition may include draft regulatory language that would effectuate the petitioner's proposal.
- D.** The Commission may, in its discretion, treat a document that fails to conform to the format requirements of subsection (B) of this Section as a basis for rulemaking addressing issues raised in a petition.

Historical Note

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1).

R2-20-503. Processing of Petitions

- A.** Within 10 days of receiving a petition, the Commission shall send a letter to the petitioner acknowledging the receipt of the petition and informing the petitioner that the Commission will review and decide whether to deny or accept the petition. To assist in determining whether a rulemaking proceeding should be initiated, the Commission may publish a Notice of Availability on the Commission web site or otherwise post notice, stating that the petition is available for public inspection in the Commission's Office and that statements in support of or in opposition to the petition may be filed within a stated period after publication of the Notice of Availability.
- B.** If the Commission decides a public hearing on the petition would help determine whether to commence a rulemaking proceeding, it will publish an appropriate notice of the hearing on the Commission web site or otherwise post notice, to notify interested persons and to invite their participation in the hearing.
- C.** The Commission will consider all comments regarding whether rulemaking proceedings should be initiated.

Historical Note

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1).

R2-20-504. Disposition of Petitions

- A.** After considering the comments and any other information relevant to the subject matter of the petition, the Commission will decide whether to initiate rulemaking based on the filed petition.

Citizens Clean Elections Commission

- B.** If the Commission decides to initiate rulemaking proceedings, it shall file a Notice of Proposed Rulemaking and the proposed rule, in the format prescribed in A.R.S. § 41-1022, with the Secretary of State's office for publication in the Arizona Administrative Register. After the Commission approves the proposed rule, the Commission will accept public comments on the proposed rule for 60 days. After consideration of the comments received in the 60-day comment period, the Commission may adopt the rule in open meeting.
- C.** If the Commission decides not to initiate rulemaking, it will give notice of this action by publishing a Notice of Disposition on the Commission web site, or otherwise post notice, and by sending a letter to the petitioner. The Notice of Disposition will include a brief statement of the grounds for the Commission's decision.

Historical Note

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1).

R2-20-505. Commission Considerations

The Commission's decision on the petition for rulemaking may include, but will not be limited to, the following considerations:

1. The Commission's statutory authority;
2. Policy considerations;
3. The desirability of proceeding on a case-by-case basis;
4. The necessity or desirability of statutory revision;
5. Available agency resources; and
6. Substantive policy statements.

Historical Note

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1).

R2-20-506. Administrative Record

- A.** The Commission record for the petition process consists of the following:
1. The petition, including all attachments on which it relies, filed by the petitioner;
 2. Written comments on the petition that have been circulated to and considered by the Commission, including attachments submitted as a part of the comments;
 3. Agenda documents, in the form they are circulated to and considered by the Commission in the course of the petition process;
 4. All notices published on the Commission web site and in the Arizona Administrative Register, including the Notice of Availability and Notice of Disposition;
 5. The transcripts or audiotapes of any public hearing on the petition;
 6. All correspondence between the Commission and the petitioner, other commentators and state agencies pertaining to Commission consideration of the petition; and
 7. The Commission's decision on the petition, including all documents identified or filed by the Commission as part of the record relied on in reaching its final decision.
- B.** The administrative record specified in subsection (A) of this Section is the exclusive record for the Commission's decision.

Historical Note

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1).

ARTICLE 6. EX PARTE COMMUNICATIONS**R2-20-601. Purpose and Scope**

This Article prescribes procedures for handling ex parte communications made regarding Commission audits, investigations, and liti-

gation. Rules governing such communications made in connection with Commission enforcement actions are found at R2-20-220.

Historical Note

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1).

R2-20-602. Definitions

- A.** "Ex parte communication" means any written or oral communication, by any person outside the agency to any Commissioner or any employee, which imparts information or argument regarding prospective Commission action or potential action concerning:
1. Any ongoing audit;
 2. Any pending investigation; or
 3. Any litigation matter.
- B.** "Ex parte communication" does not include the following communications:
1. Public statements by any person in a public forum; or
 2. Statements or inquiries by any person limited to the procedural status of an open proceeding involving a Commission audit, investigation, or litigation matter.

Historical Note

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1).

R2-20-603. Audits, Investigations, and Litigation

- A.** In order to avoid the possibility of prejudice, real or apparent, in Commission decision making, no person outside the Commission shall make, or cause to be made, to any Commissioner or employee, any ex parte communication regarding any audit undertaken by the Commission or any pending or prospective Commission decision regarding any investigation or litigation, including whether to initiate, settle, appeal, or any other decision concerning an investigation or litigation matter.
- B.** A Commissioner or employee who receives an oral ex parte communication concerning any matters addressed in subsection (A) of this Section shall attempt to prevent the communication. If unsuccessful in preventing the communication, the Commissioner or employee shall advise the person making the communication that he or she will not consider the communication and shall, as soon after the communication as is reasonably possible, but no later than three business days after the communication, or prior to the next Commission discussion of the matter, whichever is earlier, prepare a statement setting forth the substance and circumstances of the communication, and deliver the statement to the Executive Director for placement in the applicable case file.
- C.** A Commissioner or employee who receives a written ex parte communication concerning any matters addressed in subsection (A) of this Section shall, as soon after the communication as is reasonably possible but no later than three business days after the communication, or prior to the next Commission discussion of the matter, whichever is earlier, deliver a copy of the communication to the Executive Director for placement in the applicable case file.

Historical Note

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1).

R2-20-604. Sanctions

Any person who becomes aware of a possible violation of this Article shall notify the Executive Director in writing of the facts and circumstances of the alleged violation. The Executive Director shall recommend to the Commission the appropriate action to be taken. The Commission shall determine the appropriate action by at least three votes.

