



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

Location: **Citizens Clean Elections Commission**
 1110 W. Washington, Suite 250
 Phoenix, Arizona 85007

Date: **Thursday, November 20, 2025**

Time: **10:00 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 November 20, 2025. This meeting will be held at 10:00 a.m. **This meeting will be held in person and virtually. The meeting location will be open by 9:45 a.m. at the latest.** Instructions on how the public may participate in this meeting are below. For additional information, please call (602) 364-3477 or contact Commission staff at ccec@azcleelections.gov.

The meeting may be available for live streaming online at <https://www.youtube.com/c/AZCCEC>. You can also visit <https://www.azcleelections.gov/clean-elections-commission-meetings>. Members of the Citizens Clean Elections Commission may attend in person, by telephone, video, or internet conferencing.

Join Zoom Meeting

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Please note that members of the public that choose to use the Zoom video link must keep their microphone muted for the duration of the meeting. If a member of the public wishes to speak, they may use the Zoom raise hand feature and once called on, unmute themselves on Zoom once the meeting is open for public comment.

Members of the public may participate via Zoom by computer, tablet or telephone. A dial-in option is also available but you will not be able to use the Zoom raise hand feature, so the meeting administrator will assist phone attendees. Please keep yourself muted unless you are prompted to speak.

The Commission may allow time for public comment on any item on the agenda. Commission members may not discuss items that are not specifically identified on the agenda. Therefore, pursuant to A.R.S. § 38-431.01(H), action taken as a result of public comment will be limited to directing Commission staff to study the matter, responding to any criticism, or scheduling the matter for further consideration and decision at a later date.

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.

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 agenda for the meeting is as follows:

- I. Call to Order.
- II. Discussion and Possible Action on Meeting Minutes for October 23, 2025.
- III. Discussion and Possible Action on Executive Director's Report, Enforcement and Regulatory Updates, and Legislative Update.

Note: The executive director's report includes announcements and information about elections and campaign finance, a report on voter education activities, administrative information, information on candidates running clean, reports on legal proceedings involving Clean Elections and other Arizona election officials, a report on correspondence from other agencies, appointments, enforcement status, the regulatory agenda, reports of the Auditor General, and the Governor's Regulatory Review Council. The legislative update includes bills that have or may be considered for action by the Arizona legislature or the Governor. Materials are included in the Commission packet available on its website or by request at ccec@azcleelections.gov.

- IV. Discussion and Possible Action on Secretary of State's October 16, 2025 decision to grant request of No Labels Party to change its name to Arizona Independent Party, including legal, policy and voter education aspects of decision and implementation.

The Commission may vote to go into Executive Session, which will not be open to the public for discussion or consultation with its attorneys in order to consider its position and instruct its attorneys regarding its position regarding contracts that are the subject of negotiations, 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).

- V. Discussion and Possible Action on Proposition 211, Voters' Right to Know Act Litigation including

- A. *Montenegro v. Fontes*, CV2023-011834 (Maricopa Superior Court). Separation of powers and related claims.
- B. *Center for Arizona Policy v. Arizona Secretary of State*, CV-24-0295-PR (Arizona Supreme Court). Arizona State Constitution free speech provisions, and related claims.
- C. *Americans for Prosperity v. Meyer, et al.*, No. 24-2933 (9th Cir.). (First Amendment claims).

The Commission may vote to go into Executive Session, which will not be open to the public for discussion or consultation with its attorneys in order to consider its position and instruct its attorneys regarding its position regarding contracts that are the subject of negotiations, 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. Discussion and Possible Action on Amendment of Rule R2-20-106 (related to candidate verifications before issuance of clean funding) & Adoption of R2-20-706 (relating to repayment proceedings in the event of unfiled campaign finance reports).

This item services as the oral proceeding for these rulemaking actions and the Commission may vote to adopt them at this time.

The rules may be made effective immediately.

- VII. 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

- VIII. 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, 1110 W Washington St, #250, Phoenix, AZ 85007.

Dated this 18th day of November, 2025

Citizens Clean Elections Commission

Thomas M. Collins, Executive Director

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THE STATE OF ARIZONA
CITIZENS CLEAN ELECTIONS COMMISSION

REPORTER'S TRANSCRIPT OF PUBLIC MEETING

Phoenix, Arizona
October 23, 2025
10:00 a.m.

By: Kathryn A. Blackwelder, RPR
Certified Reporter
Certificate No. 50666

**CERTIFIED
TRANSCRIPT**

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1 PUBLIC MEETING BEFORE THE CITIZENS CLEAN 2 ELECTIONS COMMISSION convened at 10:00 a.m. on October 3 23, 2025, at the State of Arizona, Clean Elections 4 Commission, 1110 West Washington, Conference Room, 5 Phoenix, Arizona, in the presence of the following 6 Board Members: 7 8 Mr. Mark Kimble, Chairman 9 Mr. Galen Paton 10 Ms. Christina Werther 11 Mr. Sam Crump 12 13 OTHERS PRESENT: 14 Thomas M. Collins, Executive Director 15 Paula Thomas, Executive Officer 16 Mike Becker, Policy Director 17 Shayna Stuart, Taft Law 18 Allie Karpurk, Osborn Maledon 19 Cathy Herring, KCA 20 Anna Abeytia, Member of the Public 21 22 23 24 25	1 of August 28th, September 25th, and October 7th? 2 COMMISSIONER WERTHER: Mr. Chairman, I move 3 to approve the meeting minutes for August 28th, 4 September 25th, and October 7th, 2025. 5 CHAIRMAN KIMBLE: Thank you, 6 Commissioner Werther. 7 Is there a second? 8 COMMISSIONER PATON: I'll second. 9 CHAIRMAN KIMBLE: Thank you, 10 Commissioner Paton. 11 It's been moved and seconded that we approve 12 the minutes for our meetings on August 28th, 13 September 25th, and October 7th. I will call the roll. 14 Commissioner Werther. 15 COMMISSIONER WERTHER: Aye. 16 CHAIRMAN KIMBLE: Commissioner Paton. 17 COMMISSIONER PATON: Aye. 18 CHAIRMAN KIMBLE: Commissioner Crump. 19 COMMISSIONER CRUMP: Aye. 20 CHAIRMAN KIMBLE: Chair votes aye. 21 The minutes for those three meetings have -- 22 are approved. 23 Item III, discussion and possible action on 24 the Executive Director's Report. 25 Tom.
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1 P R O C E E D I N G 2 CHAIRMAN KIMBLE: Good morning. I'm Mark 3 Kimble. 4 Agenda Item I is the call to order. It's 5 10:00 a.m. on October 23rd, 2025. I call this meeting 6 of the Citizens Clean Elections Commission to order. 7 With that, we'll take attendance. 8 Commissioners, please identify yourselves for the 9 record. 10 COMMISSIONER WERTHER: Commissioner Werther. 11 COMMISSIONER PATON: Galen Paton. 12 COMMISSIONER CRUMP: Sam Crump. 13 CHAIRMAN KIMBLE: And I'm Mark Kimble. 14 We have four of the five Commission Members 15 present, so we have a quorum. 16 Item II, discussion and possible action on 17 minutes for three meetings, on August 28th, 18 September 25th, and October 7th. Commissioners, you 19 have the meetings from our -- minutes, excuse me, from 20 our past three meetings in your packets. Is there any 21 discussion? 22 (No response.) 23 CHAIRMAN KIMBLE: Hearing none, we'll vote on 24 one -- we'll vote on all of these in one motion. Is 25 there a motion to approve the minutes for the meetings	1 MR. COLLINS: Yes. Thank you, Mr. Chairman, 2 Members. I just wanted to highlight a few things. 3 I think one thing that is, you know, is 4 interesting and, you know, unclear what the 5 ramifications will be, but the -- you may recall from 6 2024 there was the No Labels Party, which is a new 7 party, that circulated petitions to get access to 8 the ballot, and they are eligible for the ballot this 9 election cycle. They -- last week they renamed 10 themselves the Arizona Independent Party. They have, 11 according to the news reports that are cited there, 12 they have some more organization than they had at the 13 local level and appear to be interested in having 14 candidates at the -- at the state level potentially. 15 The reason I highlight it is because, you 16 know, they're a party, so they'd be -- the candidate 17 who ran as an Arizona Independent Party member would be 18 eligible for -- for clean funding if they wanted to do 19 that, you know, and so -- so we'll see how that -- how 20 that -- how that happens. Smaller parties have not 21 generally for -- maybe one -- I think once, twice maybe 22 really made an effort to qualify for funding, but -- so 23 really it kind of depends on their organization and 24 what they're trying to do, but I thought it was worth 25 highlighting.

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1 I think the other thing worth highlighting 2 is, you know, we have a general election on 3 November 4th. There are local jurisdictions that have 4 elections happening. All that information is available 5 on our website. And the illustration comes out a 6 little small, but I just wanted to sort of -- it sort 7 of illustrates that I'm not yet the graphic design 8 genius I hope to become at one -- some point. 9 But essentially the November 4th elections, 10 you know, we get a strong response on our -- on our 11 website from folks looking for information there, and 12 certainly we've been getting phone calls and we've 13 been -- we've been asked to talk about -- highlight 14 those, so -- so I think it really -- and we've 15 highlighted them in our own newsletter distribution. 16 So, you know, part of our goal with the 17 website is to try to make it a central place that 18 anybody in the state can find what they're looking for, 19 because especially in these local elections -- I was on 20 the phone last night -- well, 4:00, I guess that's not 21 last night -- with a person from the West Valley who 22 wanted to find out more about the -- there's a current 23 technical district out there that is doing a bond issue 24 and doing a sale of some property, and so we spent a 25 little bit of time trying to -- trying to find some	1 on just the -- Avery and Captain Activate were out in 2 Tempe last week. And I'll -- I have seen some photos 3 from that. I need to -- hopefully we can circulate 4 those to you. But it was a great event and, you know, 5 it was at the Tempe Clerk's Office at the City Hall 6 and really well attended and the photos were great. I 7 got -- there was a picture of Captain Activate and the 8 Mayor of Tempe, so I thought that's a -- you know, that 9 was pretty cool. 10 And tomorrow Gina will be presenting -- one 11 of the main presenters at the Strategic Partnerships 12 for Arizona Elections, which is a discussion among 13 tribal governments, county governments, and state 14 government officials around, you know, election issues 15 for 2026. And I thought it's really a great 16 recognition that, you know, that she'll be there 17 talking to them about voter education as -- you know, 18 as her -- and, you know, featured as their speaker on 19 that topic for the whole group, which I thought was 20 really cool. 21 I think that -- I think the only other -- on 22 the Prop 211 matters we'll -- I think we haven't had a 23 real chance to talk about this. There's not too much 24 to talk about except that, you know, there's still one 25 case pending at the State Supreme Court, there is one
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1 information on that. 2 So, you know, I think that's important, 3 again, because, for these smaller elections folks, they 4 don't get the publicity that they otherwise would, and 5 having a central hub for that is very important. And 6 Alec spends a considerable amount of time, I would 7 say -- he's -- that's actually why he's -- he's working 8 on it as we speak at home making sure that we're -- 9 our -- the website is up to date. 10 So I did -- we are continuing with the 11 podcast, and I highlighted -- we highlighted the 12 elections -- these elections on the podcast. I also 13 just really liked this interview we did with Dr. Jurado 14 from Arizona State about the fiscal challenges of the 15 U.S. If you haven't had a chance to listen to it, it's 16 -- it's not uplifting, but it's interesting. And we 17 think that that's been -- that's -- we will have some 18 metrics as we get to the end of the year, but that -- 19 we think that that is also, again, trying to build out, 20 you know, places where, if someone comes to the Clean 21 Elections website, they can find information on 22 something that's relevant to them, that's going to get 23 them engaged, and ultimately hopefully help them to 24 vote informed. 25 A couple other things I wanted to highlight	1 case pending at the Ninth Circuit. And then the result 2 of the opinion that came out last month from the State 3 Supreme Court is that the Legislature will have an 4 opportunity to pursue on the merits its claim that 5 Prop 211 violates separation of powers issues sort 6 of -- sort of broadly speaking. That -- as you can see 7 there, there's a -- there'll be a conference on that 8 next week amongst the attorneys, so we'll see where 9 that goes. 10 I think it -- you know, we highlighted a 11 couple of other cases here. I don't know -- unless you 12 have specific questions on those, I mean, just on their 13 other legal issues -- just to say that as we get closer 14 to 2026, there are going to be a bunch more decisions 15 around how elections are administrated. You know, most 16 of those are not going to directly affect us. You 17 know, even the -- even the case I mentioned on the sort 18 of last page about the -- where the Supreme Court is 19 looking at the federal law restricting party 20 coordination with federal candidates, I mean, that -- 21 in Arizona that's already -- the current policy in 22 Arizona is that parties can, in fact, coordinate with 23 their candidates. So it's not an issue here, but, you 24 know, I think that they're the kind of things that I 25 think affect voters and voters call about, and we want

