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:
   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.
THE STATE OF ARIZONA
CITIZENS CLEAN ELECTIONS COMMISSION

REPORTER'S TRANSCRIPT OF PUBLIC MEETING

Phoenix, Arizona
August 31, 2017
9:31 a.m.
CHAIRMAN TITLA: Seconded by Commissioner CHAN. I second that motion.

Is there a second?

COMMISSIONER KIMBLE: I move that we approve the minutes for July 20th, 2017 and August 22nd, 2017.

CHAIRMAN TITLA: Okay. There’s a motion by Commissioner Kimble to approve the minutes for July 20 and August 22nd, 2017.

Is there a second?

COMMISSIONER CHAN: I second that motion.

CHAIRMAN TITLA: Seconded by Commissioner Chan.

All in favor say aye.

(Chorus of ayes.)

CHAIRMAN TITLA: Motion is carried unanimously.

So we will jump to VI. Item VI is on discussion and possible action on the Voter Education updates.

MS. ROBERTS: Yes, sir. Mr. Chairman, Commissioners, thank you. I’m so excited. I never get to go first.

So we wanted to give the Commission an update on Voter Education activities that have occurred throughout the year and also what staff is doing to prepare for 2018.

So we’ll jump into what we’ve done so far this year and, first, I wanted to thank everybody who was able to attend the roundtable. We appreciated everybody’s presence there. And in your packets you do have the summary which basically took our notes from all the presentations and our notes from the breakout meetings.

And Tom Collins is not here. He’s stuck in traffic. So I would like to -- if it’s okay with the commissioners, to go from I to II and then maybe to VI, if that’s okay.

Is Number VI ready? Okay. So why don’t we go to Number II, discussion and possible action on the Voter Education updates.

So we will jump to VI, Item VI and wait for Tom to come in later. This Item VI is on discussion and possible action on the Voter Education updates.

CHAIRMAN TITLA: Motion is carried unanimously.

And so based on the feedback that we got from that first roundtable session, the survey responses were overwhelmingly positive. We felt, you know, we really could extend this, and so we decided to host another one. And instead of just limiting it to county recorders and county election directors at that point. And the reason for that was we wanted to have a, you know, greater discussion with the counties who are the folks that are on the ground conducting the elections and they know first-hand what the issues that they’re seeing in terms of voters and ballots and the process.

And so we had a great participation, representation from across the state, and it really
What's on my ballot? Where do I go vote? Things like conducting the election, contact information, you know. And in the Chatbot voters can get information such as, it did reinforce, you know, that we're on the right path. So I think that's a really positive. And so I think that's a really positive thing to hear because there are solutions that exist and, furthermore, there's the need for our Voter Education program to participate in that because not only did the participants identify voter education as the solution, I do feel most of them turned to the Commission to provide that resource for the voters. So it did reinforce, you know, that we're on the right track in terms of our Voter Education program and the information that we're providing to voters. So I felt that was -- that was a positive. At the roundtable we did a demo of a new tool that we've launched: our Chatbot. This actually went live on July 27th, and the Chatbot is an application within an application of Facebook. So it's available in Facebook Messenger, and this is new technology.

So really we did a pilot in the August 29th election this last Tuesday. There were four jurisdictions that were conducting an election: Phoenix, Prescott, Tucson and Yuma. And we did a soft launch because we wanted to learn more about how voters are engaging with this technology. So it's really a moment for us to see how voters interacted with it. Were they following through in the entire script? You know, did they stop at certain points? Was there any feedback that they provided? And we don't have the full analytics on it just yet. The election was Tuesday, but so far everything was looking great. We did see most folks were completing the script all the way through which is a good thing because they're getting the information and they're not quitting. So it was nice to see that. And in the Chatbot voters can get information such as, you know, when is the election, like my city that's conducting the election, contact information, you know. What's on my ballot? Where do I go vote? Things like conducting the election, contact information, you know. What's on my ballot? Where do I go vote? Things like...
MS. ROBERTS: Mr. Chairman, Commissioner, that doesn't work or does it or --
CHAIRMAN PATON: So tribal ID is not --
CHAIRMAN TITLA: Commissioner.
CHAIRMAN PATON: I have a question. the next month and a half.
the November election, so we hope to have it out within
out of it. And we do hope to launch this in time for
And, again, I mentioned this really came
out of our outreach efforts with the Native American
communities because it seemed to be an issue on that,
as we felt with this tool we can take the guesswork
out of it. And we do hope to launch this in time for
the November election, so we hope to have it out within
the next month and a half.
CHAIRMAN PATON: I have a question.
CHAIRMAN TITLA: Commissioner.
CHAIRMAN PATON: So tribal ID is not --
that doesn't work or does it or --
MS. ROBERTS: Mr. Chairman, Commissioner,
yes, tribal ID does work, and so that will be one of
the options that are listed within this application. A
1. When we go to the vote in November because they need to be able to vote too. They're citizens of the state also and they need to be able to vote if they can.

2. I'm glad you chimed in since you're a member of a tribe. I think it's difficult because all the tribes are sovereign nations and so they have their own requirements and for a state agency to -- for themselves in governing. And so I think that's maybe where some of the issues come up. And what I really appreciate, Gina, is the list that you put together and telling people even if you don't have what's on this list, you can still vote. I love that. I really love that.

3. This is where we need the education to ensure that all the citizens of the state know the requirements and for a state agency to -- for themselves in governing. We need to coordinate with them. And Commissioner Paton is correct. On our list 1, one ID will serve. And so if it's missing a piece of information or not, we need to coordinate with them.

4. CHAIRMAN PATON: The main issue, I think, is we're trying to explain to these different entities how they could make things easier for their people to vote or in certain areas or whatever. I like the fact that we're going out there and doing that and -- and it just means the staff is just doing a great job. So I appreciate that.