Historical Note

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1).

ARTICLE 7. USE OF FUNDS AND REPAYMENT**R2-20-701. Purpose and Scope**

A participating candidate may spend clean elections monies only for reasonable and necessary expenses that are directly related to the campaign of that participating candidate.

Historical Note

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1).

Amended by exempt rulemaking at 11 A.A.R. 4518, effective May 28, 2005 (Supp. 05-4).

R2-20-702. Use of Campaign Funds

- A.** A participating candidate shall use funds in the candidate's current campaign account to pay for goods and services for direct campaign purposes only. Funds shall be disbursed and reported in accordance with A.R.S. § 16-948(C).
- B.** A participating candidate's payment from a campaign account to a political committee or civic organization is not a contribution if the payment is reasonable in relation to the value received. Payment of customary charges for services rendered, such as for printing voter or telephone lists, and payment of not more than \$200 per person to attend a political event open to the public or to party members shall be considered reasonable in relation to the value received.
- C.** A participating candidate shall not use funds in the candidate's campaign account for:
 1. Costs of legal defense in any campaign law enforcement proceeding or for any affirmative claim or litigation in court or before the Commission regarding a campaign. This prohibition does not bar use of campaign funds for payments to attorneys or certified accountants for proactive compliance advice and assistance.
 2. Food and beverages for staff and volunteers exceeding \$11 for breakfast, \$16 for lunch, and \$27 for dinner, per person.
 3. Personal use, which includes, but is not limited to, any item listed below:
 - a. Household food items or supplies.
 - b. Clothing, other than items of de minimis value that are used in the campaign, such as campaign "t-shirts" or caps with campaign slogans.
 - c. Tuition payments, other than those associated with training campaign staff.
 - d. Mortgage, loan, rent, lease or utility payments:
 - i. For any part of any personal residence of the candidate or a member of the candidate's family; or
 - ii. For real or personal property that is owned or leased by the candidate or a member of the candidate's family and used for campaign purposes, to the extent the payments exceed the fair market value of the property usage.
 - e. Admission to a sporting event, concert, theater or other form of entertainment, unless part of a specific campaign activity.
 - f. Dues, fees or gratuities at a country club, health club, recreational facility or other nonpolitical organization, unless they are part of the costs of a specific fundraising event that takes place on the organization's premises.
 - g. Gifts or donations.
- D.** Extended warranties or other similar purchase options that extend beyond the campaign.
- 4.** Payment to a candidate or a candidate's family member, as defined in R2-20-101(13), or an enterprise owned in whole or part by a candidate or family member, for the provisions of goods or services to the extent the payments exceed the fair market value of the goods or services. All payments made to family members or to enterprises owned in whole or part by the candidate or a family member shall be clearly itemized and indicated as such in all campaign finance reports.
- D.** Participating candidates may purchase fixed assets with a value not to exceed \$800. Fixed assets, including accessories, purchased with campaign funds that can be used for non-campaign purposes with a value of \$200 or more shall be turned into the Commission no later than 14 days after the primary election or the general election if the candidate was successful in the primary. For purposes of determining whether a fixed asset is valued at \$200 or more, the value shall include any accessories purchased for use with the fixed asset in question. A candidate may elect to keep an item by reimbursing the Commission for 80 percent of the original purchase price including the cost of accessories.
- E.** During the primary election period, a participating candidate shall not make any expenditure greater than the difference between:
 1. The sum of early contributions received plus public funds disbursed through the primary election period; less
 2. All other expenditures made during and for the exploratory, qualifying and primary election periods.
- F.** During the general election period, a participating candidate shall not make any expenditure greater than the difference between:
 1. The amount of public funds disbursed during and for the general election period; less
 2. All other expenditures made during and for the general election period.
- G.** Transportation expenses.
 1. Except as otherwise provided in this subsection (D), the costs of transportation relating to the election of a participating statewide or legislative office candidate shall not be considered a direct campaign expense and shall not be reported by the candidate as expenditures or as in-kind contributions.
 2. If a participating candidate travels for campaign purposes in a privately owned automobile, the candidate may:
 - a. Use campaign funds to reimburse the owner of the automobile at a rate not to exceed the state mileage reimbursement rate in which event the reimbursement shall be considered a direct campaign expense and shall be reported as an expenditure and reported in the reporting period in which the expenditure was incurred. If a candidate chooses to use campaign funds to reimburse, the candidate shall keep an itinerary of the trip, including name and type of events(s) attended, miles traveled and the rate at which the reimbursement was made. This subsection applies to candidate owned automobiles in addition to any other automobile.
 - b. Use campaign funds to pay for direct fuel purchases for the candidate's automobile only and shall be reported. If a candidate chooses to use campaign funds for direct fuel purchases, the candidate shall keep an itinerary of the trip, including name and type of events(s) attended, miles traveled and the

rate at which the reimbursement could have been made.

3. Use of airplanes.
 - a. If a participating candidate travels for campaign purposes in a privately owned airplane, within 7 days from the date of travel, the candidate shall use campaign funds to reimburse the owner of the airplane at a rate of \$150 per hour of flying time, in which event the reimbursement shall be considered a direct campaign expense and shall be reported as an expenditure. If the owner of the airplane is unwilling or unable to accept reimbursement, the participating candidate shall remit to the fund an amount equal to \$150 per hour of flying time.
 - b. If a participating candidate travels for campaign purposes in a state-owned airplane, within 7 days from the date of travel, the candidate shall use campaign funds to reimburse the state for the portion allocable to the campaign in accordance with subsection 3a, above. The portion of the trip attributable to state business shall not be reimbursed. If payment to the State is not possible, the payment shall be remitted to the Clean Elections Fund.
4. If a participating candidate rents a vehicle or purchases a ticket or fare on a commercial carrier for campaign purposes, the actual costs of such rental (including fuel costs), ticket or fare shall be considered a direct campaign expense and shall be reported as an expenditure.