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1 to -- we want to be aware of them for sure. 2 I guess that's -- I guess that's -- that's 3 about it that I felt like I needed to highlight. But, 4 you know, I think we're all pretty busy and, you 5 know -- and hopefully we'll finish the year strong and 6 next year will be very exciting. 7 CHAIRMAN KIMBLE: Tom, if I could go back to 8 the first item, No Labels Party, now called the Arizona 9 Independent Party. I guess parties can call themselves 10 whatever they want, but this seems like it will confuse 11 people. Commissioner Werther and I are registered 12 independents; we're not members of the Independent 13 Party, though. 14 MR. COLLINS: Right. I think -- 15 Mr. Chairman, I think that's true. And I think, you 16 know, we'll -- we will -- and as part -- I'm sure that 17 as part of our voter education effort this next year 18 that's something we're going to have to address. How 19 we choose to do that tactically, I don't know. And I 20 think that's going to be an issue also for county 21 election officials as well. That's something we'll 22 probably be in communication with them about, because 23 you're exactly right. 24 Now, for a primary, unless they were to close 25 their primary, you could select the Arizona Independent	1 COMMISSIONER PATON: Right. 2 MR. COLLINS: I mean -- 3 CHAIRMAN KIMBLE: But I guess people can call 4 themselves whatever they want, but -- 5 MR. COLLINS: Right. 6 CHAIRMAN KIMBLE: Are there any other 7 questions or comments from -- 8 COMMISSIONER PATON: Well, maybe there's -- 9 CHAIRMAN KIMBLE: Commissioner Paton. 10 COMMISSIONER PATON: Maybe they're trying 11 to -- through the confusion hopefully they can sign 12 more people up, basically. Why else would you do it, I 13 guess. 14 MR. COLLINS: Well, I mean, Mr. Chairman, 15 Commissioner Paton, I mean, I think that as the story 16 -- the coverage sort of sets it up that, yes, they 17 see -- they see themselves as a party, as a place who 18 -- for people who are not members of the Democratic or 19 Republican Party. 20 I think the confusion point, to both of your 21 points, one of them will be regular folks, who are 22 currently independent, saying, am I now a part of this 23 party. In the primary that shouldn't be a big deal, 24 because they could request that ballot, but they may be 25 surprised with what they get, right, so that's part of
Page 11	Page 13
1 Party as your party. And I think that, you know, that 2 that may be part of what their goal would be, would be 3 for folks to -- but that still would require you to 4 select it, you know, otherwise -- so, yeah, that will 5 be -- that will be interesting. I don't -- I don't 6 know. I haven't -- 7 I don't think this has gotten enough 8 attention yet in the real world to generate those 9 questions at -- at a volume yet, but that will be an 10 issue. We have a meeting that we'll attend next week 11 with the counties and the Secretary of State's Office 12 about, among other things, this and to see where people 13 are identifying those issues. But, I mean -- so long 14 story short, you're right, and we'll have to -- we'll 15 be looking at that. 16 I don't know the process by which they 17 changed the name. I'm not -- I think you're right. I 18 guess you're right, because I didn't know about that 19 before it happened. 20 CHAIRMAN KIMBLE: Well, it seems designed 21 to -- 22 COMMISSIONER PATON: Yeah, it seems 23 intentional. 24 CHAIRMAN KIMBLE: Yeah. 25 -- to cause confusion.	1 them. 2 So it's a real issue. I mean, don't get me 3 wrong, it is, but we just don't -- I don't think we've 4 had enough discussion with -- with the -- our 5 colleagues, you know, out there administering voter 6 registration to understand how they see it and what 7 steps might be taken to mitigate that. 8 COMMISSIONER PATON: So is this an issue for 9 the Secretary of State then? 10 MR. COLLINS: Well, insofar as the -- sorry. 11 Mr. Chairman, Commissioner Paton, the Secretary of 12 State approved the name change, so I don't think -- so 13 it -- I mean, whether it's an issue for them 14 implementing it or not, I don't -- I suspect they don't 15 have a lot of discretion around what they get to do in 16 that context. 17 CHAIRMAN KIMBLE: Any other questions or 18 comments from Members of the Commission? 19 COMMISSIONER WERTHER: Mr. Chairman. 20 CHAIRMAN KIMBLE: Commissioner Werther. 21 COMMISSIONER WERTHER: Just, Tom, also, I 22 guess I also see confusion the other way in that you 23 might have someone who is currently a member of a 24 registered party who no longer wants to be affiliated, 25 but thinks that they're signing up to just be party not

Page 14 1 designated, but they're inadvertently becoming part of 2 the Independent Party. So just to -- 3 MR. COLLINS: No, I think that's -- that's a 4 good point. 5 What we've done with some things like this 6 is -- and maybe -- Gina is in Maricopa right now for 7 the -- but the -- but the -- is done a chart or a 8 click-through tool to figure out where you are, you 9 know. That might be something we do. I mean, 10 something -- something visual, something easy to grab 11 that will, you know, tell people where they are, you 12 know, based on, you know, my voter registration card 13 says X. You know, here is where I am. If I want to be 14 here, I need to do this. If I want to stay here, I 15 need to do this. That kind of thing. 16 CHAIRMAN KIMBLE: Well, I don't want to 17 prolong this, but every year during the election during 18 the primaries we're bombard, I'm an independent, can I 19 vote in the primary -- 20 MR. COLLINS: Right. 21 CHAIRMAN KIMBLE: -- and it's a lot of 22 confusion. And I think this is just going to be one 23 more point of confusion. 24 COMMISSIONER PATON: Yeah, I think that -- 25 CHAIRMAN KIMBLE: Commissioner Paton.	Page 16 1 MR. COLLINS: Right. 2 COMMISSIONER PATON: -- and now they're not 3 sure if they're part of this deal or not and then -- I 4 mean, I think it's not good. 5 CHAIRMAN KIMBLE: Are there any other 6 comments or questions for Tom on the Executive 7 Director's Report? 8 (No response.) 9 CHAIRMAN KIMBLE: Thank you, Tom. 10 MR. COLLINS: No, thank you. 11 CHAIRMAN KIMBLE: Item IV, discussion and 12 possible action on proposed amendment to Arizona 13 Administrative Code R2-20-702, use of funds by 14 candidates. In our discussions in the enforcement 15 context and other rulemakings we have pending we've 16 discussed how to address issues with respect to 17 perceived potential conflicts when a candidate hires a 18 vendor with a particular relationship. Staff has a 19 proposal on that issue they are asking us to circulate 20 for public comment. Staff also is asking us to address 21 a technical issue in the way our rules are currently 22 presented in the Administrative Code. 23 Tom. 24 MR. COLLINS: Thank you. Mr. Chairman, 25 Commissioners, I think we have a -- we have a little
Page 15 1 COMMISSIONER PATON: -- we may have to put 2 something -- like some kind of notice out, you know, 3 before the next primary or something saying, we don't 4 want you to be confused. This is -- this is the 5 situation. I don't know if we could do something to 6 every independent voter to explain. 7 MR. COLLINS: Mr. Chairman, 8 Commissioner Paton, I mean, well, that would be very 9 expensive and maybe not very effective, depending. But 10 I think this is all good -- for me personally in the 11 meetings that Gina and I will be at about this, this is 12 helpful for us to be able to say that you all have 13 identified some of these issues and that's -- so we'll 14 see what feedback we get and we'll keep an eye on it 15 and have -- and be able to, you know, I think be 16 constructive. So I appreciate the -- 17 COMMISSIONER PATON: Because here you've got 18 two people that are involved in elections -- 19 MR. COLLINS: Right. 20 COMMISSIONER PATON: -- that would possibly 21 be confused by it -- 22 MR. COLLINS: Right. 23 COMMISSIONER PATON: -- let alone the regular 24 voter that's trying to live their life and whatever, 25 and for whatever reason they want to be independent --	Page 17 1 bit of a -- sort of a slide to try to illustrate for 2 everybody what the -- what we think the problem we're 3 trying to address as core is. 4 This is the current state of things. If 5 you're a clean candidate, you can't use your clean 6 money for personal expenses, so that's -- that's, you 7 know -- 8 And then -- and then if you go to the -- if 9 we go to the next slide, I think there's the problem 10 we're trying to solve, which is a perception problem, 11 but nevertheless a real one, is -- there's a delay on 12 that. Well, it will show us that the problem we're 13 trying to solve is what happens if you share a 14 household with a -- with a consultant, whether it's a 15 spouse or any other -- or other person you share living 16 expenses with and, you know, how do we address that. 17 So as the memo details, there's -- we looked 18 at -- we kind of talked about it, and I know there was 19 some discussion towards the end of our conversation 20 last month around put -- setting a percentage, you 21 know, and -- you know, we're open to talking about 22 that. The reason we kind of ended up going with sort 23 of a black and white rule is because it's easier to 24 administrate and it's not clear to us that the 25 percentage cutoff necessarily solves what the core of

Page 18 1 the problem is, which is basically taking the money out 2 of -- the potential perception that money from -- 3 passing from one person to another person within the 4 household would, you know, inevitably lead to some of 5 those dollars supporting the household rather than 6 campaign. So that's why we settled on what we settled 7 on. 8 We also included in that rule, however, a 9 proposal -- you know, you'd still get reimbursed for 10 things that are -- you know, that will reimburse. So 11 if somebody goes and buys, you know, pens for an event, 12 that's still going to be reimbursable, right. We're 13 talking about, you know -- we're talking about, you 14 know, expenditures like, you know, campaign 15 expenditures that are -- that are serious. 16 And then there's also a provision and it 17 says, if for some reason -- and this could happen, 18 because some vendors -- in some areas -- it's 19 conceivable this could happen that in some areas, 20 either because of where they are, the way the market 21 is, what the particular item is, there may not be 22 available competition, in other words, this may, you 23 know, restrict folks in a way that is -- that is 24 meaningful. You know, and we wanted to at least 25 account for that possibility.	Page 20 1 questions we haven't asked before. And we thought, 2 well, maybe -- or, certainly I thought; I don't know if 3 I'm speaking for we or not -- but we may as well, you 4 know, just make that clear, you know, that you could 5 not pay yourself a salary out of Clean Elections 6 dollars. 7 You know, there is -- there are arguments 8 that you can do that with state dollars at the state 9 level for candidates. And candidates at the county 10 level have, in fact, done that with their -- with their 11 own funds or their campaign funds, but -- but I think 12 that given where our policies are to begin with, it 13 would be very difficult to square that with what the 14 existing policies are. So that's -- that's the -- 15 that's kind of how we approached it. 16 I mean, I'll highlight just briefly there's 17 this kind of formal -- and not unserious, but formal 18 issue we haven't got completely -- and I don't think 19 we're going to ever get completely the -- well, we're 20 probably not going to effort to get the complete answer 21 to. At some point the subsection we're talking about 22 disappeared from the published code, and we don't know 23 precisely why. We may find -- find -- we may be able 24 to figure that out, but it's not very important for 25 present purposes because the more important thing, from
Page 19 1 You know, if that -- say there are maybe two 2 people who make 4-by-4 signs in the whole state, for 3 example, and you happen to be in a relationship with 4 one of them or -- you know, you wouldn't -- you know, 5 you wouldn't want to -- that would be a real problem 6 and that -- you wouldn't want that to necessarily 7 disqualify you, but you'd have to basically ask 8 permission. 9 I don't think it's likely, but at least it's 10 to the point that I think came up around a percentage. 11 It's a way of addressing the issue of not being overly 12 -- of being clear without being -- leaving no freedom, 13 essentially, if there was a circumstance that arose 14 that met that requirement. We base that on the Maine 15 statute. The Maine statute is -- basically says if 16 you're a candidate or a candidate's spouse you can't 17 pay yourself at all. 18 And, you know, there is a -- and that does 19 bring in an issue we haven't directly addressed, which 20 is specifically salaries, right. So there's this idea 21 that has been out there to have, you know -- what 22 happens as we do the analysis is sort of these issues 23 start to intertwine, right. Really once you're talking 24 about how the Clean Elections money is being utilized, 25 you know, you sort of -- you sort of get to some	Page 21 1 our point of view, is to -- we need to update the rule 2 anyways. We have some things we want to address, we 3 think, or at least get feedback on. And so we'll have 4 time in the meantime, if we need to track that down 5 further, to do that, but -- because we're only asking 6 for public comment at this point, but we did want to -- 7 you know, we did want to kind of flag that as a -- as 8 a -- as a thing that exists. 9 So that's kind of all I really -- I really 10 had. I don't -- you know, I think that the goal here, 11 just to restate, is just to try to get at the 12 perception, whether it's real or not, that if you are 13 in a position where, you know, you are hiring a person 14 with whom you share household expenses or you're in a 15 marriage with or whatever, that, you know, that that's 16 a potential end run around not using Clean Elections 17 money for personal use. And that's the core of the -- 18 what we want to do here. 19 We also left in place the ability to hire and 20 pay family members. That's -- that doesn't change 21 outside of these -- these provisions, right. So if 22 your son is a campaign guru and you want to hire him, 23 so long as you're not paying him above a market rate 24 and that's disclosed, that's still going to be fine. 25 It's really -- it's really about -- and it's, again, a

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1 way of making sure that we're not being overly -- you 2 know, overemphasizing. So -- so -- 3 And then -- and then I just would say that 4 because Maine and our model, although they have more 5 funding available for candidates than we do, are 6 similar, developed at the same time and basically by 7 the same people, I mean, the fact that they have this 8 in law I thought was a pretty good indicator that it 9 must be a decent, workable policy, so... 10 CHAIRMAN KIMBLE: Initially, when we started 11 talking about this, this seemed to be an easy fix, like 12 you can't pay family members or spouses or significant 13 others or whatever; but the more we get into it, I 14 think you've identified that it's not that clear cut. 15 And so I think what you're proposing is a good 16 compromise between appropriate spending and not 17 disadvantaging candidates unfairly. 18 MR. COLLINS: Yeah, I hope so. 19 CHAIRMAN KIMBLE: Commissioner Paton. 20 COMMISSIONER PATON: So I'm not totally sure 21 I'm clear on really what the difference is. So what 22 I'm against is -- 23 COMMISSIONER WERTHER: Can you put your mic 24 on. 25 COMMISSIONER PATON: Oh, I'm sorry.	1 person available that could do it, which they would 2 have to prove. Other family members outside of the 3 household would be -- still be able to be paid at a 4 standard ordinary rate, which is -- so that's -- 5 So what this rule does is it exactly, we 6 think, meets what we think the issue that you've 7 identified is. I mean, the factual scenario you 8 identified is illegal under this rule. If your, you 9 know, family member who is not a part of your household 10 is -- works for your campaign, that's different because 11 of what the -- you know, because of the living 12 situation. And so the rule treats that differently. 13 So that's -- that's -- so we think we're -- we think 14 we're doing -- we think we're addressing precisely the 15 question you have. 16 COMMISSIONER PATON: So I -- I don't want to 17 get into minutia, but these people are going to come 18 before us. And so let's say your son doesn't live with 19 you and lives in north Tucson, I live in east Tucson -- 20 MR. COLLINS: Sure. 21 COMMISSIONER PATON: -- I'm the candidate. 22 Then I do a contract with him -- 23 MR. COLLINS: Yeah. 24 COMMISSIONER PATON: -- and say, we'll pay 25 you \$5,000 to do this, this, this, and this.
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1 What I'm against is we give somebody \$52,000, 2 and they write a check for \$48,000 to their significant 3 other, basically. 4 MR. COLLINS: Yeah. 5 COMMISSIONER PATON: So are we just funding a 6 lifestyle or are we funding the election matters of 7 this person? And I understand it's hard to kind of pin 8 down all these things. And then when you talk about 9 market rate, I mean, is there a market rate in Benson, 10 Arizona or -- so I -- I'm not sure exactly what we're 11 achieving here. 12 MR. COLLINS: So no -- Mr. Chairman -- I 13 mean, Commissioner Paton, yeah. So the first issue, 14 your -- your immediate problem is directly solved, in 15 our view, by Section -- what will be (F)(5) of the rule 16 that says that a candidate shall not use funds in a 17 candidate campaign account to compensate the candidate, 18 the candidate's spouse, or a person with whom the 19 candidate shares household expenses, or to pay an 20 enterprise owned by such individuals. That's -- that's 21 a black and white no. 22 So that transfer that you talked about, that 23 \$48,000 to the household, basically, that is forbidden, 24 you know. The only time that there would be an 25 exception is in this rare case where there's no other	1 MR. COLLINS: Yeah. 2 COMMISSIONER PATON: I mean, I would not be 3 opposed to something like that. 4 MR. COLLINS: Correct. 5 COMMISSIONER PATON: But then they'd have to 6 do the contract or something -- 7 MR. COLLINS: Correct. 8 COMMISSIONER PATON: -- to explain what 9 he's doing. It's just not a \$5,000 check to Billy Bob 10 and -- they're election expenses. 11 MR. COLLINS: That's correct. That is what 12 this rule says. 13 COMMISSIONER PATON: Okay. I'm fine with 14 that. 15 COMMISSIONER WERTHER: Mr. Chairman. 16 COMMISSIONER PATON: Not like I'm the arbiter 17 here, but -- 18 MR. COLLINS: You're an arbiter. 19 CHAIRMAN KIMBLE: Commissioner Werther. 20 Excuse me. Commissioner Werther. 21 COMMISSIONER WERTHER: So, Tom, I did -- I 22 just wanted to kind of make sure that I understood how 23 the rule was working. So under the new, I guess, 24 (F)(5) -- 25 MR. COLLINS: Yeah.