5. CHAIRMAN TITLA: Thank you, Commissioner Paton.

6. And Commissioner Paton is correct. On our reservation a lot of the people have P.O. boxes because there's no addresses. And, for example, I live on a road and there's no address there. We don't have mail delivery there, also. So I don't have an address. It's just a road on the reservation. So for those people, we need to coordinate with the state to ensure that we on the Clean Elections Commission follow our mandate that we have voter education to ensure that all the citizens of the state of Arizona are able to vote because if the state of Arizona provides some impediment to voters of a certain segment of the reservation, then that -- that is not good because we need to reach out to those people because they're citizens of the state also and they need to be able to vote if they can.

7. If I went to vote and they asked me for my ID and we need to coordinate with them. 4

8. CHAIRMAN TITLA: I'd like to ask the commissioners to review also.

9. CHAIRMAN TITLA: And I'll give it to the 10 commissioners to review also.

10. COMMISSIONER CHAN: And, Mr. Chairman, Gina, I would -- I'm glad you chimed in since you're a member of a tribe. I think it's difficult because all the tribes are sovereign nations and so they have their own requirements and for a state agency to -- for themselves in governing.

11. And so I think that's maybe where some of the issues come up. And what I really appreciate, Gina, is the list that you put together and telling people even if you don't have what's on this list, you can still vote. I love that. I really love that.

12. MS. ROBERTS: Mr. Chairman, Commissioner, what we would have to do is actually take a look and see how the poll workers are being trained and what exactly the list says as well. So, you know, it really comes down to, you know, on List 1, one ID will serve. And so if it's missing a piece or if the information does not match what is on the roster, then you have to use it in conjunction with List 2.

13. So it depends on how that voter is registered, you know. If they are utilizing their P.O. box and that is what is printed in the roster for the poll worker to verify, you know, then possibly it could work. So it's -- you know, it depends on exactly what it does that ID say and what is printed in the roster and how the poll worker matches that up.

14. CHAIRMAN TITLA: Thank you, Commissioner.

15. She says his P.O. Box and a lot of them -- I taught on the reservation a lot of the people have P.O. boxes and a lot of the streets aren't named officially or whatever. So that may be the issue if they are just using P.O. boxes.

16. OK, registered, you know. If they are utilizing their P.O. box and that is what is printed in the roster for the poll worker to verify, you know, then possibly it could work. So it's -- you know, it depends on exactly what it does that ID say and what is printed in the roster and how the poll worker matches that up.
ID and this is all I had, they would say you can't vote, you know. Then I feel that that's not something that we should live with in Arizona. 

MS. ROBERTS: Mr. Chairman, Commissioners, a lot of the issues you've just noted are frequent items of discussion, and I'm not sure if you'll recall, but the Commission did sponsor a tri-county rule addressing conference a few years ago to talk about these particular issues with non-standard addresses and how are these voters getting precinct -- you know, how are the counties precincting them and how would they have -- do they have access to their ballot? Do they have to drive and go to their P.O. box and are those P.O. boxes only available at certain times and they have to arrange for transportation? And are polling places, you know, set up close enough to those voters? And so all of these issues, I'm going to -- and I will talk in just a few minutes about a meeting I went to about a week and a half ago that addressed these particular issues as well, too. So those issues are definitely on the forefront of the folks that are working hard towards voter outreach and making sure that voters across all -- you know, the four corners of the state have access to the ballot. And so, again, the issues that you've brought up, those are definitely at the forefront. 

Another project that staff is working on is a partnership that we have with the Arizona Center for Disability Law. They contacted us to let us know about an effort to increase voter education and outreach efforts to voters that do not have a permanent residence, so our voters that do not have a home and are -- and are on the go. And so to assist in this -- this outreach effort, the Commission staff has developed brochures and posters and ACDL developed a wristband that contains the Commission's toll free phone number because we provide Voter Education for the entire state. And so the intent is that these brochures and posters will go to the shelters across the state, and so if a voter, you know, who does not have a permanent residence -- unfortunately, we're hearing that some of these voters just don't think that they can register to vote because they don't have a home and how are they going to get their ballot. There is a process where they can register utilizing certain addresses, whether that's a shelter at the post office. And so these brochures and this informational material that we're going to hand out to the shelters will provide that information to these voters. And ACDL will take this information and lead the coordination efforts with the shelters and also with the police departments as well, too. So this is another outreach effort we have for this likely underserved community. With our app, we do have iOS and Android available for the app, and staff is working with our developers to increase the functionality both on the user end and also on staff, how we manage the app and information. And we'll also be working on a redesign for it so it closely mirrors our website and our other applications so to maintain that Clean Elections theme throughout. So we're excited to be working on that and we hope to have the functionality of this finalized by the end of this year.

The app is up and running and available, and so within the next few days we intend to email candidates with instructions on how they can create a candidate profile. So this profile will be visible. In the app it would have their name, photograph and biography, website, social media links and even their E-Qual links. So if it's a participating candidate and he's set up a $5 qualifying contribution form in E-Qual, he can link directly to it in the app.