Historical Note

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1). Section repealed; new Section made by exempt rulemaking at 11 A.A.R. 4518, effective May 28, 2005 (Supp. 05-4). Amended by exempt rulemaking at 13 A.A.R. 3606, effective January 1, 2008 (Supp. 07-4). Amended by exempt rulemaking at 15 A.A.R. 1423, effective October 22, 2009 (Supp. 09-3). Amended by exempt rulemaking at 17 A.A.R. 1267, effective April 12, 2011 (Supp. 11-2). Since language in subsections R2-20-702(C)(3)(d)(i) and (ii) and R2-20-702(C)(4) and (5) are substantively identical, the Commission requested to remove the redundant language in R2-20-702(C)(3)(d)(i) and (ii) under A.R.S. § 41-1011(C), Office File No. M11-345, filed October 3, 2011 (Supp. 11-2). Amended by exempt rulemaking at 19 A.A.R. 1702, effective October 6, 2011 (Supp. 13-2). Amended by exempt rulemaking at 22 A.A.R. 2906, effective January 1, 2017 (Supp. 16-3).

R2-20-702.01. Use of Assets

A participating candidate may use assets such as signs, pamphlets, and office equipment from a prior election cycle only after the candidate's current campaign pays for the assets in an amount equal to the fair market value of the assets, which amount shall in no event be less than one-fifth (1/5) the original purchase price of such assets. If the candidate was a participating candidate during the prior election cycle, the cash payment shall be made to the Fund. If the candidate was not a participating candidate during the prior election cycle, the cash payment shall be made to the prior campaign. If the prior campaign account of a nonparticipating candidate is closed, the payment shall be made to the candidate.

Historical Note

New Section made by exempt rulemaking at 12 A.A.R. 758, effective February 15, 2006 (Supp. 06-1). Amended by exempt rulemaking at 13 A.A.R. 3606, effective January 1, 2008 (Supp. 07-4). Amended by exempt rulemaking at 15 A.A.R. 1156, effective August 31, 2009 (Supp.

09-2).

R2-20-703. Documentation for Direct Campaign Expenditures

- A. In addition to the general books and records requirements prescribed in R2-20-111, participating candidates shall comply with the following requirements:
 1. All participating candidates shall have the burden of proving that expenditures made by the candidate were for direct campaign purposes. The candidate shall obtain and furnish to the Commission on request any evidence regarding direct campaign expenses made by the candidate as provided in subsection (A)(2).
 2. All participating candidates shall retain records with respect to each expenditure and receipt, including bank records, vouchers, worksheets, receipts, bills and accounts, journals, ledgers, fundraising solicitation material, accounting systems documentation, and any related materials documenting campaign receipts and disbursements, for a period of three years, and shall present these records to the Commission on request.
 3. All participating candidates shall maintain a list of all fixed assets whose purchase price exceeded \$200 when acquired by the campaign. The list shall include a brief description of each fixed asset, the purchase price, the date it was acquired, the method of disposition and the amount received in disposition.
- B. Upon written request from a candidate, the Commission shall determine whether a planned campaign expenditure or fundraising activity is permissible under the Act. To make a request, a candidate shall submit a written description of the planned expenditure or activity to the Commission. The Commission shall inform the candidate whether an enforcement action will be necessary if the candidate carries out the planned expenditure or activity. The Commission shall ensure that the candidate can rely on a "no action" letter. A "no action" letter applies only to the candidate who requested it.
- C. Any expenditure made by the candidate or the candidate's committee that cannot be documented as a direct expenditure shall promptly be repaid to the Fund with the candidate's personal monies.

Historical Note

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1). Section repealed; new Section made by exempt rulemaking at 11 A.A.R. 4518, effective May 28, 2005 (Supp. 05-4). Amended by exempt rulemaking at 12 A.A.R. 758, effective February 15, 2006 (Supp. 06-1). Amended by final exempt rulemaking at 21 A.A.R. 1641, effective July 23, 2015 (Supp. 15-3). Amended by final exempt rulemaking at 23 A.A.R. 133, effective January 1, 2017 (Supp. 16-4).

R2-20-704. Repayment

- A. In general, the Commission may determine that a participating candidate who has received payments from the Fund must repay the Fund as determined by the Commission.
 1. A candidate who has received payments from the Fund shall pay the Fund any amounts that the Commission determines to be repayable. In making repayment determinations, the Commission may utilize information obtained from audits and examinations or otherwise obtained by the Commission in carrying out its responsibilities.
 2. The Commission will notify the candidate of any repayment determinations made under this section as soon as possible, but not later than one year after the day of the election.