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1 COMMISSIONER WERTHER: -- so it's the 2 candidate, candidate's spouse, and the person with whom 3 they share household expenses -- 4 MR. COLLINS: Right. 5 COMMISSIONER WERTHER: -- to kind of capture 6 any other individuals. So that's the prohibition. 7 MR. COLLINS: Right. 8 COMMISSIONER WERTHER: But then Subsection 9 (b) says, of course, that you have -- I think it's kind 10 of trying to note that current exception, right, about 11 reimbursement -- 12 MR. COLLINS: Right. 13 COMMISSIONER WERTHER: -- for reasonable 14 expenses -- 15 MR. COLLINS: Yes. 16 COMMISSIONER WERTHER: -- and again includes 17 the same people, candidate, candidate spouse, and the 18 person who is sort of living in the household. 19 MR. COLLINS: Yes. 20 COMMISSIONER WERTHER: But I guess that's 21 where I'm not sure. Because are we only then kind of 22 trying to reference (F)(4), which is talking about sort 23 of that fair market -- you know, as long as it's not 24 exceeding fair market value? 25 MR. COLLINS: That's -- I'm sorry. Yes.	1 what (5)(b) is trying to allow, because it says does 2 not prohibit reimbursement to those individuals for 3 reasonable expenses. 4 MR. COLLINS: If you had a -- if you had a -- 5 I mean, we can make this clearer, but, I mean, 6 basically you can get reimbursed for gas, you can get 7 reimbursed for -- you know, I mean, there are express 8 provisions of the rules that allow you to get 9 reimbursed for those kinds of things, gas and going out 10 and buying paper supplies and that kind of thing. 11 COMMISSIONER WERTHER: And Mr. Chairman, Tom, 12 I guess -- and that's not limited to -- because like I 13 said, I see (F)(4), and that's only limited to family 14 member, which would not include someone who is not the 15 spouse who's just living -- sharing expenses. 16 MR. COLLINS: Correct. Correct. 17 COMMISSIONER WERTHER: So I didn't -- I just 18 wanted to make sure that, as we're doing this, that 19 we're, I guess, treating everybody -- you know what I 20 mean -- the same. If that exception exists that -- 21 would a person who's just sharing living expenses, I 22 guess, be eligible for reimbursement under the rules, 23 or do all the other times where it discusses 24 reimbursement only address family member, which would 25 not include --
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1 COMMISSIONER WERTHER: Because that only 2 replaced family members, and family member definition 3 doesn't seem like that encompasses someone who lives in 4 the household who is not a spouse. 5 MR. COLLINS: So, Mr. Chairman, 6 Commissioner Werther, I mean, the not -- we think that 7 the notwithstanding clause at the beginning says, we 8 don't care about what it says about family members in 9 (F)(5). If you're in these three buckets, regardless 10 of family membership -- because that also gets at the 11 fact that we -- if we -- 12 The other -- the other way to do this, which 13 I think would actually be more complicated, would be to 14 get in and change the family member definition itself 15 and start to try to include, as family member, living 16 expenses. So we thought it was simpler and cleaner to 17 just say, okay, you're a family member, X, Y, and Z, 18 and then -- and then you go to -- and then the next 19 section says, forget all that. If you're in these 20 buckets, which are not all family members, you are -- 21 you are -- you are out as a person who could get paid. 22 That's -- that's what we are trying to do. 23 COMMISSIONER WERTHER: Mr. Chairman, I have 24 another question. 25 Okay. I guess maybe then I'm confused by	1 MR. COLLINS: Well, the thought would be by 2 notwithstanding (F)(4), we're just -- the family member 3 rule doesn't talk about reimbursement at all. It just 4 talks about the sort of contract for campaign expenses. 5 So the -- so if you think about it, what 6 we're trying -- what we think the context is here for 7 (F)(4) is, you know -- is, you know -- I mean, there's 8 a fine difference, I suppose, but I think it is a 9 meaningful linguistic difference between payment and 10 reimbursement. Payment for services versus reimbursing 11 for expenses are not the same thing, at least under the 12 way that our rules treat them and certainly under the 13 way that our auditors treat them. So, for example, if 14 you -- our auditors can look and say, you reimbursed 15 for gas. That's -- that's going to be treated as a 16 reimbursement. 17 I mean, we didn't -- I mean, we didn't 18 recapitulate the entire rule scheme here and -- or -- 19 in terms of how every expense is accounted for between 20 the -- here, but -- so you have to sort of -- you don't 21 have to, but I'm urging you to take my word for it 22 that -- we could tighten it, and I think that's fair 23 game. What I -- what I -- but the premise that we're 24 operating from is that, you know, if you're -- if 25 you're paying for services from somebody, that is

Page 30 1 different than if you're reimbursing them for gas that 2 they use to, you know, run to the store because you 3 were at an event and they needed to go -- if you did 4 that. 5 I don't know -- I mean, I don't know how much 6 reimbursement actually happens. I don't think a ton 7 anymore because it's -- the volunteer activities are 8 mostly very clearly not contributions and there's -- 9 and there's lots of reasons why you wouldn't want to 10 spend your money on that. 11 So the idea here was to try to -- try to find 12 a way to, again, not deal with the issue we're trying 13 to deal with, which is a -- you know, the big payment 14 to a -- to a spouse or spouse equivalent or house -- I 15 mean, for example, I mean, there are -- I mean, if you 16 -- I mean, there are all kinds of ways in which you can 17 share living expenses, right. There's not just even 18 the relationship. This would mean if you are -- if 19 your son, who is a political consultant -- you know, if 20 you all are in -- living together and sharing your 21 expenses together, right, that counts, right. So that 22 -- so that's the bulk of what we're trying to get at. 23 So I think -- I guess if your real question 24 -- I think -- I think I understand the question to be, 25 does this exception eat the rule because it allows for	Page 32 1 just want to make sure. So when I look, then, at the 2 (5)(b) -- or, I'm sorry -- the (F)(5)(b), so 3 essentially it's only reimbursement to candidate's 4 spouse. So let's just focus on candidate's spouse, 5 because that's defined under family member. And 6 currently they, under (F)(4), would be allowed to have 7 the provisions of goods and services. As long as it 8 didn't exceed the fair market value, they could be 9 paid; but now they will not be, a candidate's spouse? 10 MR. COLLINS: Correct. 11 COMMISSIONER WERTHER: Okay. I think I just 12 wanted to make sure that I understood how that was 13 going to work. 14 MR. COLLINS: Right. No, I mean -- yeah. 15 Just to -- so, Mr. Chairman, Commissioner Werther, 16 right. So we wanted to carve out spouses and people 17 who are -- you're sharing your household expenses to 18 from the family member rule. The reason we're doing it 19 with the notwithstanding clause is because spouse is 20 included in the family members. And we thought it was 21 easier to do it this way -- it may not be. It may not 22 be. But, I mean, we thought at least it would be 23 easier to do that rather than to go in and tinker with 24 the family member definition, because the family member 25 definition gets into who can give money and there's a
Page 31 1 reimbursement. It would still have to be, I think -- 2 from my perspective, we think that it would still have 3 to -- it's supposed to be reasonable expenses otherwise 4 permitted under the Act. So it has to be a 5 reimbursable expense under the -- under the -- under 6 the Act or the rules and has to be reasonable. 7 So that is a thing we can assess. We can -- 8 we can -- we audit for that. We can say -- an auditor 9 can say, your reimbursement of someone for going to 10 pick up pizza -- let's say the pizza costs 10 bucks and 11 you reimburse them for 30 bucks, right. That's -- 12 that's why we think it's okay, because -- because we 13 think that it has to be a reimbursement otherwise 14 allowed, it has to be reasonable. And that, we hope, 15 is clear enough to say that that's -- that's 16 distinguishable from a payment of, you know, thousands 17 of dollars for -- for campaign services. 18 So it could -- could it be clearer? I mean, 19 I'm not saying it couldn't be. I mean, it could be. I 20 mean, you know -- I mean, that's -- I'm certain that 21 that's true, but I -- but I'm hopeful that the language 22 is sufficiently clear to put folks on notice about -- 23 that -- what's in and what's out. 24 COMMISSIONER WERTHER: Mr. Chairman, so I 25 guess -- and it's really just for my understanding. I	Page 33 1 bunch of other things that hinge off of that, so -- 2 potentially. 3 COMMISSIONER PATON: I have another comment. 4 CHAIRMAN KIMBLE: Commissioner -- 5 Commissioner Paton. 6 COMMISSIONER PATON: So I would just ask 7 that, when we're giving these people classes on doing 8 this, that we have a series of proper examples and a 9 series of illegal examples -- 10 MR. COLLINS: Sure. 11 COMMISSIONER PATON: -- so that we can -- so 12 we can address this with these people so we don't have 13 so many people coming for penalize -- penalties and so 14 on. I hate doing the penalties, but -- and if -- the 15 more black and white it is, the easier for us to do. 16 But in their minds, so that we can go back and say, 17 look, we showed you these -- these two examples and you 18 were in the class, you signed off on this, so now -- 19 you know, and now you're pulling this. 20 MR. COLLINS: Right. Right. 21 COMMISSIONER PATON: So I just think that if 22 we did something concrete like that -- 23 MR. COLLINS: Yeah. 24 COMMISSIONER PATON: -- so we could try to 25 make it more black and white to them --

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1 MR. COLLINS: Yes. 2 COMMISSIONER PATON: -- then I think it will 3 make all of our lives easier and then the public will 4 think that everything is on the up and up, you know, 5 which is -- a lot of this is what the public thinks 6 about politics and elections, because we hear all these 7 extraneous things about how stuff is not on the up and 8 up. 9 CHAIRMAN KIMBLE: Any other comments or 10 questions on this issue for Tom? 11 COMMISSIONER WERTHER: Mr. Chairman. 12 CHAIRMAN KIMBLE: Commissioner Werther. 13 COMMISSIONER WERTHER: I did have, I guess, 14 at least one. And as part of what Commissioner Paton 15 is saying, I think -- and I recently had to do a 16 presentation explaining what notwithstanding clauses 17 mean, so maybe I'm just really sensitive to this right 18 now. When I think someone who is looking at the 19 funding reads (F)(4), they may think that they're able 20 to do something that is prohibited under (F)(5), but 21 that's to that clarity, right, of making sure that they 22 understand. And I don't know if it's helpful, and 23 maybe it's too redundant, but if we could put in (F)(4) 24 like "except as provided in Subsection (5)," you know, 25 something to give them a clue that, oh, wait, it says	1 they need to look at. 2 MR. COLLINS: Yes. Yes. I certainly -- so 3 I'm putting that. 4 CHAIRMAN KIMBLE: Any other comments or 5 questions from Members of the Commission? 6 COMMISSIONER CRUMP: Mr. Chairman, I have 7 some questions. 8 CHAIRMAN KIMBLE: Yes, Commissioner Crump. 9 COMMISSIONER CRUMP: Thank you, Chairman. 10 Director Collins, do -- do these proposed 11 restrictions exist for traditional candidates at 12 present? 13 MR. COLLINS: Not that I know of, no. 14 COMMISSIONER CRUMP: Okay. And we -- we 15 have -- we presently have -- a big part of what our 16 Commission does and staff is we have an audit system to 17 look for inappropriate expenditures, right? 18 MR. COLLINS: Correct. 19 COMMISSIONER CRUMP: Okay. In doing just 20 kind of a quick search online about some of this stuff, 21 I noticed a couple of interesting things, that there's 22 a lot of variables that can go into this sort of action 23 and analysis. For example, the FEC, I think just 24 recently, it may have just been last year, allows 25 nonincumbent candidates for federal office, you know,
Page 35	Page 37
1 you can do this, but there is actually a different 2 prohibition. 3 MR. COLLINS: Sure. Yeah, that's -- so you 4 would -- I'm sorry. Mr. Chairman, so would you put 5 that -- something like in (4), like another -- an 6 additional line that says something like for -- like do 7 we want to put this in (F)(4) or (F)(5)? Because I 8 don't have any problem with doing -- 9 COMMISSIONER WERTHER: Yeah. Mr. Chairman, 10 Tom, I was thinking in (F)(4) -- 11 MR. COLLINS: Yeah. 12 COMMISSIONER WERTHER: -- sort of a, yeah, 13 "except as provided in, you know, Subsection (5) of 14 this section," or however we -- 15 MR. COLLINS: Right. 16 COMMISSIONER WERTHER: -- want to word 17 that -- 18 MR. COLLINS: And leave the notwithstanding? 19 COMMISSIONER WERTHER: -- and leave 20 everything else. 21 MR. COLLINS: And leave the notwithstanding? 22 COMMISSIONER WERTHER: Correct. 23 MR. COLLINS: Yeah. Yeah. Okay. I'm -- 24 COMMISSIONER WERTHER: Just then it gives 25 like a clue that there's actually another provision	1 Like Congress, to pay themselves a salary. And they 2 did that because they believe that creates more 3 diversity and more access to office for less wealthy 4 people. 5 And I believe, if I'm not mistaken, if 6 Connecticut is also a clean elections participating 7 state, they have this type of restriction and they made 8 it for any family member, and they have a full chart 9 that lays out all of the people that you could not do 10 this. 11 So I'm just saying, there's a lot of ways 12 this could be sliced and diced, if that's what we chose 13 to do; you've proposed one. I'm not a big fan of this, 14 as I think I mentioned during our last Commission 15 meeting, and I think the -- I'm concerned because I 16 think there's -- there could be quite a few appropriate 17 and -- you know, appropriate expenses by a candidate 18 paying, for example, their spouse who might be a 19 printer, who might be a consultant, who might be an 20 accountant, and all of a sudden now we have this 21 blanket prohibition on paying them for their services. 22 Whereas they might have been getting, you know, great 23 services at a great price, now they have to go, you 24 know, out on the market, if you will. 25 And I -- so to -- so to have this blanket