And so we hope to be reaching out to candidates within the next few days to get that information populated into the app, and then it is providing information on the 2018 primary election and so voters can have that resource soon. Additionally, this year we will be working on a website redesign. So in 2016, we received a lot of good feedback on our website. You know, voters reached out to us and they referenced that it was very easy to use and navigate and find the information that they were looking for. And so we want to, one, stay on top of technology and the trends and, of course, make things more efficient for staff to manage our website, but our content is growing. The information that we are providing out there to voters is growing and so the need for that requires a restructuring of our website. So we have a different audiences. We have voters. We have candidates. We have lawyers and consultants and the media and the general public. And so knowing these multiple audiences that we serve, the information that's currently on our site, we're sort of squeezing in there. So we need to take a step back and see how can we better restructure this so it provides a better user experience for voters. And really all of our media that we have
1. out there, the social media ads, things like that that
2. we do, our commercials, we drive people back to our
3. website because our website houses all of that
4. information the voter needs to know to vote. And so we
5. need to make sure that if a voter is taking the time to
6. come to our site, they're not going to leave. We want
7. to reduce our bounce rate. We want to make sure that
8. they stay and that they're finding meaningful content.
9. And so that's the goal of this website
10. redesign, and our timeline is to complete that by the
11. end of this year.
12. COMMISSIONER MEYER: Mr. Chairman?
13. CHAIRMAN TITLA: Commissioner Meyer.
14. COMMISSIONER MEYER: On the website at
15. the -- at the roundtable there was a lot of great
16. feedback on the information on the website. And many
17. of the folks I was at the breakouts with were county
18. recorder's offices, city clerks, and they had very good
19. things to say about the website. Our key note speaker,
20. Jaime Casap, was, let's just say, more neutral. And
21. maybe it will be a good idea -- I don't know -- I don't
22. know how connected we stay with him, but maybe give him
23. a call and get some thoughts on the website redesign.
24. MS. ROBERTS: Yes, sir. Mr. Chairman,
25. Commissioner, our key note, he did tell me -- he did

1. apologize that he had to call it out. From our
2. perspective, we do hear for a government website
3. performs as well, however, taken into context and going
4. with the theme that Mr. -- Mr. Casap provided of
5. meeting them where they are and staying current and,
6. you know, providing that information in an optimal
7. viewpoint for our voters -- and, again, I do think he
8. was speaking mostly to Gen Z in that aspect.
9. And so we have to service all of the -- the
10. generations, but absolutely. We can take a step back
11. and we can look through his notes and even reach out to
12. him as we are going through our design to hopefully see
13. if he can give some feedback. He -- our key note was
14. very gracious and he did offer to stay in touch and so
15. hopefully we can leverage his expertise on that.
16. Thank you.
17. COMMISSIONER MEYER: And I don't think it
18. was meant as a criticism. I just think it was meant as
19. maybe there's ways to improve and reach more potential
20. voters. I don't think it was a criticism.
21. MS. ROBERTS: Thank you.
22. Speaking of the roundtable, we talked about
23. how we have our stakeholders present. We do continue
24. those relationships and staff attends meetings across
25. the state. We participated -- I know our chairman and

1. our executive director attended a county recorder
2. conference down in Gila County and staff is often
3. attending our election officials conferences and
4. meetings, the clerks association for city clerks,
5. election officer certification training.
6. Some staff was able to teach to our newest
7. election officials there and then also, of course, our
8. own staff who is certified as election officials, we
9. will -- we will be attending our recertification to
10. maintain our training certificate. And, of course, all
11. of our outreach with the inter-tribal council and
12. various fairs and outreaches events. We do have those
13. going on this year, and so there's a few --
14. Mr. Chairman.
15. CHAIRMAN TITLA: Yes, ma'am. Tom Collins,
16. the executive director and I, attended the Gila County
17. Recorder's conference, and that was held at Apache Gold
18. Casino in the San Carlos Apache Reservation. And they
19. had a number of county recorders from Gila County and
20. Pinal County, Graham County, Apache County, Navajo
21. County and some others. So there as a good crowd
22. there, and they were able to talk -- give us some
23. feedback also. And Tom probably can talk to us about
24. that.
25. MR. COLLINS: Yeah.

1. CHAIRMAN TITLA: But we were able to attend
2. that, and it was a good meeting. And then we also went
3. to the radio station in San Carlos. They call it KYAY
4. radio. It's at 91.1 AM -- I mean, FM. Excuse me. FM.
5. And we appeared for -- I don't know how long. 30
6. minutes to an hour?
7. MR. COLLINS: Yeah. At least, yeah, we
8. were there 30 minutes or so.
9. CHAIRMAN TITLA: Yeah. So we were able to
10. talk, and Tom was very good in giving all of the
11. information out. And then they -- we were also able to
12. dedicate a couple of songs in between breaks, and one
13. was -- we dedicated a song to Tom's mother who was
14. there with him.
15. MR. COLLINS: The --
16. CHAIRMAN TITLA: The song was CCR, I Heard
17. it Through the Grapevine.
18. MR. COLLINS: That's what you chose, yes.
19. You were -- you are a -- Mr. -- Chairman Titla is a
20. remarkable DJ and a -- and a good radio host.
21. CHAIRMAN TITLA: So I just wanted to let
22. you know about that, how we are trying to do things to
23. reach out to all the people in the state.
24. And I got some good remarks on that, Tom,
25. afterwards.
MR. COLLINS: Oh, good.

CHAIRMAN TITLA: Yeah. You don't think people are listening, but they're listening out there.

And so thank you.

MS. ROBERTS: Mr. Chairman, thank you for that and for those efforts. I'm sure it was helpful in reaching voters.

As I mentioned a few slides ago, about a week and a half, two weeks ago, I was able to attend a meeting with -- that was sponsored by the Inter-Tribal Council of Arizona, and it was a Native vote strategy session. And so at this meeting, a lot of the very same issues that we've just discussed were brought up, and we had community leaders from across the state and from the tribes. Navajo Nation there was present. A lot of the tribes were present. The county recorders were there.

And it was a good discussion about what happened in the 2016 election, issues that we saw, and how can we work towards a better, you know, 2018 election experience for our voters. And so we were able to participate in that and, you know, I will tell you again the common theme here is voter education, a lot of the issues that we see that are coming up. And so we were able to take this information, and it will so we were able to take this information, and it will help us as we work on our 2018 education plan and identifying the messages that we'll be communicating out there to voters and, of course, the information that we put on our website.