Citizens Clean Elections Commission

3. Once the candidate receives notice of the Commission's repayment determination, the candidate should give preference to the repayment over all other outstanding obligations of the candidate, except for any taxes owed by the candidate.
 4. Repayments may be made only from the following sources: personal funds of the candidate, funds in the candidate's current election campaign account, and any additional funds raised subject to the limitations and prohibitions of the Act.
 5. The Commission may withhold the portion of funds required to be repaid from future payments to a participating candidate if the Commission has made a repayment determination.
- B.** The Commission may determine that a participating candidate who has received payments from the Fund must repay the Fund under any of the following circumstances:
1. Payments in excess of candidate's entitlement. If the Commission determines that any portion of the payments made to the candidate was in excess of the aggregate payments to which such candidate was entitled, it will so notify the candidate, and such candidate shall pay to the Fund an amount equal to such portion.
 2. Use of funds not for direct campaign expenses. If the Commission determines that any amount of any payment to an eligible candidate from the Fund was used for purposes other than direct campaign purposes described in R2-20-702, it will notify the candidate of the amount so used, and such candidate shall pay to the Fund an amount equal to such amount.
 3. Expenditures that were not documented in accordance with campaign finance reporting requirements, expended in violation of state or federal law, or used to defray expenses resulting from a violation of state or federal law, such as the payment of fines or penalties.
 4. Surplus. If the Commission determines that a portion of payments from the Fund remains unspent after all direct campaign expenses have been paid, it shall so notify the candidate, and such candidate shall pay the Fund that portion of surplus funds.
 5. Income on investment or other use of payments from the Fund. If the Commission determines that a candidate received any income as a result of an investment or other use of payments from the Fund, it shall so notify the candidate, and such candidate shall pay to the Fund an amount equal to the amount determined to be income, less any federal, state or local taxes on such income.
 6. Unlawful acceptance of contributions by an eligible candidate. If the Commission determines that a participating candidate accepted contributions, other than early contributions or qualifying contributions, it shall notify the candidate of the amount of contributions so accepted, and the candidate shall pay to the Fund an amount equal to such amount, plus any civil penalties assessed.
- C.** Repayment determination procedures. The Commission's repayment determination will be made in accordance with the following procedures:
1. Repayment determination. The Commission will send a repayment determination pursuant to Article 2, Compliance and Enforcement Procedures, and will set forth the legal and factual reasons for such determination, as well as the evidence upon which any such determination is based. The candidate shall repay, in accordance with subsection (D), the amount that the Commission has determined to be repayable.
2. Administrative review of repayment determination. If a candidate disputes the Commission's repayment determination, he or she may request an administrative appeal of the determination in accordance with A.R.S. § 41-1092 et. seq.
- D.** Repayment period.
1. Within 30 days of service of the notice of the Commission's repayment determination, the candidate shall repay the amounts the Commission has determined must be repaid. Upon application by the candidate, the Commission may grant an extension of time in which to make repayment.
 2. If the candidate requests an administrative appeal of the Commission's repayment determination of this Section, the time for repayment will be suspended until the Commission has concluded its review of the Administrative Law Judge's (ALJ) decision. Within 30 days after service of the notice of the Commission's review of the ALJ's decision, the candidate shall repay the amounts that the Commission has determined to be repayable. Upon application by the candidate, the Commission may grant an extension of up to 30 days in which to make repayment.
 3. Interest shall be assessed on all repayments made after the initial 30-day repayment period or the 30-day repayment period established by this Section. The amount of interest due shall be the greater of:
 - a. An amount calculated in accordance with A.R.S. § 44-1201(A); or
 - b. The amount actually earned on the funds set aside or to be repaid under this Section.
- Historical Note**
- New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1). Section repealed; new Section made by exempt rulemaking at 11 A.A.R. 4518, effective May 28, 2005 (Supp. 05-4). Amended by final exempt rulemaking at 21 A.A.R. 1643, effective July 23, 2015 (Supp. 15-3).
- R2-20-705. Additional Audits or Repayment Determinations**
- A.** The Commission may conduct an additional audit or examination of any candidate in any case in which the Commission finds reason to believe that a violation of a statute or regulation over which the Commission has jurisdiction has occurred or is about to occur.
- B.** The Commission may make additional repayment determinations after it has made an initial repayment determination pursuant to R2-20-704. The Commission may make additional repayment determinations where there exist facts not used as the basis for any previous determination. Any such additional repayment determination will be made in accordance with the provisions of this Article.
- Historical Note**
- New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1). Section repealed; new Section made by exempt rulemaking at 11 A.A.R. 4518, effective May 28, 2005 (Supp. 05-4).
- R2-20-706. Repealed**
- Historical Note**
- New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1). Section repealed by exempt rulemaking at 11 A.A.R. 4518, effective May 28, 2005 (Supp. 05-4).
- R2-20-707. Repealed**

Citizens Clean Elections Commission

Historical Note

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1). Section repealed by exempt rulemaking at 11 A.A.R. 4518, effective May 28, 2005 (Supp. 05-4).

R2-20-708. Repealed**Historical Note**

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1). Section repealed by exempt rulemaking at 11 A.A.R. 4518, effective May 28, 2005 (Supp. 05-4).

R2-20-709. Repealed**Historical Note**

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1). Section repealed by exempt rulemaking at 11 A.A.R. 4518, effective May 28, 2005 (Supp. 05-4).

R2-20-710. Repealed**Historical Note**

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1). Section repealed by exempt rulemaking at 11 A.A.R. 4518, effective May 28, 2005 (Supp. 05-4).

TO: THOMAS COLLINS
CITIZENS CLEAN ELECTIONS COMMISSION

FROM: GARRETT W. ARCHER
OFFICE OF THE ARIZONA SECRETARY OF STATE

SUBJECT: SEE THE MONEY PROJECT UPDATE

DATE: SEPTEMBER 22, 2017

Arizona's new campaign finance web portal "See the Money" is nearing completion of its active development phase. This memo serves as a report to the Citizens Clean Elections Commission as to the progress of the terms outlined in the Interagency Service Agreement signed by the Commission and the Office of the Secretary of State as it specifically relates to the requirements prescribed in 2(A).