Page 38 1 prohibition to -- because of potential inappropriate 2 expenses or situations I think is sort of throwing the 3 baby out with the bathwater, to use that phrase. And I 4 think it's harmful and -- traditional candidates don't 5 have these restrictions, so I think it's harmful to 6 Clean Elections candidates to place these on them. So 7 I think we have an audit system in place to -- to watch 8 for inappropriate things, where it looks that 9 overpayments have been made and things like that. So I 10 wanted to share that -- those thoughts. 11 CHAIRMAN KIMBLE: Thank you, Commissioner. 12 Tom. 13 MR. COLLINS: Mr. Chairman, Commissioner, 14 I -- I mean, I think that that's -- I mean, I certainly 15 think that that's all reasonable and I -- as a factual 16 matter, I certainly agree with you. I mean, this -- 17 I mean, for purposes of discussion at least, 18 right, which is what this is, I mean, we are -- what we 19 will do, just to sort of put this in some procedural 20 context, we -- if you were to approve this for public 21 comment, we would publish a notice in the 22 Administrative Register and, you know, we would have a 23 public comment period of at least 60 days and then we 24 would get comment and then we would come back. 25 From my point of view and where to start, we	Page 40 1 other proposals that are better, you know -- 2 Let me put it this way. We don't have to 3 start public discussion today either. I mean, if there 4 are other -- and we put this on the Agenda just in 5 case -- just to be clear to anybody who wanted to be 6 here that we might get directed to have additional 7 research done on additional proposals, so -- we don't 8 usually put it in, so we made -- we wanted to make sure 9 that everybody understood -- the public would 10 understand precisely what you're saying here, that we 11 might have direction to look at other things. 12 So I'm happy to take that direction and, you 13 know, it's really up to you all how you want to -- how 14 you want to -- you know, how you want to address that. 15 I don't have a -- I don't have a -- I don't have a 16 strong emotional commitment to the -- to the proposal, 17 although I did like my -- I did like my illustration. 18 Anyway, that's about -- but, you know, but everything 19 else, I take your point. 20 COMMISSIONER CRUMP: Mr. Chairman. 21 CHAIRMAN KIMBLE: Commissioner Crump. 22 COMMISSIONER CRUMP: Director Collins, on 23 that point, since I've only been a Member for a short 24 while here, I'm just curious on the history of this. 25 Did the Commissioners ask you to come forward with this
Page 39 1 definitely have -- I think we have to do the 2 recodification regardless. I think that that is 3 something that is just -- it just is going to keep 4 clean -- it's a clean-up issue, unless we can find a 5 better solution. But in the meantime, we have to start 6 that process. 7 With respect to the merits of the proposal, I 8 mean, I think it sounds -- I mean, you all have a 9 discussion to have amongst yourselves as we get 10 feedback about that. I mean, my purpose here is really 11 to, you know, try to -- try to kick off the discussion 12 and have a proposal that I think we could work with and 13 that at least has some support with respect to other 14 programs. 15 But to your point, I mean, you know, yeah, I 16 mean, it is absolutely fair and within all of your 17 discretion to determine what you think the best 18 approach for the -- for the -- for the program is in 19 terms of how clean candidates are treated versus other 20 candidates. I certainly don't disagree with anything 21 you said. I just -- you know, we wanted -- we wanted 22 to start from a place where we were trying to, you 23 know, address the problem as we understand it, but 24 we're not married, as staff, to this. I mean, that's 25 your decision ultimately. And happy to -- if there are	Page 41 1 proposal? 2 MR. COLLINS: No. We divined, if you will -- 3 from listening to the conversation we've had over the 4 course of the last several meetings, there was one 5 discussion about a rule that's pending that will be up 6 in November related to this problem of -- that we had 7 with several candidates stopping filing reports, right. 8 We had -- that was a problem we had come up with -- 9 with a number of candidates. That was our initial 10 conversation. 11 And during that process, I think, leading -- 12 well, leading up to the rule proposal we made there and 13 then in that process we talked around this issue of 14 how -- how to address this -- this issue of where the 15 money goes, right. So they're two different issues. 16 We made a choice, as staff, the first 17 run-through to just focus on the reports, and so we 18 have a rule that will come back to you in November that 19 proposes to create a more teeth -- put more teeth in. 20 If you stop reporting, once you have been funded, 21 right, we will treat that more aggressively on the 22 front end. 23 So that's -- and as part of that discussion 24 and then the discussion last month we had around the 25 enforcement itself, you know, I -- you know, I -- no,

Page 42 1 this is -- this is initiated by me taking the input 2 that I've heard from everybody over the course of the 3 meetings we've had to try to address what I -- what 4 I -- I take to be a real policy issue that the 5 Commission -- that as a group there's interest in. 6 So, I mean, in that sense I -- so when I say 7 I don't have an emotional commitment on this, what I 8 mean is that, you know, I -- what I think we're 9 obligated to do, what we try to do as staff members is 10 hear what you all are saying in the meetings and try to 11 anticipate what policy direction you might be wanting 12 to move in and tee that up for a discussion so you all 13 can make decisions about it. 14 CHAIRMAN KIMBLE: So, Tom, let me ask you one 15 other question before we talk about what to do. 16 There's been discussion nationally and statewide about 17 security -- 18 MR. COLLINS: Sure. 19 CHAIRMAN KIMBLE: -- for candidates. Is 20 security a reimbursable expense under our rules now? 21 MR. COLLINS: To the extent -- yeah. So, 22 Mr. Chairman, yes. So this is about what you can't do. 23 What you can do is things that are direct campaign 24 expenses. And so, you know, the test you would apply, 25 as we would for any number of expenses, would be, you	Page 44 1 They have said two things. One, they're not going to 2 look at a complaint related to security and spending 3 campaign money, period. So they don't care. They're 4 not -- they're -- and that's a -- that's a -- that's 5 not necessarily a -- that's not necessarily a statement 6 of law. That's a statement of enforcement approach, if 7 that makes any sense, right. They're saying, don't 8 bring those complaints here. We don't want to hear 9 about them. 10 And then they say in the statement something 11 to the effect that paying for security is part and 12 parcel of every campaign, and therefore security 13 expenses, if you're a candidate, are all expenditures. 14 That has its own complicating factor in and of itself 15 because expenditures -- if it's an expenditure, it 16 can't be made by a company, it can't be made over 17 \$5,500 for a statewide elected or for a -- as an 18 in-kind contribution. 19 So if they mean what they say there -- so 20 those are conflicting things. In other words, one 21 thing says, we're not going -- as a policy matter, 22 we're not going to look at these complaints, but as a 23 legal matter, these are all expenditures inherently. 24 If they're all inherently expenditures, that actually 25 makes it harder, if they mean that -- and I'm not sure
Page 43 1 know, whether or not that security cost is associated 2 with the campaign and reasonable and therefore 3 appropriate. So this is a -- this is -- yeah. So we 4 believe that security costs are -- there's no express 5 authorization for security costs, but we believe that 6 the authorizations that exist for what you can spend 7 money on would include security costs already. 8 CHAIRMAN KIMBLE: And that would include 9 things like security upgrades to a residence, as well 10 as personal security? And do you feel like we should 11 spell that out, as I think the State has and the FEC 12 has? 13 MR. COLLINS: Well, so the Secretary of 14 State's Office and the FEC have said slightly different 15 things. The FEC has said something, I think, very 16 similar to what I have said, which is that you have to 17 be able to show a nexus between what you're -- the 18 campaign and the security costs you have. Now, if 19 there's a reason why your residential upgrades are -- 20 have a nexus to the campaign, let's say that's your 21 campaign headquarters or you're doing events at your 22 home or et cetera, there is an argument there and I 23 think that we would look at that seriously. 24 What the Secretary of State's Office has said 25 is something a little bit -- a little bit different.	Page 45 1 they do. If they mean that, that actually makes it 2 harder for traditional candidates to get that security 3 paid for, because it all has to be on the books, it all 4 has to be from an appropriate source at an appropriate 5 amount of money. And that actually makes it like more 6 complicated. 7 So I think that -- I think where the 8 Secretary comes out that matters for present purposes 9 is, we're not going to look at these at all. And I 10 think that's why, within our existing context, to 11 reference Commissioner Crump's point about the audits, 12 if somebody has an expense for security that we can 13 look at and we would scrutinize it, we would obviously 14 take into account the fact that the -- the enforcement 15 position of the Secretary is, we don't care about those 16 complaints, right, and we would look at it in view of 17 that. 18 But if we start to nail down -- if we were to 19 say that, for example, this is an expenditure that must 20 be paid with clean money, then -- then it's actually 21 making it harder for clean candidates, because if 22 it's -- if it's -- if it's not campaign, the clean 23 candidates can get the money from other places. It's 24 not an expenditure. You know, because we only deal 25 with expenditure -- contributions and expenditures.

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1 So I hate to -- I know that's a complicated 2 answer, but it -- but it -- but what it's trying to get 3 at is, our approach, which -- and this does really 4 reflect what Commissioner Crump is saying about this 5 issue is, our approach generally is we look at are you, 6 as a candidate, making a reasonable business decision 7 with public money and that can withstand scrutiny of 8 our -- of our office. That's our way of looking at it. 9 CHAIRMAN KIMBLE: Okay. So, Tom, correct me 10 on this. It seems like we can go one of a number of 11 different directions. We can say we will circulate 12 this as amended with the language that you and 13 Commissioner Werther agreed upon. We can circulate 14 it -- we can say we want to discuss it more. 15 Commissioner Crump brought up a couple of concerns. 16 What -- what would be the best guidance to you of where 17 we go from here? 18 MR. COLLINS: Well, I think -- Mr. Chairman, 19 I think a couple things. I think -- I think -- I'm 20 happy to, you know, separately get together with 21 Commissioner Crump and we can talk about what we 22 might -- better hone in on the issue to make sure that 23 I -- you know, we have something to make -- to advance 24 that discussion at an additional meeting. And I'm 25 happy to do that.	1 me -- in just hearing what you all are saying, that, to 2 me, is the choice. 3 702 (F)(1) through (4) is the -- is the 4 status quo. We are recapitulating the status quo and 5 making sure that that -- we are fixing this -- this 6 codification glitch. 7 Adding (5), that's the new stuff, and it -- 8 and this is the beauty of the notwithstanding clause -- 9 and even people that -- yeah, I mean -- I, you know -- 10 but is that it is like a pod, you can eject it, and the 11 rest of the -- the rest of the language stays the same, 12 so -- 13 So that, to me -- based on listening to all 14 of you talk about this, that's really the question 15 right now is whether or not you want to -- if you're -- 16 if you're not at a consensus or -- and you'll have to 17 vote on this, obviously -- but if you're not at a 18 consensus around what to do with (F)(5), there's no -- 19 you could -- you could take that off here and we don't 20 lose anything in (F)(1) through (4) that's not an 21 existing rule. 22 CHAIRMAN KIMBLE: Okay. Commissioner 23 Werther, do you want to make a motion? And I think 24 we've got to have some understanding that when we -- 25 when this comes back to us or at some future point,
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1 For present purposes, though, my -- I mean, 2 my recommendation would be, in part because I do want 3 to get the process of fixing this codification issue 4 done, I think it would be -- I think it would be good 5 to move ahead with this. 6 Now, that said, another way you could 7 structure it to address Commissioner -- and this is -- 8 you all have to decide this, is you could advance 9 proposed 702(F) except (5), right. So the way (5) is 10 written, you can excise it, and everything else is 11 fine. You just get what was previously -- what was 12 previously codified, what we think -- you know, in, 13 right. 14 So that's -- so to sort of line this up, I 15 think for -- with respect to making sure that I 16 understand and am appropriately advising everybody and 17 assisting everybody, I can talk to Commissioner Crump, 18 if he's interested, I mean, about what we might do to 19 coordinate that. For discussion purposes of what we 20 advance, the choice, it seems to me, that the four of 21 you have is do you do proposed 2-20-702(F)(1) through 22 (4) or do you do proposed 702(F)(1) through (5) with 23 the language -- with the additional language, "except 24 as provided," you know, the additional language we 25 talked about with Commissioner Werther. So that, to	1 we've got to do something to address Commissioner 2 Crump's concerns, which I think are -- I agree with a 3 lot of them. 4 MR. COLLINS: Right. Well -- yeah. 5 COMMISSIONER WERTHER: Mr. Chairman, I guess 6 before I make a motion -- I mean, I understand the 7 concerns as well from Commissioner Crump, so I'm fine 8 excising (F)(5) at the moment, but I -- I think there 9 were legitimate concerns of why this was brought 10 forward, and I'm still not comfortable sort of having a 11 clean candidate basically pay somebody, you know, clean 12 money as what's happened recently. So I do still feel 13 like we need to address it at some point, but I'm fine 14 with that being reworked if Tom can talk with 15 Commissioner Crump. So, I mean, I'm fine with excising 16 (F)(5) for the moment to at least get the current rule 17 recodified, so I'm happy to make that motion. 18 So I just move to, I guess, approve -- 19 MR. COLLINS: Well, it would be to circulate 20 for public comment 702(F)(1) through (4). 21 COMMISSIONER WERTHER: What Tom said, that's 22 the -- that's the motion. 23 CHAIRMAN KIMBLE: Okay. So Commissioner 24 Werther has moved that we circulate for public 25 comment --