So it was a really helpful meeting for us to be present at and, of course, we want to continue up our outreach efforts with this particular group. They will be working on a report from that meeting and sending it out to everybody so I look forward to receiving that.

As we mentioned, we do have some fairs that are coming up. Tom will actually be traveling tomorrow to attend the White Mountain Apache tribal fair and rodeo and then, of course, we will have a presence at the Navajo Nation fair. So we're lucky that our partnerships with our county recorders who already have booths at these events are sharing their space with us and invited us down here, and I think this actually resulted -- these invitations resulted from the meeting that the chairman and our executive director attended in Gila County.

So that was really helpful. And this is a good opportunity for us to have that grassroots outreach with voters and provide them our tangible voter education materials and let them know about, you know, of good work for our students. I'll go pretty briefly here, but for our 2017 elections, we have our four consolidated elections. And for each of those we did have our voter education efforts. We really touched on social media. That was a strong point for us this year so far, and we provided key election dates, information like that. We had the start of our qualifying period, when early voting begins. There was a message there about our Chatbot and helping us pilot it.

So we do have an active presence on social media, and we get a lot of good feedback and interaction and engagement with voters through the comments and these are some examples of our digital banners. And as I mentioned, our website, we drive traffic to our website and this is where we house a lot of the information that voters need to vote. Very briefly, what's happening in 2018, we do have our four consolidated election dates and, of course, we do have our statewide primary and general election. And the offices that are on the ballot, we have all of the statewide this year. And so it will be a pretty busy election. We do -- on the federal side, we have one U.S. Senate seat and, of course, we have our nine House of Representative seats that are up.
1. We will continue with district-specific information. Commissioner Meyer, thank you for pointing that out.

2. And, Mr. Chairman, really positive feedback on that. It was so much easier for them to use, less confusing. So that was a tool. This is a resource and they'll take the time to open it and they'll take the time to read it. And because it's huge. We want them to say, okay, this is a step back and start designing the guide and our voter guide. So we will continue with that.

3. Thank you.

4. Were there any further questions?

5. CHAIRMEN KIMBLE: Mr. Chairman?

6. CHAIRMEN KIMBLE: I just want to say that the -- I was very impressed with the roundtable, and the people that I talked to and the people that I was on breakout sessions with were very laudatory of the programs and just the general assistance they get from you specifically and other people in the office.

7. They are very -- they are very happy to have the

8. internal information. We can update the content. And then we're even looking at revising it for better user experience. We are working with the Center for Civic Design. This is an agency that focuses on design efforts for increasing engagement in the political process, and it really comes down to ballot design, voter education guide design, website design.

9. All of that can impact a voter's experience in how you provide them that information. And so we are really lucky that we were able to send our guide to them and they agreed to take a look at it and give us some feedback on how we can better structure this for a better user experience for voters.

10. And with that --

11. CHAIRMEN TITLA: Commissioner Meyer.

12. COMMISSIONER MEYER: Another -- another positive feedback that the Commission received at the roundtable that I was at was the district-specific voter guides. That was a really big hit for everyone that I interacted with, you know. It was so much easier for them to use, less confusing. So that was a really -- really positive feedback on that.

13. MS. ROBERTS: And, Mr. Chairman, Commissioner Meyer, thank you for pointing that out.

14. We will continue with district-specific information.

15. It's -- not only is it more cost efficient but it really does provide a better user experience for the voter. And I think, most importantly, it is less intimidating.

16. And so that's -- you know, when a voter receives this guide in the mail, we don't want them to take a look at it and be scared and never open it because it's huge. We want them to say, okay, this is a pilot to involve high schools, and this is per Commission Paton's direction. We have some good thoughts on how we can incorporate the students and the student governments and even their student audio/visual teams to participate in this debate, possibly even hosting a mock debate with the candidates beforehand, but getting their parents involved.

17. And so we think this will be a good community-based event, and so we're really hopeful that it will be a more positive experience for the voters that attend this debate. And we're also working on an online application to make our invitation process more efficient and transparent.

18. And then, of course, we have our Voter Education guide. So we are working on this now, actually. It's quite a big production, but we can take a step back and start designing the guide and our voter education guide design, website design.

19. All of that can impact a voter's experience in how you provide them that information. And so we are really lucky that we were able to send our guide to them and they agreed to take a look at it and give us some feedback on how we can better structure this for a better user experience for voters.

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23. MS. ROBERTS: And, Mr. Chairman, Commissioner Meyer, thank you for pointing that out.