1. See the Money presently has the capability of displaying to users state campaign related information reported to the system. The system will be capable of displaying local information at its initial feature complete release in early January 2018.
2. See the Money presently allows users to identify contributors or vendors and their multi-directional relationships to the different types of committees and entities.
3. See the Money presently allows for users to download their results in any common tabular format. A full and updated copy of the entire Campaign Finance Database will be generally available upon feature complete release in early January 2018.
4. The ability to see searches often previously requested by prior users requires initial end user input. This will be available shortly after feature complete release in early January 2018.
5. See the Money is currently mobile device responsive.

See the Money will be undergoing an extensive Quality Assurance testing phase in the month of October. On 31st of October, the Secretary of State's office has scheduled See the Money to move into public Beta. During this phase, the project management team will put procedures in place for users of the application to report issues that will require troubleshooting by the applications development team. This phase will last until the application's official release date in early January.

At this time, the Office of the Secretary of State does not foresee any circumstances in which the See the Money project will not achieve initial project completion as well as adherence to the responsibilities outlined in the interagency service agreement by or around the intended deadline of January 2nd. The See The Money Project team will continue to communicate with Commission staff if any revisions to the project plan are required.

In addition to the items prescribed in 2(A), the Office of the Secretary of State will ensure that the deliverables outlined in Section 3 are fulfilled by the project's feature complete release in January. The following is an update as to the status of each subsection in 3:

- A. A project plan was delivered to the Commission at the onset of the See the Money and the project team continues to follow the procedures laid out therein.
- B. A Campaign Finance Reporting System will be delivered upon feature complete release in the form of Campaign Finance System 4 (CSF 4).
- C. A log-in for reporting parties will be structured in to CFS 4. Additional accommodations have been made to the Commission with regards to 941 (D) reports specific to the Commission..
- D. Read Only Access to any data, filing, or other information to the Commission will be delivered upon feature complete release. Additional accommodations have been made with regards to the 941 (D) reports specific to the Commission.
- E. E-mail notifications and auto-response capabilities will be delivered to the Commission upon feature complete release in the form of CFS 4.
- F. Quality Assurance access will be provided to the Commission for See the Money in October. Additional QA access to CFS 4 will be provided upon feature complete release in January.
- G. All joint funding disclosures will be included in the public beta release of See the Money in October.
- H. The Office of the Secretary of State continues to administer the See the Money website and CFS 4 through the terms of the ISA.
- I. The Office of the Secretary of State continues to comply with what is outlined in (I). Additional accommodations have been made with regards to the 941(D) reports specific to the commission.

NOTICE OF EXEMPT RULEMAKING
TITLE 2. ADMINISTRATION
CHAPTER 20. CITIZENS CLEAN ELECTIONS COMMISSION
PREAMBLE

1. **Article, Part or Sections Affected (as applicable)** **Rulemaking Action**
R2-20-109 Amendment
2. **Citations to the agency's statutory rulemaking authority to include the authorizing statute (general) and the implementing statute (specific) and the statute or session law authorizing the exemption:**
Authorizing statute: A.R.S. §§ 16-940, -941, -942, -956, , -957, -958.
Implementing statute and statute authorizing the exemption: A.R.S. § 16-956(C).
The Citizens Clean Elections Commission is exempt from Executive Order 15-01.
3. **The effective date of the rule and the agency's reason it selected the effective date:**
The rule "proposed" herein is currently in effect. The Commission proposes to reenact and republish this for the purpose of public notice and clarity.
4. **A list of all notices published in the Register as specified in R9-1-409(A) that pertain to the record of the exempt rulemaking:**
Not Applicable
5. **The agency's contact person who can answer questions about the rulemaking:**
Name: Thomas M. Collins, Executive Director
Address: Citizens Clean Elections Commission
1616 W. Adams St., Suite 110
Phoenix, AZ 85007
Telephone: (602) 364-3477
Fax: (602) 364-3487
E-mail: thomas.collins@azcleelections.gov
6. **An agency's justification and reason why a rule should be made, amended, repealed, or renumbered to include an explanation about the rulemaking:**
R2-20-109 **Independent Expenditure Reporting Requirements**

This action is being taken because of an invalid notice from the Governor's Regulatory Review Council (GRRC). The rule, which remains in effect, provides guidance and explanation of the application of the Clean Elections Act to persons who make independent expenditures in state and legislative races. *See Clean Elections Institute v. Brewer*, 99 P. 3d 570, 574 (Ariz. 2004) (explaining that the Commission is "require[d]" to enforce laws related to independent expenditures). The rule thus:

- provides that all persons are to file reports required subject to penalty pursuant to Chapter 6, Article 2 shall do so with the with the Arizona Secretary of State's online system.
- provides for the Executive Director to take steps to implement a substitute reporting process for independent expenditures when the system provided by the Secretary of State is unavailable or a portion is unavailable or when directed by another Commission rule;
- provides that persons who make independent expenditures in state and legislative races are subject to the terms of A.R.S. 16-941 and 16-942. The rule also provides explanation of how such penalties shall be applied pursuant to A.R.S. 16-957 (providing procedures for application of penalties against "persons" who are found in violation of the Clean Elections Act).
- provides explanation for the application of 16-942(B) to any entity that fails to file reports pursuant to Chapter 6 pursuant to A.R.S. 16-957 (providing procedures for application of penalties against "persons" who are found in violation of the Clean Elections Act); *see also* A.R.S. 16-901 (defining entity as "a corporation, limited liability company, labor organization, partnership,

trust, association, organization, joint venture, cooperative, unincorporated organization or association or other organized group that consists of more than one individual.”)

- Provides that an entity shall not be found to be a political committee unless certain criteria are met. Provides that an entity may argue that, by a preponderance of the evidence, it is not a political committee pursuant to any definition in Title 16 and that the Commission may, in such case, determine the entity is not a committee.