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1 COMMISSIONER WERTHER: R2-20-702(F) through 2 (4), excising subsection (F)(5). 3 CHAIRMAN KIMBLE: Is there a second to that? 4 COMMISSIONER CRUMP: I'll second that. 5 CHAIRMAN KIMBLE: Okay. Thank you, 6 Commissioner Crump. 7 So it's been moved and seconded that we -- 8 I'm losing all my notes here -- that we circulate for 9 public comment R2-20-702, with the exception of (F)(5), 10 and I will call the roll on that motion. 11 Commissioner Werther. 12 COMMISSIONER WERTHER: Aye. 13 CHAIRMAN KIMBLE: Commissioner Paton. 14 COMMISSIONER PATON: Aye. 15 CHAIRMAN KIMBLE: Commissioner Crump. 16 COMMISSIONER CRUMP: Aye. 17 CHAIRMAN KIMBLE: Chair votes aye. 18 It's approved 4-to-nothing. 19 That was painful. Thank you. 20 Item V, discussion and possible action on 21 proposed conciliation agreement in MUR 25-02, Anna 22 Abeytia, 2024 legislative candidate. The Executive 23 Director has recommended a conciliation agreement 24 regarding Representative Abeytia. Tom will present his 25 recommendation and take questions.	1 to seek or accept Clean Elections funding in any other 2 future election. 3 MR. COLLINS: Yeah. 4 CHAIRMAN KIMBLE: Are there any comments or 5 questions from any Member of the Commission on this 6 proposed conciliation agreement? 7 (No response.) 8 CHAIRMAN KIMBLE: Representative Abeytia, did 9 you want to speak? 10 MS. ABEYTIA: Hello, can you hear me? 11 CHAIRMAN KIMBLE: Yes, we can. 12 MS. ABEYTIA: Oh, thank you. I just -- well, 13 for one, I want to apologize for not being in person. 14 I have a 2-year-old. And I have been on Zoom with you 15 for most of this meeting, and it really would have been 16 painful for all of us with my 2-year-old running around 17 in person. But I do not have childcare at the moment, 18 so I just want to, one, thank you all for the option to 19 have Zoom available, because it does -- it does work 20 out for me and for my daughter. So, one, thank you. 21 Two, again, I just want to reiterate that I 22 acknowledge that I wasn't responsible during the 23 election by reporting and I wasn't doing my part as far 24 as having communication with -- with Clean Elections 25 even after, so -- and, yeah, I just -- I just want to
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1 Tom. 2 MR. COLLINS: Mr. -- Mr. Chairman, 3 Commissioners, and Representative Abeytia is here, I -- 4 I just want to say up front, I -- she is appearing via 5 Zoom. I expressly said that that was -- I said that 6 was the best idea. She has a childcare issue today, 7 and coming down here with, you know -- sitting through 8 that discussion, as edifying as it would have been for 9 a kid, I think it was probably -- so that's on me. 10 That's my recommendation to her. 11 Anyways, we are back with the -- with an 12 altered conciliation agreement. The major shift in 13 terms is the stipulated fine is significantly higher. 14 It is \$10,000. Everything else is the same. And so I 15 don't have much to add beyond what I -- what I said 16 last time. And as I mentioned, the Representative is 17 here via Zoom and available and -- but, you know, I 18 believe that this agreement has sufficient both 19 financial penalties, the repayment order incorporated 20 into it that -- for her, and also has a strong default 21 provision that, taken together, you know, make this 22 a -- an appropriate and, you know, reasonable public 23 settlement. 24 CHAIRMAN KIMBLE: And I wanted to point out 25 that it also includes a provision that she agrees not	1 acknowledge my -- my lack of doing so and take 2 accountability for that, so -- and since then I have 3 been in communication with Thomas and just trying to, 4 you know, figure out what we're -- where we go from 5 here. 6 So I just want to thank you all for giving me 7 the opportunity to be in this process. I know it sucks 8 for you all, and I apologize for that. But, again, I 9 just -- I want to make sure that you guys are aware 10 that I am apologetic of -- of the situation. 11 CHAIRMAN KIMBLE: Thank you, Representative. 12 No apologies necessary for attending on Zoom. We're 13 happy to accommodate you. 14 Any comments or questions from Members of the 15 Commission? 16 (No response.) 17 CHAIRMAN KIMBLE: Is there a motion to accept 18 this conciliation agreement? 19 COMMISSIONER WERTHER: Mr. Chairman, I move 20 to approve the proposed conciliation agreement in MUR 21 25-02. 22 CHAIRMAN KIMBLE: Thank you, 23 Commissioner Werther. 24 Is there a second? 25 COMMISSIONER PATON: I'll second.

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1 CHAIRMAN KIMBLE: It's been moved and 2 seconded that we approve the conciliation agreement in 3 MUR 25-02. I'll call the roll. 4 Commissioner Werther. 5 COMMISSIONER WERTHER: Aye. 6 CHAIRMAN KIMBLE: Commissioner Paton. 7 COMMISSIONER PATON: Aye. 8 CHAIRMAN KIMBLE: Commissioner Crump. 9 COMMISSIONER CRUMP: Aye. 10 CHAIRMAN KIMBLE: Chair votes aye. 11 The agreement is approved 4-to-nothing. 12 Thank you for your time, Representative 13 Abeytia. 14 Item VI, discussion and possible action 15 on proposed conciliation agreement in MUR 24-05, 16 Frank Roberts. 17 Tom. 18 MR. COLLINS: Yes. So, Commissioners -- 19 Mr. Chairman, Commissioners, and I think -- I don't -- 20 I'm not sure -- I don't believe Mr. Roberts is going to 21 be here, but he did submit a written statement. 22 I -- I think that -- so this candidate's 23 situation is slightly different. They filed reports, 24 but the reports were, you know, kind of -- well, were 25 woefully incomplete. We were able to get the candidate	1 develop the conciliation the last time we had a 2 reporting issue like this, so not a non-file, but an 3 insufficient file. The fine was about a thousand 4 dollars. So we think a \$1,500 fine is appropriate. 5 And like I said, this is a novel approach for 6 us. You know, again, what we're trying to do here both 7 with -- how we've gone about it with Representative 8 Abeytia in terms of her not running clean. What we're 9 doing here with Roberts is another novel approach, 10 which is the -- we will -- if you're going to do this 11 again, because he is going to run clean again, we are 12 going to say, you're -- you've got to -- you've got to 13 provide us additional reports so that we know what 14 you're doing. And we think that that will be -- now, 15 that's a little more work for us, but we think in the 16 long run it's a better -- it's an appropriate approach. 17 We think had we just switched over and said, 18 okay, pay the fine and just go on, without any 19 additional monitoring, I think that would have been -- 20 I think that would have been -- that would be -- that 21 would have been too difficult for us to -- that would 22 have left this hanging, right. We really wanted to 23 have that additional monitoring. And so that's what 24 we're -- that's what we proposed here. 25 And we do think that the candidate recognizes
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1 engaged with our auditors; I did file a complaint to 2 prompt that ahead of that. The process has been slow, 3 but steady. And so we are now at a place you have the 4 audit report. The audit report, you know, demonstrates 5 that there's no substantial issues with the actual 6 expenditures. The candidate has agreed to hear -- 7 again, there's a distinction here because of the 8 responsiveness and because there were reports, albeit 9 reports that were not sufficient. 10 The thought here is that we would have this 11 candidate essentially on a form of probation, where 12 they're filing -- filing additional reports with staff 13 so that we can check in with them, rather -- in 14 addition to the reports they're required to file, and 15 that there -- and that there be a fine there as well. 16 So -- so that is the -- that is -- we think 17 that that -- you know, we are trying, as we talked -- I 18 spent a lot of time on this last time. I don't want to 19 recapitulate all my -- the thoughts we tried to put in 20 this. But what we're trying to do here is find a fair 21 outcome that takes into account, you know, the conduct 22 differences among not just this case, but -- not just 23 this set of cases this year, but the cases over time. 24 The last time we had a similar -- I looked at 25 this and, in fact, it's the very document I used to	1 that. We think that, you know -- again, attendance 2 here -- some of the -- most of the candidates have 3 other things and our schedule is fixed. Again, I don't 4 take anything -- I personally, you know, am not -- have 5 not been -- you know, I thought having the letter would 6 be sufficient. I mean, so I'm not -- I'm not as -- I'm 7 not as concerned about that, although I know it's a 8 concern for Commissioners. 9 So that's it. I guess I'll leave it there. 10 We think this is a fair resolution that -- consistent 11 with other -- in other settlements we've done on the 12 issue of not failure to file, but failure to 13 sufficiently report within the filing. 14 CHAIRMAN KIMBLE: Thank you, Tom. 15 Are there any questions or comments from 16 Members of the Commission? 17 COMMISSIONER PATON: I guess I have a 18 question, comment. 19 CHAIRMAN KIMBLE: Commissioner Paton. 20 COMMISSIONER PATON: In the -- we haven't had 21 these issues, that I can remember, in the seven or 22 eight years that I've been doing this. Is there some 23 confusion in the classes that they don't understand 24 that they have responsibilities to turn stuff in? I 25 don't understand what's going on here, I guess.

Page 58 1 MR. COLLINS: Well, Mr. Chairman, 2 Commissioner, I mean, the rule we have coming up in 3 November for final approval is a rule that says that if 4 you didn't understand this going through, you didn't 5 understand it when you read it from the Secretary of 6 State's materials, you didn't understand it when you 7 read it in our materials, you didn't understand it when 8 Mike told you, and you didn't understand any of that, 9 if you don't file a report within five days after -- 10 when you have a report due and you've been funded, 11 we're going to initiate a repayment order. So that's 12 the rule that will be up for a vote in November. 13 So if there's some -- if there's some gap 14 that's been -- that's there, we think that that new 15 rule, which says that when you get the notice from the 16 Secretary of State's Office that says you're late, you 17 will also get a notice from us that says, and we're 18 going to ask for the money back, that should be a 19 strong incentive for a clean candidate to file 20 promptly, you know, because it will be on the same 21 calendar. So that's our goal, but we -- that's the 22 best way we can think of to try to put some teeth in 23 beyond the fines that are there and stuff. We think -- 24 Because the issue here is, to your point, is 25 to be on the front end of this, not on the back end of	Page 60 1 reason for default if he stopped doing his monthly 2 reports. 3 And then I also just wanted to clarify, 4 because on the last page on Section 21 it says that 5 these matters are terminated once completion of the 6 requirements. So are we thinking completion of the 7 requirements is going to just be extended because of 8 that reporting requirement, or is it -- 9 MR. COLLINS: Let me look. 10 COMMISSIONER WERTHER: -- when the fine is 11 due? 12 MR. COLLINS: Well, I mean, I would say this. 13 Default, meaning would we collect the fines if they 14 failed to -- default defined as would we go after more 15 collection if he failed to file the report, that's 16 right, we would not. We would -- we might -- I mean, 17 we could probably demand specific performance. We 18 could -- you know, we could -- I mean, we could do -- 19 we could do some -- some -- I mean, they would be in 20 breach of contract. 21 There's a -- difference being that, you know, 22 that because it's not a default, at least as I 23 understand it, it would not mean we would immediately 24 accelerate to an additional fine. But I don't know 25 that we would want to do that anyways. In other words
Page 59 1 this. We have not figured out any common -- I mean, 2 there were two candidates who ran together, but their 3 cases are kind of separate. There were four candidates 4 altogether in this boat. They are -- they are four 5 different people. They're from different parts of the 6 state. They're from different districts. They're from 7 different backgrounds. They're from different parties. 8 I mean, there is no common thread that we've been able 9 to find. 10 I mean, we've had situations before where -- 11 and this is true. We have had situations before where 12 we've had one treasurer do the same wrong thing in five 13 different candidate matters, right. And then we can 14 say, well, that's this, right. But we have not been 15 able to find anything that would relate these together 16 other than, you know -- other than, you know -- you 17 know, just a -- just -- I don't have -- so I don't have 18 an answer. But we do think that the rule -- going 19 forward, the rule we have up in November is designed to 20 address that, we hope. 21 COMMISSIONER WERTHER: Mr. Chairman. 22 CHAIRMAN KIMBLE: Commissioner Werther. 23 COMMISSIONER WERTHER: Tom, I just wanted to 24 get clarification about the extra report, so on Page 2 25 under (2)(b). So it doesn't look like that would be a	Page 61 1 -- but they would be in breach, which -- what does that 2 mean in this case? It would mean that -- the breach of 3 the contract would mean that the contract was off and 4 we could pursue that, it would just be -- we wouldn't 5 immediately accelerate. That's how I understand that. 6 You know, if that -- in other words, there are degrees 7 of -- of issue -- of issue here. 8 I'm fairly confident that he's going to -- 9 that he's going to do this. If, you know -- and if he 10 doesn't, he's in breach. And if he's in breach, then 11 the contract is breached and we would -- we just would 12 not accelerate the fines. We would have -- we would 13 have a process. But I think that recognizes the 14 difference between the financial and the reporting 15 issue, so -- I don't know. It's your -- it's your 16 decision, obviously. I think that that's a -- I think 17 that's a distinction with a difference. 18 COMMISSIONER WERTHER: Mr. Chairman -- so, 19 Tom, yeah, I'm just seeking clarification. 20 MR. COLLINS: No. No. Of course. No. No. 21 I know. 22 COMMISSIONER WERTHER: Yeah, especially on 23 the last. So let's say he pays all the fines, he pays 24 the \$1,500, he's done. Is this agreement then 25 terminated, or is he still going to be required to

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1 report monthly? 2 MR. COLLINS: He would not have completed the 3 requirements of the agreement. 4 COMMISSIONER WERTHER: Okay. 5 MR. COLLINS: The -- it is -- it is perfectly 6 reasonable, however, if you would like -- if you would 7 like to add in language. The way we could do this is 8 in Paragraph 7 we could add in language that says, "any 9 of the following," and then -- and then add, "(e) 10 Fails to" -- "fails to comply with any" -- "with any 11 other provision of this agreement," and then authorize 12 me to make that settlement with him with that term. 13 And I would say, this is the -- this is the -- this is 14 the deal. 15 And then it's up to him if he wants to -- if 16 he wants -- if that's a hangup for him. I suspect it's 17 not, and I think that will be fine and -- because it's 18 discrete, it seems like it would be discrete, I 19 would -- I would be happy to take that back as a 20 counteroffer, essentially, and say I'm authorized to 21 sign this under this condition and that's how we would 22 do it. 23 COMMISSIONER WERTHER: I mean, Mr. Chairman, 24 it's more just for clarity, so -- you know, because if 25 obviously he doesn't file his reports, I just don't	1 COMMISSIONER WERTHER: Aye. 2 CHAIRMAN KIMBLE: Commissioner Paton. 3 COMMISSIONER PATON: Aye. 4 CHAIRMAN KIMBLE: Commissioner Crump. 5 COMMISSIONER CRUMP: Aye. 6 CHAIRMAN KIMBLE: Chair votes aye. 7 The motion is approved 4-to-nothing. 8 Item VII, public comment. This is the time 9 for consideration of comments and suggestions from the 10 public. Action taken as a result of public comment 11 will be limited to directing staff to study the matter, 12 rescheduling it for further consideration, or 13 responding to criticism. Please limit your comments to 14 no more than two minutes. 15 Does any member of the public wish to make 16 comments at this time? There's no one here. Anyone on 17 Zoom wish to make comments? 18 (No response.) 19 CHAIRMAN KIMBLE: Hearing none, the public 20 may also submit comments by e-mail at 21 ccec@azcleaselections.gov. 22 Item VIII, adjournment. At this time, I 23 would entertain a motion to adjourn. 24 COMMISSIONER WERTHER: Mr. Chair, I move to 25 adjourn.
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1 want us to be in a weird limbo while he's not following 2 it, but yet the fine is paid. And so I would be open 3 to adding that -- that Subsection (e) to 7 if everybody 4 else is okay with that. 5 CHAIRMAN KIMBLE: Are there any other 6 comments? 7 (No response.) 8 CHAIRMAN KIMBLE: Commissioner Werther, do 9 you want to make a motion that will include your 10 addition? 11 COMMISSIONER WERTHER: Yeah. Mr. Chairman, I 12 move to approve the proposed conciliation agreement in 13 MUR 24-05 with the addition of a new Subsection (e) 14 under 7 on Page 3 that adds, under the default, that if 15 the -- Mr. Roberts fails to comply with any other 16 provision of this agreement. 17 CHAIRMAN KIMBLE: Is there a second? 18 COMMISSIONER PATON: I'll second. 19 CHAIRMAN KIMBLE: Thank you, 20 Commissioner Paton. 21 It's been moved and seconded that we approve 22 the conciliation agreement MUR 24-05 with an addition, 23 as -- as spelled out by Commissioner Werther, adding a 24 Section (e) to 7 on Page 3. I will call the roll. 25 Commissioner Werther.	1 CHAIRMAN KIMBLE: Thank you, 2 Commissioner Werther. 3 Is there a second? 4 COMMISSIONER PATON: I second. 5 CHAIRMAN KIMBLE: I will call the roll. 6 Commissioner Werther. 7 COMMISSIONER WERTHER: Aye. 8 CHAIRMAN KIMBLE: Commissioner Paton. 9 COMMISSIONER PATON: Aye. 10 CHAIRMAN KIMBLE: Commissioner Crump. 11 COMMISSIONER CRUMP: Aye. 12 CHAIRMAN KIMBLE: Chair votes aye. 13 We are adjourned. Thank you. 14 (The meeting concluded at 11:23 a.m.) 15 16 17 18 19 20 21 22 23 24 25

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1 STATE OF ARIZONA)
) ss.