24. We will continue with district-specific information.
1 news, there is a referendum filed on a bill called
2 Senate Bill 1431 that has to do with the -- the bill
3 itself has to do with an expansion of -- I think the
4 term in the statute is empowerment scholarships. The
5 colloquial term that's been used is vouchers, but in
6 any event, that process of signature verification is
7 underway through the Secretary of State's office and
8 the County Recorder's.
9 If this goes -- if this were to make it to
10 the ballot, in theory, it would be on the 2018 general
11 election ballot. So that's just something to bear in
12 mind. It's not a direct impact on us, but it may have
13 an impact on our education efforts in terms of what --
14 you know, what we're looking at going forward.
15 You see the current participating
16 candidates numbers. We do have an oral argument on
17 September 11th at 10:40 in the case of Legacy
18 Foundation Action Fund versus Citizens Clean Elections
19 Commission which some of you or all of you -- many of
20 us may have forgotten about it. I certainly forgot
21 about it until I looked at my calendar and said, oh,
22 wow, we've got an oral argument on September 11th.
23 So I think that Joe Roth from Osborn
24 Maledon will be doing the argument for us, and I think
25 we'll be getting ready for that. And you're all
26 welcome to attend if you want to. I don't think
27 it's -- I don't think it's required at all, but -- and
28 it's also Livestreamed and the Livestream link is there
29 in the report. We can send you that, otherwise, as
30 well.
31 Just an FYI, as you know, we have set up
32 for public comment an additional expansion of our audit
33 rules to capture all participating candidates. Back in
34 September, I want to say, we adopted a rule that called
35 for all statewide candidates to be subject to audit,
36 and now we will expand that to all participating
37 candidates.
38 Just to give you a sense of what that audit
39 is, that's not going to mean a full audit of every
40 transaction, but it's the audit where we select certain
41 transactions, evaluate those transactions, see if those
42 transactions are good. And what we found is that,
43 generally speaking, candidates go through that process
44 with minimal difficulty.
45 The process itself is not burdensome, but
46 the issue is that we have, in fact, you know, also
47 caught some potential violations that are more serious.
48 And we want to make sure that given that we have the
49 resources and that the process we've set up is itself
50 not burdensome, we want to make sure that we're taking
51 advantage of our opportunity to ensure that folks who
52 are participating in the system are, in fact --
53 participating in the clean funding part of the system,
54 I should say, are -- are abiding by the rules.
55 It's also -- you know, obviously, I'll
56 point out that publicly funded candidates are the only
57 candidates who are getting audited and whose campaign
58 finance reports are getting reviewed which is kind of
59 an irony when you think about it.
60 Finally, I just wanted to give you an
61 update. I had a conversation with the Deputy Secretary
62 of State Lee Miller about changes the Secretary would
63 like to see to the structure of the E-Qual system. The
64 initial idea that the Secretary has talked about is to
65 essentially have those $5 qualifications -- qualifying
66 donations or contributions, rather, channeled directly
67 to the Fund. There are some policy, slash, legal
68 issues there and some stakeholder issues there.
69 I certainly can say that I think the
70 Secretary's office would like to move this as quickly
71 as possible, but I think everyone is cognizant of the
72 fact that may not be possible within this election
73 cycle, especially if the policy issues turn out to be
74 significant enough that we need to look at legislative
75 changes.
1. There's another issue which is that if you don't qualify, you get to keep the $5 contributions because they're still campaign contributions. And so if we are turning those -- if those are being turned in on a rolling basis, it's not clear what happens to those contributions if they're directly deposited into the Fund, but they, in fact, really otherwise would be, essentially, the funds that belong to the candidate campaign until they're tendered. And since we do have folks who don't -- who start out and then don't qualify, we -- you know, that's -- that's a little wrinkle there. So it's -- the reason I flagged it now is because I know the Secretary of State's Office would like to move quickly, you know. You know, I don't personally feel like the Commission wants -- or that I certainly want to be in the way of progress, but we need to recognize that there's a bunch of different competing interests that are there. So I'm just flagging that now for an ongoing discussion going forward.

2. COMMISSIONER CHAN: Mr. Chairman?

3. CHAIRMAN TITLA: Commissioner Chan.

4. COMMISSIONER CHAN: Mr. Chairman, Tom, I would just say this raises in my mind a whole host of issues which -- a few of which you've named, but I mean, it not only -- I guess in my mind when you're filing as a Clean Elections candidate, that means that you've done all the legwork. You've gotten the petition signatures. You've gotten your $5 quals. You file them all at the same time because you know what your decision is. What about people that change their mind that -- well, you mentioned that. What about contributors that change their mind? You know, to me this is going to create, possibly, significant problems for us to administer something that should be in the hands of the candidates until the time they actually file.

5. MR. COLLINS: Mr. Chairman, Commissioner Chan, I think -- I mean, I think that -- I think that will be part of the discussion. It's not necessarily -- I don't think -- this is all preliminary. I've certainly made the Secretary aware of the issue with the inflows and outflows from the Fund. And their view, I think, provisionally is that it simplifies things to just deposit the money in the Fund, but as you say -- and one of the reasons it simplifies things is because the way that the E-Qual program was structured from the -- from the outset --
CHAIRMAN TITLA: Commissioner Paton.

CHAIRMAN PATON: Mr. Chairman?

keep you posted as we get closer to something.

As you all have observed, that's not a --

that's not as easy as flipping a switch. So -- so I'll

that, frankly, provided that, you know, we get that

lead on that -- I mean, I don't mind taking a lead on

like this isn't done correctly, whether we take the

act we have to deal with but, you know, at the end of

the day-to-day experience that even we as staff may

may not have.

So I think that -- I think that's -- I

think that right. I think that -- you know, so I

think that -- what I view this as -- as an idea to try

to find a better way, and I'm certainly open to

exploring things that may be more efficient for the

purpose of actually getting folks to a place where

they're -- where they're -- you know, the qualifying

process is not hampered unnecessarily by the

bureaucratic stuff so long as we're still getting

verification that the -- the -- that the

qualifying signatures are good, but that's -- you know,

that's -- yeah.

As you all have observed, that's not a --

that's not as easy as flipping a switch. So -- so I'll

keep you posted as we get closer to something.

CHAIRMAN PATON: Mr. Chairman?