The Commission’s rulemakings are exempt from Title 41, Ch. 6, Article 3, pursuant to A.R.S. § 16-956. Some provisions of these rules are primarily the result of SB1516 (2016). SB 1516 contains provisions that raise serious questions under the Arizona and U.S. Constitutions. Among other things, SB 1516 includes provisions that attempt to preempt the Commission’s rulemaking authority (A.R.S. § 16-901(42)), narrow the definitions of expenditure and contribution and eliminate the definition of political committee adopted by the Clean Elections Act in 1998, raising serious constitutional questions under the Voter Protection Act of the Arizona Constitution.

The Commission does not, by adopting these rules, waive any legal objection to the enactment of laws that violate the Voter Protection Act. Rather, it adopted these rules in the interest of harmonizing the Commission’s rules with the existing statutes in order to avoid confusion within the regulated community and encourage consistency between the Commission’s rules and the policies of other election-related offices.

In addition to the VPA issues, the provisions of SB 1516 raise questions of equal protection regarding the treatment of corporations registered in Arizona that also have 501 status with the IRS and questions under Article 7, §. 16 of the Arizona Constitution regarding the publication of campaign contributions and expenditures. The Commission notes these issues for the record, but again, seeks as much as possible to harmonize its rules. The Commission retains its full authority to enforce Article 2 of Chapter 6 of Title 16 consistent with the terms of the statute, as well as the court interpretations which confirm its straightforward terms.

7. **A reference to any study relevant to the rule that the agency reviewed and either relied on or did not rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:**

Not applicable

8. **A showing of good cause why the rule is necessary to promote a statewide interest if the rulemaking will diminish a previous grant of authority of a political subdivision of this state:**

Not applicable

9. **The summary of the economic, small business, and consumer impact, if applicable:**

Not applicable

10. **A description of any changes between the proposed rulemaking, including any supplemental proposed rulemaking, and final rulemaking package, (if applicable):**

Not applicable.

11. **An agency’s summary of the public or stakeholder comments made about the rulemaking and the agency response to the comments, if applicable:**

The Commission solicits public comment throughout the rulemaking process.

12. **Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules. When applicable, matters shall include, but not be limited to:**

- a. **Whether the rule requires a permit, whether a general permit is used and if not, the reasons why a general permit is not used:**

Not applicable

- b. **Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than the federal law and if so, citation to the statutory authority to exceed the requirements of the federal law:**

Not applicable

- c. Whether a person submitted an analysis to the agency that compares the rule's impact of the competitiveness of business in this state to the impact on business in other states:

Not applicable

13. A list of any incorporated by reference material and its location in the rules:

Not applicable

14. Whether this rule previously made, amended, repealed or renumbered as an emergency rule. If so, the agency shall state where the text changed between the emergency and the exempt rulemaking packages:

The rule was not previously made, amended, repealed, or renumbered as an emergency rule.

15. The full text of the rules follows:

**TITLE 2. ADMINISTRATION
CHAPTER 20. CITIZENS CLEAN ELECTIONS COMMISSION
ARTICLE 1. GENERAL PROVISIONS**

R2-20-109. Independent Expenditure Reporting Requirements

- A. In accordance with A.R.S. § 16-958(E), all persons obligated to file any campaign finance report under any provisions of Chapter 6, Article 2 of the Arizona Revised Statutes shall file such reports using the Secretary of State's Internet-based finance-reporting system, except if:

1. Expressly provided otherwise by another Commission rule; or
2. That system, or the necessary function on the system, is unavailable, in which case the executive director shall implement a suitable process.

- B. Independent Expenditure Reporting Requirements.

1. Any person making independent expenditures cumulatively exceeding the amount prescribed in A.R.S. § 16-941(D) in an election cycle shall file campaign finance reports in accordance with A.R.S. § 16-958 and Commission rules.
2. Any person who fails to file a timely campaign finance report pursuant to A.R.S. § 16-941(D), A.R.S. § 16-958, shall be subject to a civil penalty as prescribed in A.R.S. § 16-942(B). Subsection R2-20-109(B)(4) does not apply to reports pursuant to A.R.S. §§ 16-941(D) and -958 or this subsection. Any expenditure advocating against one or more candidates shall be considered an expenditure on behalf of any opposing candidate(s). Penalties shall be assessed as follows:

- a. For an election involving a candidate for statewide office, the civil penalty shall be \$300 per day.
- b. For an election involving a legislative candidate, the civil penalty shall be \$100 per day.
- c. The penalties in (a) and (b) shall be doubled if the amount not reported for a particular election cycle exceeds ten (10%) percent of the applicable adjusted primary election spending limit or adjusted general election spending limit.
- d. The dollar amounts in items (a) and (b), and the spending limits in item (c) are subject to adjustment of A.R.S. § 16-959.
- e. Penalties imposed pursuant to this subsection shall not exceed twice the amount of expenditures not reported.

3. A.R.S. § 16-942(B) applies to any entity including political committees that accepts contributions or makes expenditures on behalf of any candidate regardless of any other contributions taken or expenditures made and fails to timely file a campaign finance report under Chapter 6 of Title 16, Arizona Revised Statutes. Any expenditure advocating against one or more candidates shall be considered an expenditure on behalf of any opposing candidate(s). Penalties shall be assessed as follows:

- a. For an election involving a candidate for statewide office, the civil penalty shall be \$300 per day.
- b. For an election involving a legislative candidate, the civil penalty shall be \$100 per day.

c. The penalties in (a) and (b) shall be doubled if the amount not reported for a particular election cycle exceeds ten (10%) percent of the applicable adjusted primary election spending limit or adjusted general election spending limit.

d. The dollar amounts in items (a) and (b), and the spending limits in item (c) are subject to adjustment of A.R.S. § 16-959.

e. Penalties imposed pursuant to this subsection shall not exceed twice the amount of expenditures not reported.