2 COUNTY OF MARICOPA)

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4 BE IT KNOWN that the foregoing proceedings
5 were taken by me; that I was then and there a Certified
6 Reporter of the State of Arizona; that the proceedings
7 were taken down by me in shorthand and thereafter
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9 the foregoing pages are a full, true, and accurate
10 transcript of all proceedings had and adduced upon the
11 taking of said proceedings, all to the best of my skill
12 and ability.

13

14 I FURTHER CERTIFY that I am in no way related
15 to nor employed by any of the parties hereto nor am I
16 in any way interested in the outcome hereof.

17

18 DATED at Tempe, Arizona, this 27th day of
19 October, 2025.

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Kathryn A. Blackwelder, RPR
Certified Reporter #50666

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**CITIZENS CLEAN ELECTIONS COMMISSION
EXECUTIVE DIRECTOR REPORT
November 20, 2025**

Announcements:

- Gina was appointed to the National Voter Registration Day Steering Committee. National Voter Registration Day is a nonpartisan civic holiday dedicated to celebrating our democracy. In its 13-year history, NVRD partners have registered more than 6 million Americans to vote. Gina will join the Kentucky and Minnesota Secretaries of State, two Election Assistance Commission members and a host of other election experts and democracy advocates on the committee.
- We will host a second televised town hall for this year on healthcare issues with Telemundo. There are 10 audience seats available to us. The recording will be in Spanish.
- Ten counties conducted local elections on November 4. Results can be found on the website. Commission staff was featured discussing the election and the results on Arizona's Family Television (Channels 3 & 5 in Phoenix).
- The Secretary of State's Office release voter registration numbers for October 2025.

Voter Registration Statistics – October 2025

Party Name	Registered Voters	Percent
Republican	1,603,141	35.63%
Democratic	1,269,886	28.23%
Libertarian	32,026	0.71%
No Labels	42,277	0.94%
Green	5,212	0.12%
Other	1,546,453	34.37%
Total	4,498,995 --	

Source: <https://azsos.gov/elections/election-information/voter-registration-statistics>.

Voter Education and Outreach:

- Tom, Gina, and Avery attended the Strategic Partnerships for Arizona Elections (SPACE) **Tribal Summit planning meeting** with tribal governments, county officials, and state agencies.
- Avery served as a guest speaker for Mi Familia Vota's Fall Emerging Leaders Fellowship Program.
- Avery met with Downtown YMCA Executive Director Artemisa Martinez to discuss an upcoming voter education event.

- Gina and Avery participated in the Arizona Civics Coalition meeting to explore civic engagement opportunities for 2026.
- Gina and Avery are scheduled to meet with Civics Matter Arizona to plan the upcoming Civics Summit.
- Gina plans to attend the SCETL event, *The Three Threats to Tocquevillian Democracy*.
- Gina is participating in ASU's Mechanics of Democracy Lab and the AI + Elections Bootcamp.
- Avery continues active collaboration with the Arizona African American Legislative Council and the AZSOS Engagement Advisory Board.
- **2026 Planning Underway**
- Preparations for **creative asset production, debates, and voter education initiatives** are in progress.

Administration:

- Participating Candidate Workshops began in July with seven having been completed and two more scheduled in December. 16 candidates have attended the workshops. The schedule for 2026 workshops will be available on the Commission's website beginning in January.

Legal:

- Center for Arizona Policy v. Arizona Secretary of State, Arizona Supreme Court No. CV-24-0295-PR.
 - Oral argument was held September 11. This is a state constitutional challenge to Proposition 211.
- Americans for Prosperity v. Meyer, No. 24-2933 (9th Cir.).
 - Pending at the Ninth Circuit following May Oral Argument.
- Montenegro v. Fontes, Arizona Supreme Court No. CV-24-0166-PR.
 - For more details see this agenda.
- The Power of Fives, LLC v. Clean Elections, CV2021-015826, Superior Court for Maricopa County & Clean Elections v. The Power of Fives, LLC et al. CV2022-053917, Superior Court for Arizona. Briefing on the Defense Motion for Summary Judgement in CV2021-015826 is complete.
- Branch et al. v. Collins, et al., CV2024-004136 in Superior Court for Maricopa County. Oral argument on Defendants motion to dismiss was held November 17.

Other legal:

- Oral argument was scheduled for November 19 in *Petersen v. Fontes*, 1 CA-CV 25-0219. The appeal is from a superior court order enjoining several provisions of the 2023 Election Procedures Manual. Please let me know if you would like additional details.
- Congresswoman Adelita Grijalva was sworn in to complete the congressional term of her father the late Raúl Grijalva.
- In December, the U.S. Supreme Court will take on a campaign finance case related to an existing federal law restricting party coordination with federal candidates. We will provide more details in future reports.

Appointments:

- Staff continues to monitor appointments, and direct interested applicants to the appropriate officials.

Complaints:

- MUR 24-01, Barnett
- MUR 25-01, Jaramillo
- MUR 25-03, Timberlake
- MUR 25-04, Turning Point
- MUR 25-05, Turning Point

2025 Regulatory Agenda:

The Commission may conduct a rulemaking even if the rulemaking is not included here. The Commission will consider revisions to Ariz. Admin. Code § R2-20-702 related to use of funds on this agenda. The following information is provided under A.R.S. § 41-1021.02:

- Notice of Docket Opening: 31 A.A.R. 2255 (revision and addition of funding rules), https://apps.azsos.gov/public_services/register/2025/27/contents.pdf.
- Notice of Proposed Rulemaking: 31 A.A.R. 2141 (revision and addition of funding rules), https://apps.azsos.gov/public_services/register/2025/27/contents.pdf.
- Supplemental Notice: Pending. 31 A.A.R.3917 (setting our next meeting to consider rules related to campaign finance report and monitoring of clean candidate funds). https://apps.azsos.gov/public_services/register/2025/40/contents.pdf.
- Federal funds for proposed rulemaking: **None**
- Review of existing rules: **Five Year Report Approved 9/2/2025**
- Notice of Final Rulemaking: **None.**
- Rulemakings terminated: **None.**
- Privatization option or nontraditional regulatory approach considered: **None Applicable.**



State of Arizona
Citizens Clean Elections Commission

1110 W. Washington St. - Suite 250 - Phoenix, Arizona 85007 - Tel (602) 364-3477
Fax (602) 364-3487 - www.azcleanelections.gov

MEMORANDUM

To: Commissioners

From: Thomas Collins

Date: 11/18/25

Subject: Process, Policy & Voter Education issues arising from No Labels Party name change request & approval

Introduction

The Secretary of State's October 16, 2025 decision raises questions about alignment with established election-administration practice. *See* Letter from Ariz. Sec'y of State to Paul Johnson, Chair, No Labels Party (Oct. 16, 2025) (responding to Oct. 8, 2025 name-change request). By approving the No Labels Party's request to rename itself the Arizona Independent Party, the Secretary authorized an action with wide implications for party recognition, voter registration, and the meaning of the term "independent" in Arizona law and in common parlance among administrators and voters themselves.

This memorandum outlines the Secretary of State's October 16 decision and identifies the administrative, legal, and voter-education issues that now arise for election officials. The analysis highlights outstanding implementation questions and statutory considerations that may require clarification, particularly given the long-established use of the term "independent" to describe unaffiliated voters. The memo is intended to support informed Commission discussion and preparation for potential policy, operational, or communication needs without predetermining any course of action.

The Commission has express authority over voter education, including producing the only state government guide to elections that will be issued to voters before the primary. That guide includes not only profiles of all eligible candidates, but also detailed information on voter participation in the primary election. The Commission works in partnership with County Recorders and election departments to provide information on elections throughout the state, including participation of voters and candidates.

Summary and Background

The Secretary of State Office's decision was issued without any apparent prior public notice and will take effect on December 1, 2025. In the weeks following the announcement, county recorders and stakeholders have raised concerns about administrative impact, potential voter confusion, and related changes to the state procedures. These developments now intersect with the Commission's statutory responsibilities for voter education and nonpartisan public information.

The Secretary of State's Decision

According to the Secretary's approval letter, the decision rests on two core premises:

(1) that Arizona statutes do not address political party name changes and, in the Secretary's view, statutory silence should be interpreted to permit actions not expressly prohibited; and

(2) that political parties possess broad First Amendment associational rights, and therefore the Secretary should defer to a party's internal determination to change its name. The Secretary has also publicly stated that this interpretation requires state election agencies to discontinue the use of the word "independent" to describe unaffiliated voters.

Timeline of Key Events

October 8, 2025 – The No Labels Party, through its chair Paul Johnson, submitted a written request to the Secretary of State seeking to change the party's name to the Arizona Independent Party.

October 16, 2025 – The Secretary approved the request, reasoning that because Arizona law does not expressly prohibit party-name changes, such an action is permitted, and that political parties enjoy broad First Amendment rights to manage their internal affairs.

October 17, 2025 – Axios Phoenix reported the decision publicly. The announcement was the first indication that such a name change had been considered or approved. Jeremy Duda, *No Labels Becomes Arizona Independent Party*, Axios Phoenix (Oct. 17, 2025), <https://www.axios.com/local/phoenix/2025/10/17/no-labels-arizona-independent-party>.

Early November 2025 – The Arizona Republic reported concern among county recorders about potential confusion for voters and noted statements from Secretary Fontes indicating that election agencies could no longer use the word independent to describe unaffiliated voters. Ray Stern, *Party Name Change Could Lock Some Independent Voters Out of Key Arizona Primaries*, Arizona Republic (Nov. 4, 2025) (quoting Secretary Fontes as stating “[t]he word 'independent' will now be associated with the Arizona Independent Party as an official party. . . . We have been using the moniker 'independent' and the word 'independent' to speak to the notion that you're not affiliated with a party. Well, now there's a party labeled 'independent' — we can't do that anymore.”). <https://www.azcentral.com/story/news/politics/arizona/2025/11/04/party-name-change-could-lock-some-independents-out-of-key-az-primaries/87057004007/>

Current Status

The name change is scheduled to take effect December 1, 2025, according to the Secretary of State’s approval memorandum. We are awaiting further information from the Secretary’s Office but we anticipate several immediate effects of the decision including:

1. Updating the voter registration records of No Labels Party members and issuing related notice to those voters.
2. Updating Motor Vehicle Division voter registration interface.
3. Amending guidance in the pending Election Procedures Manual.
4. Preparing for requests from independent voters during the state primary election.

Because of the particular name the Secretary of State’s Office approved we anticipate ongoing voter confusion.

Independent voters who make a voter registration selection that is not consistent with their intent will find themselves unexpectedly limited in their choices of candidates for whom they can sign petitions and primary ballots they would otherwise be eligible to cast.

For instance, independents may choose a ballot of the Democratic, Republican or No Labels parties. (Note: Libertarian and Green are currently closed to independents). Independents can also choose a nonpartisan local ballot. Many do, since they again don't want to be affiliated with a party. If they mistakenly register with AIP, they can no longer choose a nonpartisan local election ballot (if it exists for their jurisdiction). John Myers, Christine Mai-Duc & Ben Welsh, *Are you an independent voter? You aren't if you checked this box*, Los Angeles Times (Apr. 17, 2016), <https://static.latimes.com/american-independent-party-california-voters> (reporting that a poll of the California American Independent Party found 73 percent of its registrants believed they were unaffiliated).

Commission staff members have been in contact with County Recorders regarding voter education around the decision.

The decision is particularly challenging because it arises deep in the election cycle. For example, candidates began gathering petition signatures almost a year before the request was made. The draft Election Procedures Manual was submitted to the Attorney General's Office and the Governor's Office a week before the request based on a statutory deadline and after long and public discussion of the draft.

Finally, implementing any significant new policy in the midst of the election cycle taxes resources that, in many cases, are already committed for the coming year.

Issues for Commission Consideration

This development raises three interrelated issues for the Commission's review and discussion:

Legal: Whether the Secretary's decision to approve the party-name change was consistent with Arizona's statutory framework and established precedent recognizing the state's interest in preventing voter confusion.

Policy: Whether the Secretary's subsequent decision to demand the discontinuation of the use of the word independent to describe unaffiliated voters is advisable.

Voter Education: How the Commission can effectively educate voters and support county recorders and election officials by providing clear, accurate, and consistent voter information during the transition period.

The sections that follow address these questions in turn: Section 1 analyzes the legal reasoning behind the name-change decision, Section 2 considers the

implications of abandoning the term independent, and Section 3 outlines potential voter-education strategies within the Commission’s existing authority and resources.

Section 1. The Secretary’s Decision was a departure from typical procedure

The Secretary of State’s October 16 decision marks a significant departure from established election-administration practice. (A more detailed analysis is available in the Appendix).

On October 16, 2025, the Secretary of State’s office approved the No Labels Party’s request to change its name to the Arizona Independent Party. The office reasoned that because state law does not expressly address party-name changes, such an action is permitted, and that parties have broad First Amendment rights to manage their own affairs. This interpretation effectively treats the Secretary’s role as ministerial once the party asserts that it follows its internal procedures.

The decision presents administrative and legal considerations that warrant clarification:

A. Statutory and Administrative Framework

1. Statutory consistency. It overlooks the comprehensive statutory framework governing how political parties are created and maintained, which presumes continuity between the petitioned name and the recognized party.

2. Party rights v. state interests. It adopts an expansive view of political-party autonomy that appears inconsistent with case law balancing party rights against the state’s interests in orderly elections.

B. Procedural steps and agency authority

1. Procedural requirements. It implements a policy of general applicability without the procedural safeguards of public notice and comment.

2. Agency authority. It relies on a permissive standard—that what is not prohibited is allowed—raising questions about the alignment with established administrative principles requiring affirmative statutory authorization for agency action.

Although a court could defer to the Secretary’s discretion, the statutory, constitutional, and procedural vulnerabilities are substantial. The decision’s implications reach beyond this instance, potentially shaping future questions of party recognition and voter registration and influencing the outcome of elections themselves.