CHAIRMAN TITLA: Commissioner Paton.
feedback back to the Secretary's office as they're
go forward and developing it.
It's a matter of at the end of the day
where the road meets the road and the implementation
happens, we cannot -- well, it just creates a -- well,
I'm not saying we cannot. I guess that's too strong a
word. There's a conundrum and a tension about how much
the Commission itself can administrate a program that
the Secretary's is obligated to administrate.
So it's complicated.
COMMISSIONER CHAN: Mr. Chairman, I don't
think there's a question. I mean, we don't have a role
in administering it. So, okay, having said that.
CHAIRMAN TITLA: Any more comments?
Questions for the director?
No response.
CHAIRMAN TITLA: Okay. Let's go to the
next item here.
Thank you, Tom for your report.
MR. COLLINS: Thank you.
CHAIRMAN TITLA: We go to Item IV,
discussion and possible action on issues related to the
Clean -- or Citizens Clean Elections A.R.S. 16-941, the
Governor's Regulatory Review Council's activities
related to the Commission, and 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.
MR. COLLINS: Yes. Mr. Chairman -- and
I'll try to keep my summary brief. And we do
anticipate that we will ask you to go into executive
session on this, but I just want to update you.
Last meeting which was last week, you know,
in my executive director's report and in Deputy
Secretary Miller's response to it which he was nice
even to come and present, you know, we had a
discussion about what's going on with the status of the
Commission's rules. The first thing I'll say is that
the Commission's view remains, unless otherwise
directed, the same it's always been. The rules are the
rules that we pass. Those are the rules that are
enforced, and those rules reflect directly the statutes
that are enforced and those statutes are still
enforced.
And so there -- and the case law in Arizona
also reflects the law as we currently apply it. So
that's always a preparatory comment that I make. I
will say that we've sent two letters. I think you have
at least one of them -- maybe not in this packet -- to
the Secretary's office that Mary had sent them
basically saying, you know, we think that -- we think
that you ought to put the Rules R2-20-109 and R2-20-111
back into the Administrative Code.
We -- Deputy Secretary Miller cited a
particular section of the code, and I think he said
something to the effect of if a lawyer would tell him
that that's incorrect he would change it. Well, we
have told him that's incorrect because the citation
is relying on simply doesn't apply to this situation
at all. Nevertheless, we haven't heard back from them
on that. So that's the status quo there.
Why that matters is that, you know, we --
for purposes of an Interagency Service Agreement, the
services that they're providing are twofold. One,
they're providing us with -- with the ability to have
access to -- and the public to have access to better
presented information about campaign financing
activity, but, two, to ensure that specifically the
Clean Elections report called for in 16-941(d) and 958
are in the campaign finance reporting system.
And as a condition of that, we asked them
to refrain from taking actions in a regulatory
manner -- matter or in a lawsuit to interfere with the
Commission's ability to obtain information from
reporting parties.
So the risk here is -- and just on the ISA
piece that is, you know, those are intertwined. If
you're going to make a contract for services, which is
what we've done, you also have to -- and you have a --
the person with whom you're contracting has previously
objected to the existence of the very service that you
want them to provide, it seems to me logical that the
contract would stipulate that you ought not to
interfere with the actual provision of the services
we're paying for. And that is where the publication --
the depublication of the rules fits in and why it's
important.
But what that's also done is brought
together two or three different strains of issues that
we have been wrestling with over the course of the last
couple of years because the depublication situation
doesn't arise without the Governor's Regulatory Review
Commission's activities which don't arise without Eric
Spencer and Secretary Reagan's activities at the
Governor's Regulatory Review Commission in the first
place.
And so we now have a situation where --
where legal issues, public education issues, reporting
issues and interagency -- you know, really, I mean,
10:30:17-10:31:32

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<thead>
<tr>
<th>Line</th>
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<tbody>
<tr>
<td>1</td>
<td>basically GRRC’s excessive -- you know, both incorrect</td>
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<td>2</td>
<td>and excessive exercises of authority are all now</td>
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<td>3</td>
<td>wrapped up in one thing which pulling out the strains</td>
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<td>4</td>
<td>of that is complicated enough, but that's kind of the</td>
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<td>5</td>
<td>lay of the land as it stands today.</td>
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<td>6</td>
<td>As it stands today, we have no response</td>
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<td>7</td>
<td>from the Secretary. As it stands today, the law is</td>
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<td>8</td>
<td>what we say the law is, but the law is not</td>
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<td>9</td>
<td>represented -- is not represented as clearly or</td>
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<td>10</td>
<td>accurately as it could be in the Administrative Code</td>
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<td>11</td>
<td>because those rules are not there. Absent those rules,</td>
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<td>12</td>
<td>folks need to either find our rule book or look at the</td>
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<td>statute and there's not necessarily -- and then that</td>
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<td>creates an information problem and a concern.</td>
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<td>So I think that's about all I can say to</td>
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<td>give the public a sense of what this -- what this issue</td>
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<td>is, unless Mary thinks there's more I can say. And</td>
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<td>then -- but we recommend that if there was a motion to</td>
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<td>19</td>
<td>go into executive session, we would -- we would</td>
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<td>20</td>
<td>recommend that we do that at that time -- at this time.</td>
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<td>21</td>
<td>CHAIRMAN TITLA: Is there a motion to go</td>
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<td>22</td>
<td>into executive session, Commissioners?</td>
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<tr>
<td>23</td>
<td>COMMISSIONER CHAN: I move that we go into</td>
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<tr>
<td>24</td>
<td>executive session to discuss this issue.</td>
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<td>25</td>
<td>CHAIRMAN TITLA: Commissioner Chan motions</td>
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10:31:35-11:28:24