4. For purposes of A.A.C. R2-20-109(B)(3):

a. An entity shall not be found to have the predominant purpose of influencing elections unless, a preponderance of the evidence establishes that during a two-year legislative election cycle, the total reportable contributions made by the entity, in any combination, in a calendar year exceeds \$1,000 and is more than fifty percent (50%) of the entity's total spending during the election cycle.

i. For purposes of this provision, a "reportable contribution" or "reportable expenditure" shall be limited to a contribution or expenditure, as defined in title 16 of the Arizona revised statutes, that must be reported to the Arizona secretary of state, the Arizona citizens clean elections commission, or local filing officer in Arizona. A contribution or expenditure that must be reported to the federal election commission or to the election authority of any other state, but not to the Arizona secretary of state, the Arizona citizens clean elections commission or a local filing officer in Arizona, shall not be considered a reportable contribution or reportable expenditure.

ii. For purposes of this provision, "total spending" shall not include volunteer time or fundraising and administrative expenses but shall include all other spending by the organization.

iii. For purposes of this provision, grants to other organizations shall be treated as follows:

(1) A grant made to a political committee or an organization organized under section 527 of the internal revenue code shall be counted in total spending and as a reportable contribution or reportable expenditure, unless expressly designated for use outside Arizona or for federal elections, in which case such spending shall be counted in total spending but not as a reportable contribution or reportable expenditure.

(2) If the entity making a grant takes reasonable steps to ensure that the transferee does not use such funds to make a reportable contribution or reportable expenditure, such a grant shall be counted in total spending but not as a reportable contribution or reportable expenditure.

iv. If the entity making a grant earmarks the grant for reportable contributions or reportable expenditures, knows the grant will be used to make reportable contributions or reportable expenditures, knows that a recipient will likely use a portion of the grant to make reportable contributions or reportable expenditures, or responds to a solicitation for reportable contributions or reportable expenditures, the grant shall be counted in total spending and the relevant portion of the grant as set forth in subsection (v) of this section shall count as a reportable contribution or reportable expenditure.

v. Notwithstanding subsections (iii) and (iv) the amount of a grant counted as a reportable contribution or reportable expenditure shall be limited to the lesser of the grant or the following:

(1) The amount that the recipient organization spends on reportable contributions and reportable expenditures, plus

(2) The amount that the recipient organization gives to third parties but not more than the amount that such third parties fund reportable contributions or reportable expenditures.

b. Notwithstanding section a above, the commission may nonetheless determine that an entity is not a political committee if, taking into account all the facts and circumstances of grants made by an entity, it is not persuaded that the preponderance of the evidence establishes that the entity is a political committee as defined in title 16 of Arizona Revised Statutes.

NOTICE OF PROPOSED EXEMPT RULEMAKING
TITLE 2. ADMINISTRATION
CHAPTER 20. CITIZENS CLEAN ELECTIONS COMMISSION
PREAMBLE

1. **Article, Part or Sections Affected (as applicable)****Rulemaking Action**
R2-20-111Amendment
2. **Citations to the agency's statutory rulemaking authority to include the authorizing statute (general) and the implementing statute (specific) and the statute or session law authorizing the exemption:**
Authorizing statute: A.R.S. §§ 16-940, -941, -942, 956, -957, 958.
Implementing statute and statute authorizing the exemption: A.R.S. § 16-956(C).
The Citizens Clean Elections Commission is exempt from Executive Order 15-01.
3. **The effective date of the rule and the agency's reason it selected the effective date:**
The rule "proposed" herein is currently in effect. The Commission proposes to republish it for the purpose of public notice and clarity.
4. **A list of all notices published in the Register as specified in R9-1-409(A) that pertain to the record of the exempt rulemaking:**
Not Applicable
5. **The agency's contact person who can answer questions about the rulemaking:**
Name: Thomas M. Collins, Executive Director
Address: Citizens Clean Elections Commission
1616 W. Adams St., Suite 110
Phoenix, AZ 85007
Telephone: (602) 364-3477
Fax: (602) 364-3487
E-mail: thomas.collins@azcleelections.gov
6. **An agency's justification and reason why a rule should be made, amended, repealed, or renumbered to include an explanation about the rulemaking:**
R2-20-111 Non-participating Candidate Reporting Requirements and Contribution Limits

This action is being taken because of an invalid notice from Governor's Regulatory Review Council (GRRC). The rule, which remains in effect, provides guidance and explanation of statutory provisions the commission is "require[d]" to enforce. *Clean Elections Institute v. Brewer*, 99 P. 3d 570, 574 (Ariz. 2004); *see also Horne v. Citizens Clean Elections Commission*, CV 2014-009404 (8/19/2014) (dismissing case challenging the Commission's jurisdiction to resolve complaints against a non-participating candidate.).

 - provides that complaints maybe filed with the Commission alleging violations of Commission alleging violations of A.R.S. § 16-941(B) and that penalties authorized by A.R.S. § 16-942(B) and (C) may be assessed and removes language that is superfluous to the operation of this rule;
 - provides that the twenty percent reduction in A.R.S. § 16-941(B) applies to all campaign contributions limits on contributions that are permitted to be accepted by candidates;
 - provides that contribution limits as adjusted by A.R.S. § 16-931 shall be the base level contribution limits subject to reduction pursuant to A.R.S. § 16-941(B).