Section 2. Election officials should continue using the word “independent” to describe voters that are not affiliated with a party.

For at least as long as Arizona has allowed independent voters to vote in state primaries, close to 30 years, voters, the public, the press and election officials, and state statutes and rules have used the term independent to refer to voters who are not affiliated with a party.

Established Use of “Independent” in Practice and Law

According to one expert staff consulted, public polling and political analysts use the word, “independent” consistently to mean unaffiliated with any political party. Major sources—from ANES and Gallup to Pew and national exit polls—treat it as the standard category for nonpartisan voters. Redefining “independent” in Arizona to signify membership in a specific party contradicts this long-established national usage and is likely to confuse voters and distort data.

An ASU Morrison Institute/Clean Elections study also confirms that independent voters are independent because they do not want to be in a party. Erica S. McFadden et al., Who Is Arizona’s Independent Voter? (Morrison Inst. for Pub. Policy, Ariz. State Univ. Nov. 2015), https://morrisoninstitute.asu.edu/sites/g/files/litvpz841/files/independent_voters_study.pdf.

The word “independent” is used in statutes directing how voters are to be issued ballots in the state primary, A.R.S. § 16-467(B), who may sign a candidate petition for particular candidates, A.R.S. § 16-321(F)(3), and the form of nominating petitions themselves, A.R.S. § 16-314. Importantly, the word “independent” is used throughout the Clean Elections Act to address such important issues as the qualifications of commission members, A.R.S. § 16-955(A), and how candidates who are not in a party qualify for funding, A.R.S. § 16-951.

Limiting use of the term “independent” swims upstream against the common, professional, and legal, usage of the term. And given the confusion in other states, this idea would likely cause more confusion than less by seemingly restricting officials from speaking to voters in terms they understand. In this case that confusion would potentially tend to benefit the No Labels Party during the time they are attempting to achieve continued recognition on the ballot.

In short, Staff encourages the Commission and other election officials to continue to utilize the word “independent” to describe independent voters who are not affiliated with a registered party.

Section 3. Voter Education

Purpose and Scope of Voter-Education Response

The practical challenge now is ensuring that Arizona voters continue to understand independent in its established sense while distinguishing it from membership in the Arizona Independent Party. Addressing that challenge will require an ongoing, coordinated, fact-based voter-education strategy focused on voter touchpoints rather than broad public messaging.

This is not an awareness campaign. It is an education effort embedded in the ordinary interactions voters have with the registration and primary system—at recorder offices, through online registration portals, during MVD transactions, and when selecting or requesting a primary ballot. The goal is to make sure that, wherever a voter encounters these systems, the information presented is consistent, accurate, and neutral. Similarly, candidates, and the voters they are trying reach, will encounter confusion as they decide whether to qualify for the ballot under A.R.S. § 16-341, which allows independent candidates to avoid a primary and move to the general election ballot because the candidate is not affiliated with a party.

Strategic Orientation

The Commission’s statutory voter-education role positions it to provide strategic coordination and leadership. Three priorities should guide this work:

Consistency of Language

All state and county election entities should use the same plain-language definitions for independent, unaffiliated, and Arizona Independent Party. Consistency across forms, portals, and training materials is the most effective safeguard against confusion.

Clarity at Points of Contact

Education should occur where voters make choices—when registering, updating their information, or requesting a primary ballot—not through mass advertising. Staff interactions and materials at these touchpoints should clearly explain that independent voters are unaffiliated and remain eligible to choose a party ballot in the primary.

Unified Presentation

Even when implemented locally, voter information should look and sound cohesive statewide. Common phrasing, tone, and accessibility standards help ensure voters receive the same message regardless of county or platform.

Ongoing Coordination

Because county recorders administrate voter registration, the Commission should establish an ongoing strategic coordination meeting with representatives of the recorders and other election partners. This standing forum would:

- Align terminology and explanatory language used in voter-facing materials.
- Identify and respond to emerging confusion or misinformation during registration and early voting.
- Share best practices for communicating with voters in offices, by mail, and online.
- Ensure that statutory or procedural changes are reflected consistently statewide.

Regular consultation through this forum will allow the Commission and counties to adapt voter-education efforts as circumstances evolve, maintaining a single, clear message to Arizona voters.

Role of the Commission

Within existing authority and resources, the Commission's contribution should be to lead, convene, coordinate, and maintain alignment. By reinforcing a shared vocabulary and supporting county-level implementation through collaboration rather than new spending, the Commission can preserve voter confidence and understanding during a period of administrative change.

Appendix – Detailed Legal Analysis

This memorandum provides an overview and analysis of the Secretary of State's October 16 decision for board discussion and policy guidance.

In its October 16, 2025 letter approving the No Labels Party's request to change its name to the Arizona Independent Party, the Secretary of State's office grounded its decision on two premises. First, it wrote that "[t]he Arizona Revised Statutes do not address the issue of political parties changing their names. In the absence of statutory authority, the general rule is to presume that conduct not prohibited is permitted." Second, the office stated that this interpretation was consistent with "the First and Fourteenth Amendments' guarantee of freedom of speech and freedom of political association and the courts' broad deference to political parties to govern themselves internally."

Together, these points reflect a narrow framing of the Secretary's role—one that treats the office's duty as ministerial once the party's chair asserts compliance with internal procedures. A court could, in theory, defer to that interpretation, particularly if it viewed the issue as within the Secretary's discretionary authority. *Ariz. Water Co. v. Ariz. Dep't of Water Res.*, 208 Ariz. 147, 154 ¶ 30 (2004) ("[When] the legislature has not spoken definitively to the issue at hand, 'considerable weight should be accorded to an executive department's construction of a statutory scheme it is entrusted to administer.'"); but see *Roberts v. State*, 253 Ariz. 259, 270 ¶ 42 (explaining that where a major policy decision is at issue, "the legislature must first make the policy choice before delegating authority to an agency").

Even assuming discretion exists, the analysis in the Secretary's letter departs from established statutory and constitutional principles and omits key procedural considerations.

1. Agency Authority

By invoking a presumption that conduct is allowed absent prohibition, the Secretary's office applied a standard suitable to private activity, not to state action. Election administration is inherently governmental. *Smith v. Allwright*, 321 U.S. 649, 664–65 (1944) (holding that a political party could not evade constitutional prohibitions on racial discrimination in voting by labeling its primary "private"). The proper question is not whether the party was free to act but whether the Secretary was statutorily authorized to approve the action. *Facilitec, Inc. v. Hibbs*, 206 Ariz. 486, 489 ¶ 10 (2003) ("an agency can only exercise the powers delegated

by the legislature”). Treating statutory silence as permission effectively reverses that principle.

2. Statutory Interpretation

The conclusion that there is “no law” governing party-name changes overlooks the comprehensive statutory scheme detailing how political parties are created and maintained. The legislature has provided a structured process for initiating a new party—from petition signature collection to qualification for continued recognition through votes or registration. A.R.S. §§ 16-801 to 807. Because a party can secure continued ballot status within two election cycles through votes or registration, the framework assumes stability in a party’s name and identity. A.R.S. § 16-804.

It is inconsistent with that statutory design to permit unilateral name changes that impose new administrative burdens or create voter confusion. The petition form itself requires a party name; as that form was created by the Secretary of State’s office, its design supports the conclusion that no mid-cycle name change was intended. *See No Labels Party of Arizona v. Fontes*, No. 24-563, slip op. at 27 n. 11 (9th Cir. July 11, 2025) (noting that where a party changed position after petitioning, “there is no telling whether the Party would have gathered the requisite signatures to be recognized as a new party in Arizona”), <https://cdn.ca9.uscourts.gov/datastore/opinions/2025/07/11/24-563.pdf>. Such a change risks confusion among voters and election officials and conflicts with legislative intent for continuity in party recognition.

3. First Amendment Considerations

Political parties’ associational rights are assessed under the *Anderson–Burdick* balancing framework, which examines (1) the severity of any burden imposed and, if that burden is not severe, (2) whether the regulation is justified by the state’s important regulatory interests. *No Labels Party*, slip op. at 12–13 (describing the *Anderson–Burdick* test), <https://cdn.ca9.uscourts.gov/datastore/opinions/2025/07/11/24-563.pdf>.

The Secretary’s letter does not analyze competing state interests or situate the decision within the broader statutory context. That omission leaves unresolved how the office balanced associational rights against the state’s recognized interests in preventing voter confusion, protecting the integrity of party qualification, and maintaining orderly elections—all concerns expressly acknowledged by the Ninth Circuit in *No Labels*. Moreover, the possibility of unwanted association with the

party by voters is a real one. John Myers, Christine Mai-Duc & Ben Welsh, *Are you an independent voter? You aren't if you checked this box*, Los Angeles Times (Apr. 17, 2016), <https://static.latimes.com/american-independent-party-california-voters> (reporting that a poll of the California American Independent Party found 73 percent of its registrants believed they were unaffiliated).

4. Implementation

The Secretary's office is implementing the approval across multiple election systems, including updates to voter-registration databases, revisions to the pending Election Procedures Manual, and coordination with the Motor Vehicle Division to modify voter-registration options and references to independent voters. These operational steps demonstrate that the decision functions as a statewide policy directive, not a case-specific interpretation.

5. Rulemaking and Procedure

By authorizing a new category of party-name change without formal notice or comment, the Secretary effectively adopted a rule of general applicability. Under Arizona law, such actions require public process. Ariz. Att'y Gen., Agency Handbook ch. 11, § 11.2, at 11-2 (rev. 2018), www.azag.gov/sites/default/files/2025-05/agency_handbook_chapter_11.pdf ("The term 'rule' covers a broad spectrum of policy statements, standards, guidelines, and directives that apply generally to a segment of the public in the future."). Because this policy is distinct from the statutory procedures governing the Election Procedures Manual, it may have required independent procedural steps to ensure transparency and fairness.

Conclusion

The Secretary's October 16 decision introduces significant legal and administrative uncertainty within Arizona's election framework. The reasoning relies on statutory silence where affirmative authority is typically required, omits any balancing of state and party interests, and implements a de facto policy change without rulemaking.

These factors present foreseeable risks of voter and administrative confusion. Although a court could uphold the decision by extending broad deference to the Secretary's discretion, such deference would represent a departure from ordinary limits on agency power.

For the Commission, the key point is practical: this precedent affects how voters encounter party terminology, how election officials administer registration and ballots, and how the Commission explains these distinctions to the public. Continued monitoring and inter-agency coordination are warranted to maintain voter clarity and public confidence in election administration.

Katie Hobbs
Governor

Thomas M. Collins
Executive Director



Mark S. Kimble
Chair

Steve M. Titla
Galen D. Paton
Christina Werther
Sam Crump
Commissioners

State of Arizona
Citizens Clean Elections Commission

1110 W. Washington St. - Suite 250 - Phoenix, Arizona 85007 - Tel (602) 364-3477
Fax (602) 364-3487 - www.azcleanelections.gov

MEMORANDUM

To: Commissioners

From: Thomas Collins, Executive Director

Date: November 18, 2025

Subject: Report on Status of Proposition 211 litigation

Legislative Leaders Separation of Powers- Montenegro v. Fontes

The State Supreme Court determined that the legislative leaders have standing. That court concluded that they had shown a sufficient institutional injury to bring their action challenging Proposition 211 on separation of powers and related grounds.

Now the case is remanded to the superior court where litigation has resumed. The leaders had previously asked for a stay of litigation pending their appeal.

The leaders have filed a motion for judgment on the pleadings, which is a motion that says that the Complaint and Answer alone are sufficient to resolve the case in their favor. Legislative leaders ask the court to strike down Proposition 211 and all Clean Elections Commission rules implementing it. They argue Prop 211 gives the Commission unchecked authority to make policy, issue rules, investigate, subpoena, and penalize—violating separation of powers and the non-delegation doctrine because it contains no meaningful limits and related claims.

We also anticipate the leadership will file a motion for a preliminary injunction. On that issue, in view of the Commission's role in defending a duly enacted law,

I have approved reasonable discovery efforts. Typically, courts presume it is the state that suffers injury by an injunction against a statute. Under Proposition 211, the Commission stands in the shoes of the State for purposes of defending the law.

I anticipate discussions—and likely disputes—with the leaders’ counsel regarding discovery, including its scope and timing.

State constitution freedom of speech clause -- Center of Arizona Policy et. al.

After a successful defense of the statute in superior court and at the court of appeals, the State Supreme Court held arguments in this matter on September 11.

The challenge here alleges that the state constitution’s free speech clause bars the requirement of disclosing donors of greater than \$5,000 toward campaign media spending.

The case has been submitted and we are awaiting a ruling.

First Amendment challenge – Americans for Prosperity

In this matter, the organization argues that the disclosure requirements of Proposition 211 violate the First Amendment, invoking *Americans for Prosperity Foundation v. Bonta*, 141 S. Ct. 2373 (2021). *Bonta* struck down a California Attorney General policy requiring nonprofits to disclose donor information to the state, but it was not a campaign-finance case

Plaintiffs seek to extend its reach to campaign finance law.

That matter remains pending a decision at the Ninth Circuit Court of Appeals.

Katie Hobbs
Governor

Thomas M. Collins
Executive Director



Mark S. Kimble
Chair

Steve M. Titla
Amy B. Chan
Galen D. Paton
Christina Werther
Commissioners

State of Arizona
Citizens Clean Elections Commission

1110 W. Washington St. - Suite 250 - Phoenix, Arizona 85007 - Tel (602) 364-3477
Fax (602) 364-3487 - www.azcleanelections.gov

MEMORANDUM

To: Commissioners

From: Tom Collins

Date: May 19, 2025, updated November 18, 2025

Subject: Rule proposal on participating candidate reporting

Overview:

Staff seeks final approval of two complementary rules. These rules will serve to enhance accountability and ensure timely reporting from participating candidates. Below is a summary of each rule for your review:

Rule 1 (Amendment to R2-20-106):

Pre-Funding Sworn Statement Requirement

Before Clean Elections funds may be disbursed, participating candidates must submit a sworn, notarized statement affirming the following:

All required campaign finance reports have been filed.

All reports are complete and accurate, including vendor and subcontractor disclosures.

All conditions related to the use of consultants have been satisfied.

The candidate understands that failure to file a campaign finance report within five days of a deadline may result in a rebuttable presumption that funds were not used for direct campaign expenses.

Rule 2 (New R2-20-706):

Rebuttable Presumption for Late Reports

After receiving public funding, if a participating candidate fails to file a campaign finance report within five days of its due date, the Commission may apply a rebuttable presumption that the candidate did not use the funds for direct campaign expenses.

These provisions reinforce the Commission's oversight responsibilities and strengthen compliance with public funding requirements. Staff recommends approval.