<table>
<thead>
<tr>
<th>Line</th>
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<tbody>
<tr>
<td>1</td>
<td>for executive session.</td>
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<td>2</td>
<td>Second?</td>
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<td>3</td>
<td>COMMISSIONER KIMBLE: Second.</td>
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<td>4</td>
<td>CHAIRMAN TITLA: Commissioner Kimble.</td>
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<td>5</td>
<td>All in favor say aye.</td>
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<td>6</td>
<td>(Chorus of ayes.)</td>
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<td>7</td>
<td>CHAIRMAN TITLA: Opposed?</td>
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<td>8</td>
<td>(No response.)</td>
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<td>9</td>
<td>CHAIRMAN TITLA: Abstain?</td>
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<td>10</td>
<td>(No response.)</td>
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<tr>
<td>11</td>
<td>CHAIRMAN TITLA: Motion passes. We will go</td>
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<tr>
<td>12</td>
<td>into executive session at 10:30 a.m.</td>
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<td>13</td>
<td>(The following section of the meeting is in</td>
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<tr>
<td>14</td>
<td>executive session and bound under separate cover.)</td>
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<td>15</td>
<td>* * * * *</td>
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<td>16</td>
<td>(End of executive session. Public meeting</td>
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<td>17</td>
<td>resumes at 11:28 a.m.)</td>
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<td>18</td>
<td>CHAIRMAN TITLA: Okay. We're back in</td>
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<td>19</td>
<td>regular session now having discussed Item IV in</td>
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<tr>
<td>20</td>
<td>executive session.</td>
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<td>21</td>
<td>Any action by the Commission?</td>
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<td>22</td>
<td>MR. COLLINS: Well, Mr. Chairman, if I</td>
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<td>23</td>
<td>could, I think that the thing that we need to talk</td>
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<td>24</td>
<td>about in open session real quickly just to rehash the</td>
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<td>25</td>
<td>things that I talked about in the beginning or before</td>
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11:28:26-11:30:02

<table>
<thead>
<tr>
<th>Line</th>
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<tbody>
<tr>
<td>1</td>
<td>we went into executive session, I wanted to return to</td>
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<td>2</td>
<td>those issues because I think that one of those issues</td>
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<td>3</td>
<td>is pertinent and appropriate for public session because</td>
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<td>I discussed it in public. And I just wanted to close</td>
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<td>5</td>
<td>that out, and that's the issue related to the</td>
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<td>6</td>
<td>Interagency Service Agreement between the Secretary's</td>
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<td>office and the Commission.</td>
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<td>8</td>
<td>What I recommend is that, based on the</td>
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<td>9</td>
<td>language of the ISA, that we would -- I would ask for</td>
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<td>10</td>
<td>authorization to me and to our counsel to -- to notice</td>
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<td>11</td>
<td>the Secretary of State of breach of that ISA. I think</td>
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<td>12</td>
<td>that's a requirement -- well, it's part of the</td>
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<td>13</td>
<td>contract. I think that -- as I indicated at the</td>
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<td>14</td>
<td>outset, that Mr. Miller's statements respecting why he</td>
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<td>did what he did are not backed up by the laws that he</td>
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<td>cites and, therefore, they are -- in our view, and</td>
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<td>according to letters we've already sent to him, they</td>
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<td>were discretionary acts by the Secretary that</td>
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<td>19</td>
<td>contradicted discretionary acts she took to that she</td>
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<td>20</td>
<td>would refrain from acting in this manner.</td>
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<td>21</td>
<td>And so I think it's important that the</td>
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<td>22</td>
<td>Commission do, in fact, act on its rights under the</td>
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<td>23</td>
<td>contract. And so I'd recommend, and subject to your</td>
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<td>24</td>
<td>discussion and action, that authorization to the staff</td>
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<td>25</td>
<td>and counsel to -- to draft and send over a notice of</td>
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11:30:09-11:31:06

<table>
<thead>
<tr>
<th>Line</th>
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<tbody>
<tr>
<td>1</td>
<td>breach of the Interagency Service Agreement.</td>
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<td>2</td>
<td>And I'm happy to answer any questions about</td>
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<td>3</td>
<td>that that you have at this time.</td>
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<td>4</td>
<td>CHAIRMAN TITLA: Any questions for the</td>
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<td>5</td>
<td>director?</td>
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<td>6</td>
<td>COMMISSIONER KIMBLE: Mr. Chairman?</td>
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<td>7</td>
<td>CHAIRMAN TITLA: Commissioner Kimble.</td>
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<td>8</td>
<td>COMMISSIONER KIMBLE: I would move that the</td>
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<td>Commission direct the executive director, in</td>
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<td>10</td>
<td>conjunction with our legal advisors, to draft a written</td>
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<td>11</td>
<td>notice of a breach to the Secretary of State's office</td>
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<td>12</td>
<td>regarding the 2017 Interagency Services Agreement</td>
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<td>13</td>
<td>between the Commission and the Secretary of State.</td>
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<td>14</td>
<td>CHAIRMAN TITLA: Motion by Commissioner</td>
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<td>15</td>
<td>Kimble.</td>
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<td>16</td>
<td>MR. COLLINS: And I don't mean to interrupt</td>
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<td>17</td>
<td>the motion, but we would also like -- we would like --</td>
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<td>18</td>
<td>we would like to send it.</td>
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<td>19</td>
<td>COMMISSIONER KIMBLE: And I would -- I</td>
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<td>20</td>
<td>would modify my motion to say draft and send the</td>
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<td>21</td>
<td>letter.</td>
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<td>22</td>
<td>CHAIRMAN TITLA: Okay. We have a modified</td>
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<td>23</td>
<td>motion by Commissioner Kimble.</td>
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<td>24</td>
<td>Is there a second?</td>
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<td>25</td>
<td>COMMISSIONER CHAN: I would second that</td>
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11:32:01-11:32:51

1 leave it -- I'll put it -- Joe -- that's all I have to 
2 say. 
3 MR. KANEFIELD: Mr. Chair, members of the 
4 Commission, at the last meeting following your 
5 executive session to direct me to proceed as instructed 
6 in executive session, I have had some additional 
7 communications in a meeting with the senior leadership 
8 at the Administrative Office of the Courts. I'd like 
9 to report back my latest conversation with them, 
10 however, because this is in the context of potential 
11 litigation, I would suggest that the Commission go into 
12 executive session. And I promise I won't take more 
13 than five minutes.