This rule includes provisions that are primarily the result of SB1516 (2016). SB 1516 contains provisions that raise serious questions under the Arizona and U.S. Constitutions. Among other things, SB 1516 includes provisions that attempt to preempt the Commission's rulemaking authority (A.R.S. § 16-901(42)),

narrow the definitions of expenditure and contribution and eliminate the definition of political committee adopted by the Clean Elections Act in 1998, raising serious constitutional questions under the Voter Protection Act of the Arizona Constitution. The Commission does not, by adopting these rules, waive any legal objection to the enactment of laws that violate the Voter Protection Act. Rather, it adopted these rules in the interest of harmonizing the Commission's rules with the existing statutes in order to avoid confusion within the regulated community and encourage consistency between the Commission's rules and the policies of other election-related offices.

In addition to the VPA issues, the provisions of SB 1516 raise questions of equal protection regarding the treatment of corporations registered in Arizona that also have 501 status with the IRS and questions under Article 7, §. 16 of the Arizona Constitution regarding the publication of campaign contributions and expenditures. The Commission notes these issues for the record, but again, seeks as much as possible to harmonize its rules. The Commission retains its full authority to enforce Article 2 of Chapter 6 of Title 16 consistent with the terms of the statute, as well as the court interpretations which confirm its plain terms. The Commission's rulemakings are exempt from Title 41, Ch. 6, Article 3, pursuant to A.R.S. § 16-956.

7. **A reference to any study relevant to the rule that the agency reviewed and either relied on or did not rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:**
Not applicable
8. **A showing of good cause why the rule is necessary to promote a statewide interest if the rulemaking will diminish a previous grant of authority of a political subdivision of this state:**
Not applicable
9. **The summary of the economic, small business, and consumer impact, if applicable:**
Not applicable
10. **A description of any changes between the proposed rulemaking, including any supplemental proposed rulemaking, and final rulemaking package, (if applicable):**
Not applicable.
11. **An agency's summary of the public or stakeholder comments made about the rulemaking and the agency response to the comments, if applicable:**
The Commission solicits public comment throughout the rulemaking process.
12. **Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules. When applicable, matters shall include, but not be limited to:**
 - a. **Whether the rule requires a permit, whether a general permit is used and if not, the reasons why a general permit is not used:**
Not applicable
 - b. **Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than the federal law and if so, citation to the statutory authority to exceed the requirements of the federal law:**
Not applicable
 - c. **Whether a person submitted an analysis to the agency that compares the rule's impact of the competitiveness of business in this state to the impact on business in other states:**
Not applicable
13. **A list of any incorporated by reference material and its location in the rules:**
Not applicable
14. **Whether this rule previously made, amended, repealed or renumbered as an emergency rule. If so, the agency shall state where the text changed between the emergency and the exempt rulemaking packages:**

The rule was not previously made, amended, repealed, or renumbered as an emergency rule.

15. The full text of the rules follows:

**TITLE 2. ADMINISTRATION
CHAPTER 20. CITIZENS CLEAN ELECTIONS COMMISSION
ARTICLE 1. GENERAL PROVISIONS**

R2-20-111. Non-participating Candidate Reporting Requirements and Contribution Limits.

A. Any person may file a complaint with the Commission alleging that any non-participating candidate or that candidate's campaign committee has failed to comply with or violated A.R.S. § 16-941(B). Complaints shall be processed as prescribed in Article 2 of these rules. In addition to those penalties outlined in R2-20-222(B), a non-participating candidate or candidate's campaign committee violating A.R.S. § 16-941(B) shall be subject to penalties prescribed in A.R.S. § 16-941(B) and A.R.S. § 16-942(B) and (C) as applicable.

B. Penalties under A.R.S. § 16-942(B), ~~for a violation by or on behalf of any non-participating candidate or that candidate's campaign committee of any reporting requirement imposed by chapter 6 of title 16, Arizona Revised Statutes, in association with any violation of A.R.S. § 16-941(B):~~

1. For an election involving a candidate for statewide office, the civil penalty shall be \$300 per day.
2. For an election involving a legislative candidate, the civil penalty shall be \$100 per day.
3. The penalties in (a) and (b) shall be doubled if the amount not reported for a particular election cycle exceeds ten percent (10%) of the applicable one of the adjusted primary election spending limit or adjusted general election spending limit.

4. The dollar amounts in items (a) and (b), and the spending limits in item (c) are subject to adjustment of A.R.S. § 16-959.

C. Penalties under A.R.S. § 16-942(C): Where a campaign finance report filed by a non-participating candidate or that candidate's campaign committee indicates a violation of A.R.S. § 16-941(B) that involves an amount in excess of ten percent (10%) of the sum of the adjusted primary election spending limit and the adjusted general election spending limits specified by A.R.S. § 16-961(G) and (H) as adjusted pursuant to A.R.S. § 16-959, that violation shall result in disqualification of a candidate or forfeiture of office.

D. Penalties under A.R.S. § 16-941(B): Regardless of whether or not there is a violation of a reporting requirement, a person who violates A.R.S. § 16-941(B) is subject to a civil penalty of three times the amount of money that has been received, expended, or promised in violation of A.R.S. § 16-941(B) or three times the value in money for an equivalent of money or other things of value that have been received, expended, or promised in violation of A.R.S. § 16-941(B).

E. The twenty percent reduction in A.R.S. § 16-941(B) applies to all campaign contributions limits on contributions that are permitted to be accepted by nonparticipating candidates.

F. Contribution limits as adjusted by A.R.S. § 16-931 shall be the base level contribution limits subject to reduction pursuant to A.R.S. § 16-941(B).