The Commission re-noticed this proceeding after our August meeting was interrupted by technological issues. No comments have been recieved. Staff requests that if the Commission adopts these provisions that the provisions be given immediate effect. Following approval they will be submitted to the Governor's Regulatory Review Council.

AGENCY RECEIPT
NOTICE OF PROPOSED RULEMAKING
CITIZENS CLEAN ELECTIONS COMMISSION

SECRETARY OF STATE

2025 JUN 13 PM 2:40

FILED

1. **Agency Name:** Citizens Clean Elections Commission
2. **Chapter Heading:** Citizens Clean Elections Commission
3. **Code Citation for the Chapter:** 2 A.A.C. 20
4. **The Subchapters, if applicable; the Articles; the Parts, if applicable, and the Sections involved in the rulemaking, listed in numerical order:**

Article, Part, or Section Affected (as applicable)

Rulemaking Action:

R2-20-106

Amend

R2-20-706

New Section

ITEM VI

AGENCY CERTIFICATE
NOTICE OF PROPOSED RULEMAKING
CITIZENS CLEAN ELECTIONS COMMISSION

SECRETARY OF STATE

2025 JUN 13 PM 2:40

FILED

1. **Agency Name:** Citizens Clean Elections Commission
2. **Chapter Heading:** Citizens Clean Elections Commission
3. **Code Citation for the Chapter:** 2 A.A.C. 20
4. **The Subchapters, if applicable; the Articles; the Parts, if applicable, and the Sections involved in the rulemaking, listed in numerical order:**

Article, Part, or Section Affected (as applicable)

Rulemaking Action:

R2-20-106

Amend

R2-20-706

New Section

5. **The rules contained in this package are true and correct as made.**

6. 

Signature of Agency Chief Executive Officer in ink

6-04-2025

Date of signing

Tom Collins
Printed or typed name of signer

Executive Director
Title of signer

NOTICE OF PROPOSED RULEMAKING

2025 JUN 13 PM 2:40

TITLE 2. ADMINISTRATION

FILED

CHAPTER 20. CITIZENS CLEAN ELECTIONS COMMISSION

PREAMBLE

1. Permission to proceed with this proposed rulemaking was granted under A.R.S. § 41-1039 by the governor on:

Pursuant to A.R.S. § 41-1039(E)(2)(c), the Commission is not required to obtain permission to proceed with this rulemaking.

2. Article, Part, or Section Affected (as applicable) Rulemaking Action

R2-20-106	Amend
R2-20-706	New Section

3. Citations to the agency's statutory rulemaking authority to include the authorizing statute (general) and the implementing statute (specific):

Authorizing statute: A.R.S. § 16-956(A)(6)
 Implementing statute: A.R.S. §§ 16-948, 16-953

4. Citations to all related notices published in the *Register* that pertain to the current record of the proposed rule:

Notice of Rulemaking Docket Opening: XX

5. The agency's contact person who can answer questions about the rulemaking:

Name: Tom Collins
 Title: Executive Director
 Mailing Address: 1802 W. Jackson St., Phoenix, AZ 85007
 Telephone: (602) 364-3477
 Email: ccec@azcleelections.gov
 Website: www.azcleelections.gov

6. An agency's justification and reason why a rule should be made, amended, repealed or renumbered, to include an explanation about the rulemaking:

The purpose of the new rule (R2-20-706) is to solve a problem created by the fact that the mandated reporting periods for campaign finance reports do not coincide with the issuance of funds for participating candidates from the Clean Elections Fund. The result is that a participating candidate who does not report timely after the issuance of funds may delay the Commission and the public from learning how they are making expenditures. The new rule ensures that the

candidates will know that timely compliance with reporting obligations is critical to their agreement to participate. In parallel, the amendment to R2-20-106 provides candidates will have to attest to their compliance and understanding of their obligations once clean elections funding has been provided.

7. A reference to any study relevant to the rule that the agency reviewed and proposes either to rely on or not to 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:

N/A

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

N/A

9. The preliminary summary of the economic, small business, and consumer impact:

There is little to no economic, small business, or consumer impact, other than the cost to the Commission to prepare the rule package, because the rulemaking simply clarifies statutory requirements and processes that already exist. Thus, the economic impact is minimized

10. The agency's contact person who can answer questions about the economic, small business and consumer impact statement:

Name: Thomas M. Collins
Title: Executive Director
Mailing Address: 1802 W. Jackson St., Phoenix, AZ 85007
Telephone: (602) 364-3477
Email: ccec@azcleanelections.gov
Website: www.azcleanelections.gov

11. The time, place, and nature of the proceedings to make, amend, repeal, or renumber the rule, or if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:

The Commission will accept comments during business hours at its office address provided below through the end of the oral proceeding August 28, 2025. Comments will also be accepted via email at the email address provided under Item #5. Mailed written comments shall be postmarked within 30 days of this published notice.

An oral proceeding regarding the proposed rules will be held as follows:

Date: August 28, 2025
Time: 10:00 AM
Location: Citizens Clean Elections Commission

1110 W. Washington St.

Phoenix, Arizona 85007

12. All agencies shall list other matters prescribed by statute applicable to the specific agency or to any specific rule or class of rules. Additionally, an agency subject to Council review under A.R.S. §§ 41-1052 and 41-1055 shall respond to the following questions:

None

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:

N/A

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

N/A

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:

N/A

13. A list of any incorporated by reference material as specified in A.R.S. § 41-1028 and its location in the rules:

None

14. The full text of the rules follows:

Rule text begins on the next page.

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

Section

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

ARTICLE 7. USE OF FUNDS AND REPAYMENT

R2-20-706. ~~Repealed~~ Rebuttable Presumption of Funds Used for Direct Campaign Expenses

ARTICLE 1. GENERAL PROVISIONS

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

- A.** The Commission staff shall not authorize any disbursements to a participating candidate's campaign account until that candidate submits a sworn, notarized statement stating that under penalty of perjury:
1. All campaign finance reports have been filed.
 2. All campaign finance reports are complete and accurate including all reporting requirements related to vendors and subcontractors.
 3. All conditions related to the use consultants have been met.
 4. Stipulating that, once funding is authorized, the Commission may make a rebuttable presumption pursuant to R2-20-706 that a candidate has not used funds for direct campaign expenses within five days after the failure file a campaign finance report.
- B.** 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.C.~~** In making the determinations described in subsection ~~(A)(3)-(B)(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.D.~~** 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.E. 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.F. 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)~~ (E) 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.G. 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.H. Pursuant to A.R.S. § 16-953, a participating candidate shall return to the Fund:

1. All 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.I. All funds returned to the Commission pursuant to subsection ~~(G)~~ (H) 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.J. 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. Once funds

have been returned to the Commission, no further reimbursements from the Clean Elections Fund shall be permitted.

Participating candidates may not exceed the primary or general election spending limits.

J.K. Commission staff may waive the return of funds if:

1. The Commission staff determines the amount to be returned is de minimus;
2. The Commission staff determines the cost of recovery exceeds the amount of the return;
3. The funds to be returned shall not exceed \$25; and
4. The Commission is notified of any waiver of the return of funds.

R2-20-706. ~~Repealed~~ Rebuttable Presumption of Funds Used for Direct Campaign Expenses

Once a participating candidate receives clean elections funding, the Commission may make a rebuttable presumption that the participating candidate has not used funds for direct campaign expenses within five days after the participating candidate fails to file a timely campaign finance report.

SECRETARY OF STATE

2025 SEP 12 PM 4: 25

FILED

AGENCY RECEIPT
NOTICE OF SUPPLEMENTAL PROPOSED RULEMAKING
CITIZENS CLEAN ELECTIONS COMMISSION

1. **Agency Name:** Citizens Clean Elections Commission
2. **Chapter Heading:** Citizens Clean Elections Commission
3. **Code Citation for the Chapter:** 2 A.A.C. 20
4. **The Subchapters, if applicable; the Articles; the Parts, if applicable, and the Sections involved in the rulemaking, listed in numerical order:**

Article, Part, or Section Affected (as applicable)

Rulemaking Action:

R2-20-106

Amend

R2-20-706

New Section

AGENCY CERTIFICATE
NOTICE OF SUPPLEMENTAL PROPOSED RULEMAKING
CITIZENS CLEAN ELECTIONS COMMISSION

SECRETARY OF STATE

2025 SEP 12 PM 4:25

FILED

1. **Agency Name:** Citizens Clean Elections Commission
2. **Chapter Heading:** Citizens Clean Elections Commission
3. **Code Citation for the Chapter:** 2 A.A.C. 20
4. **The Subchapters, if applicable; the Articles; the Parts, if applicable, and the Sections involved in the rulemaking, listed in numerical order:**

Article, Part, or Section Affected (as applicable)

Rulemaking Action:

R2-20-106

Amend

R2-20-706

New Section

5. **The rules contained in this package are true and correct as made.**

6. 
Signature of Agency Chief Executive Officer in ink

09-12-2025
Date of signing

Tom Collins
Printed or typed name of signer

Executive Director
Title of signer

2025 SEP 12 PM 4:25

FILED

NOTICE OF SUPPLEMENTAL PROPOSED RULEMAKING

TITLE 2. ADMINISTRATION

CHAPTER 20. CITIZENS CLEAN ELECTIONS COMMISSION

PREAMBLE

1. Permission to proceed with this proposed rulemaking was granted under A.R.S. § 41-1039 by the governor on:

Pursuant to A.R.S. § 41-1039(E)(2)(c), the Commission is not required to obtain permission to proceed with this rulemaking.

2. Citations to all related notices published in the *Register* as specified in R1-1-409(A) that pertain to the current record of the supplemental proposed rule:

Notice of Rulemaking Docket Opening: 31 A.A.R. 2255, Issue Date: July 4, 2025, Issue Number: 27, File Number: R25-145

Notice of Rulemaking Proposed Rulemaking: 31 A.A.R. 2141, Issue Date: July 4, 2025, Issue Number: 27, File Number: R24-137

3. Article, Part, or Section Affected (as applicable) Rulemaking Action

R2-20-106

Amend

R2-20-706

New Section

4. Citations to the agency's statutory rulemaking authority to include the authorizing statute (general) and the implementing statute (specific):

Authorizing statute: A.R.S. § 16-956(A)(6)

Implementing statute: A.R.S. §§ 16-948, 16-953

5. The agency's contact person who can answer questions about the rulemaking:

Name: Tom Collins

Title: Executive Director

Mailing Address: 1802 W. Jackson St., Phoenix, AZ 85007

Telephone: (602) 364-3477

Email: ccec@azcleaselections.gov

Website: www.azcleaselections.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:

The purpose of the new rule (R2-20-706) is to solve a problem created by the fact that the mandated reporting periods for campaign finance reports do not coincide with the issuance of funds for participating candidates from the Clean Elections Fund. The result is that a participating candidate who does not report timely after the issuance of funds may

delay the Commission and the public from learning how they are making expenditures. The new rule ensures that the candidates will know that timely compliance with reporting obligations is critical to their agreement to participate. In parallel, the amendment to R2-20-106 provides candidates will have to attest to their compliance and understanding of their obligations once clean elections funding has been provided.

7. A reference to any study relevant to the rule that the agency reviewed and proposes either to rely on or not to 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:

N/A

8. An explanation of the substantial change which resulted in the supplemental notice:

There are no changes in the proposed rule language. However, the Commission was unable to hold an Oral Proceeding as noticed in the previous Notice of Proposed Rulemaking and will be holding an Oral Proceeding according to item 12 below.

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

N/A

10. The preliminary summary of the economic, small business, and consumer impact:

There is little to no economic, small business, or consumer impact, other than the cost to the Commission to prepare the rule package, because the rulemaking simply clarifies statutory requirements and processes that already exist. Thus, the economic impact is minimized

11. The agency's contact person who can answer questions about the economic, small business and consumer impact statement:

Name: Thomas M. Collins
Title: Executive Director
Mailing Address: 1802 W. Jackson St., Phoenix, AZ 85007
Telephone: (602) 364-3477
Email: ccec@azcleanelections.gov
Website: www.azcleanelections.gov

12. The time, place, and nature of the proceedings to make, amend, repeal, or renumber the rule, or if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:

The Commission will accept comments during business hours at its office address provided below through the end of the oral proceeding November 20, 2025. Comments will also be accepted via email at the email address provided

under Item #5. Mailed written comments shall be postmarked within 30 days of this published notice.

An oral proceeding regarding the proposed rules will be held as follows:

Date: November 20, 2025

Time: 10:00 AM

Location: Citizens Clean Elections Commission

1110 W. Washington St.

Phoenix, Arizona 85007

13. All agencies shall list other matters prescribed by statute applicable to the specific agency or to any specific rule or class of rules. Additionally, an agency subject to Council review under A.R.S. §§ 41-1052 and 41-1055 shall respond to the following questions:

None

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:

N/A

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

N/A

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:

N/A

14. A list of any incorporated by reference material as specified in A.R.S. § 41-1028 and its location in the rules:

None

15. The full text of the rules follows:

Rule text begins on the next page.

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

Section

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

ARTICLE 7. USE OF FUNDS AND REPAYMENT

R2-20-706. ~~Repealed~~ Rebuttable Presumption of Funds Used for Direct Campaign Expenses

ARTICLE 1. GENERAL PROVISIONS

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

- A. The Commission staff shall not authorize any disbursements to a participating candidate's campaign account until that candidate submits a sworn, notarized statement stating that under penalty of perjury:
1. All campaign finance reports have been filed.
 2. All campaign finance reports are complete and accurate including all reporting requirements related to vendors and subcontractors.
 3. All conditions related to the use consultants have been met.
 4. Stipulating that, once funding is authorized, the Commission may make a rebuttable presumption pursuant to R2-20-706 that a candidate has not used funds for direct campaign expenses within five days after the failure file a campaign finance report.
- B. 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.C.~~ In making the determinations described in subsection ~~(A)(3)-(B)(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.D.~~ 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.E. 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.F. 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)~~ (E) 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.G. 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.H. Pursuant to A.R.S. § 16-953, a participating candidate shall return to the Fund:

1. All 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.I. All funds returned to the Commission pursuant to subsection ~~(G)~~ (H) 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.J. 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. Once funds

have been returned to the Commission, no further reimbursements from the Clean Elections Fund shall be permitted.

Participating candidates may not exceed the primary or general election spending limits.

~~J.K.~~ Commission staff may waive the return of funds if:

1. The Commission staff determines the amount to be returned is de minimus;
2. The Commission staff determines the cost of recovery exceeds the amount of the return;
3. The funds to be returned shall not exceed \$25; and
4. The Commission is notified of any waiver of the return of funds.

R2-20-706. ~~Repealed~~ Rebuttable Presumption of Funds Used for Direct Campaign Expenses

Once a participating candidate receives clean elections funding, the Commission may make a rebuttable presumption that the participating candidate has not used funds for direct campaign expenses within five days after the participating candidate fails to file a timely campaign finance report.