11:32:51-11:44:25

1 CHAIRMAN TITLA: Opposed? 
2 (No response.) 
3 CHAIRMAN TITLA: Abstain? 
4 (No response.) 
5 CHAIRMAN TITLA: Motion is carried. 
6 We are in executive session at 11:31 a.m. 
7 (The following section of the meeting is in 
8 executive session and bound under separate cover.) 
9 * * * * 
10 (End of executive session. Public meeting 
11 resumes at 11:43 a.m.)

11:44:28-11:45:33

1 Commission and Mr. Collins. And I wanted to compliment 
2 the staff about the wonderful roundtable which the 
3 league was privileged to be able to attend, and I also 
4 wanted to say that we -- the League of Women Voters of 
5 Arizona is tentatively planning a day at the 
6 legislature on -- in early February, February 7, so our 
7 members can get to know more of the legislators. 
8 And one of the things that I am definitely 
9 going to recommend that we talk with our legislators 
10 about -- because we have about 800 members all over the 
11 state -- is the outstanding job that the Citizens Clean 
12 Elections staff does -- Citizen Clean Election through 
13 their staff accomplished in terms of voter education 
14 because I think that it's really important for more and 
15 more legislators to be aware of what a -- what an 
16 amazingly effective and efficient and important role 
17 that that is: the Clean Elections Commission. And I 
18 just wanted to say that for the record. 
19 Thank you. 
20 CHAIRMAN TITLA: Thank you, ma'am. Your 
21 comments are always appreciated. 
22 Anybody else in the public? 
23 (No response.)

24 CHAIRMAN TITLA: Okay. If not, is there a 
25 motion to adjourn?
COMMISSIONER CHAN: I would move we adjourn
the meeting.
CHAIRMAN TITLA: Commissioner Chan motions
to adjourn.
Second?
COMMISSIONER KIMBLE: Second.
CHAIRMAN TITLA: Commissioner Kimble
seconds.
All in favor say aye.
(Chorus of ayes.)
CHAIRMAN TITLA: Opposed?
(No response.)
CHAIRMAN TITLA: Abstain?
(No response.)
CHAIRMAN TITLA: Motion is carried.
We are adjourned at 11:44. Thank you,
everybody.
(Whereupon, the proceedings concluded at
11:45 a.m.)

STATE OF ARIZONA  
COUNTY OF MARICOPA  

BE IT KNOWN the foregoing proceedings were
taken by me; that I was then and there a Certified
Reporter of the State of Arizona, and by virtue thereof
authorized to administer an oath; that the proceedings
were taken down by me in shorthand and thereafter
transcribed into typewriting under my direction; that
the foregoing pages are a full, true, and accurate
transcript of all proceedings and testimony had and
adduced upon the taking of said proceedings, all done to
the best of my skill and ability.
I FURTHER CERTIFY that I am in no way
related to nor employed by any of the parties thereto
nor am I in any way interested in the outcome hereof.
DATED at Phoenix, Arizona, this 2nd day of
September, 2017.

LILIA MONARREZ, RPR, CR #50699
The State of Arizona
Citizens Clean Elections Commission

Public Meeting Amended
Reporter's Transcript of Proceedings
August 31, 2017

$1,000 - CHAIRMAN

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Announcements:

- The public can view Commission meetings live via the internet at [www.livestream.com/cleanelections](http://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

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-tried-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.

NOTICE OF PROPOSED EXEMPT RULEMAKING

TITLE 2. ADMINISTRATION
CHAPTER 20. CITIZENS CLEAN ELECTIONS COMMISSION

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@azcleanelections.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 legislative candidates during the election cycle rather than conduct random audits of 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

July 21, 2017 | Published by the Arizona Secretary of State | Vol. 23, Issue 29 | 1935
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.

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 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@azcleanelections.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.
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 27, 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 27, 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).

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; Deposits .................................................. 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
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

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 4.

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 to or otherwise fills a vacancy in such office.

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.
Supp. 17-2, version 2

R2-20-102. Repealed

Historical Note

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.


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;
6. Return all contributions received from another candidate’s campaign 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;
If certified as a participating candidate, the candidate shall:

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

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 candidate 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 final exempt rulemaking at 23 A.A.R. 115, 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
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.

**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 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.
A. A candidate may voluntarily 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 year prior to the scheduled debate, and
2. State the reasons and circumstances justifying the request for exemption.

H. After examining the request for exemption, 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 primary 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

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

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
2 A.A.C. 20

Arizona Administrative Code

Title 2, Ch. 20

Citizens Clean Elections Commission

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 secretory 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-
committee as defined in title 16 of Arizona Revised Statutes.

Historical Note

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 consisting of all early contributions received, including personal monies and the expenditures of such monies.
   b. At the end of the qualifying period, a participating candidate may 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.
   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.

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


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**

**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**

**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**

**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.
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 provide 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
A. 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.

B. 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.

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 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.

   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.

   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 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. 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).

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.
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 an internally-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.
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

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 until the Commission has finally concluded all action with respect to the matter in question.

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

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-
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, professional 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.

**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, professional activities, political activities, and financial interests.

**R2-20-302. Definitions**

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

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 employee’s private interest is or appears to be inconsistent with the efficient and impartial conduct of his or her official duties and responsibilities.
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 immediate 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.

**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).
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 or appearance of conflict, the Commission’s Executive Director shall discuss with the employee possible ways of eliminating 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;
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:
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
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

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

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

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 to conduct a public hearing on the petition and determines 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.
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 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 litigation. 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.
R2-20-703. 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 for:
   1. The sum of early contributions received plus public funds disbursed during and for the primary election period; less
   2. All other expenditures made during and for the general election period; less
   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.
   h. 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 event(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 event(s) attended, miles traveled and the rate at which the reimbursement was 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**


**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.

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**


**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.
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
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
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 (CFS 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:**
   
   
   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@azcleanelections.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. 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)**
   R2-20-111  
   **Rulemaking Action**
   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:**
   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@azcleanelections.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).