



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

Location: Citizens Clean Elections Commission

1616 West Adams, Suite 110

Phoenix, Arizona 85007

Date: Thursday, June 25, 2020

Time: 9:30 a. m.

Pursuant to A.R.S. § 38-431.02, notice is hereby given to the Commissioners of the Citizens Clean Elections Commission and the general public that the Citizens Clean Elections Commission will hold a regular meeting, which is open to the public on June 25, 2020. This meeting will be held at 9:30 a.m., at the Citizens Clean Elections Commission, 1616 West Adams, Suite 110, Phoenix, Arizona 85007. The meeting may be available for live streaming online at www.livestream.com/cleanelections. Members of the Citizens Clean Elections Commission will attend either in person or by telephone, video, or internet conferencing.

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

All matters on the agenda may be discussed, considered and are subject to action by the Commission.

Possible action on any Matter Under Review (MUR) identified in this agenda may include, but is not limited to, authorizing or entering into a conciliation agreement with subject of the MUR, in addition to any other actions, such as finding reason to believe a violation has occurred, finding probable cause to believe a violation has occurred, applying penalties, ordering the repayment of monies to the Clean Elections Fund, or terminating a proceeding.

Possible actions with regard to Rules and Rules amendments may include, but is not limited to, approval of the proposed rules or amendments, a determination whether any rules adopted unanimously should be made effective immediately, termination of a rulemaking docket, or directing staff to file a notice of supplemental rulemaking, approving a proposed Rule or Amendment for Public Comment.

The agenda for the meeting is as follows:

- I. Call to Order.
- II. Discussion and Possible Action on Commission Minutes for April 30, 2020 meeting.

III. Discussion and Possible Action on Executive Director's Report and Legislative Report. **Possible Action may include directing staff to take positions on legislation, legal, rulemaking, appointment and voter education issues discussed in the report. The report is typically available online on the Clean Elections Commission website or via email request at ccec@azcleanelections.gov**

IV. Discussion and Possible Action on 5 Year Report.

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 this item, pursuant to A.R.S. § 38-431.03 (A)(3).

V. Discussion and Possible Action on Lawsuit Update.

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 this item, pursuant to A.R.S. § 38-431.03 (A)(3).

VI. Public Comment

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

VII. Adjournment.

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

Dated this 23rd day of June, 2020.

Citizens Clean Elections Commission
Thomas M. Collins, Executive Director

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

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THE STATE OF ARIZONA

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CITIZENS CLEAN ELECTIONS COMMISSION

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REPORTER'S TRANSCRIPT OF PUBLIC MEETING

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Phoenix, Arizona

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April 30, 2020

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9:33 a.m.

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<p style="text-align: right;">Page 2</p> <p>1 PUBLIC MEETING BEFORE THE CITIZENS CLEAN 2 ELECTIONS COMMISSION convened at 9:33 a.m. on April 30, 3 2020, at the State of Arizona, Clean Elections 4 Commission, 1616 West Adams, Conference Room, Phoenix, 5 Arizona, in the presence of the following Board members: 6 Mr. Galen D. Paton, Chairperson (Telephonic) 7 Mr. Mark S. Kimble (Telephonic) 8 Mr. Damien R. Meyer (Telephonic) 9 Steve M. Titla (Telephonic) 10 Ms. Amy B. Chan (Telephonic) 11 12 OTHERS PRESENT: 13 Thomas M. Collins, Executive Director 14 Paula Thomas, Executive Officer 15 Gina Roberts, Voter Education Director, 16 (Telephonic) 17 Mike Becker, Policy Director, 18 (Telephonic) 19 Alec Shaffer, Web Content Manager 20 Julian Arndt, Executive Support Specialist, 21 (Telephonic) 22 Kara Karlson, Assistant Attorney General 23 24 25</p>	<p style="text-align: right;">Page 4</p> <p>09:33:56-09:34:39</p> <p>1 of the Citizens Clean Elections Commission to order. 2 We will now take attendance. 3 Could each Commissioner, please, state your 4 presence for the record? 5 Mr. -- Commissioner Paton, why don't we 6 start with you. 7 CHAIRMAN PATON: I am here. 8 COMMISSIONER CHAN: Commissioner Titla, are 9 you on the line? 10 COMMISSIONER TITLA: Yeah. Good morning. 11 Here. 12 COMMISSIONER CHAN: Excellent. 13 Commissioner Meyer? 14 COMMISSIONER MEYER: Present. 15 COMMISSIONER CHAN: Excellent. 16 Commissioner Kimble? 17 COMMISSIONER KIMBLE: Hi. Here. 18 COMMISSIONER CHAN: Okay. Great. And I am 19 here, as well, Commissioner Chan. 20 MR. COLLINS: Did we get Commissioner 21 Titla? 22 MS. KARLSON: Yes. 23 MR. COLLINS: We did. Okay. 24 COMMISSIONER CHAN: I believe I called on 25 him second.</p>
<p>09:33:05-09:33:51</p> <p style="text-align: right;">Page 3</p> <p>1 P R O C E E D I N G 2 3 MR. COLLINS: So, Chairman Paton, since 4 you're on the line, if you want to go ahead. I 5 guess -- I guess, we'll kick it to you to call us to -- 6 CHAIRMAN PATON: No, that's okay, if 7 somebody else can do that. 8 MR. COLLINS: Okay. 9 CHAIRMAN PATON: I, kind of, hurried and 10 whatever -- 11 MR. COLLINS: Okay. 12 CHAIRMAN PATON: -- and got in the car. 13 MR. COLLINS: Okay. Sounds good. 14 Commissioner -- 15 CHAIRMAN PATON: (Inaudible.) 16 MR. COLLINS: No, no problem. 17 Commissioner Chan, I'm just going to kick 18 it to you to call the meeting to order, please, and to 19 call the roll. 20 COMMISSIONER CHAN: Sure. 21 MR. COLLINS: Or ask the commissioners to 22 identify themselves for the record, rather. 23 COMMISSIONER CHAN: Of course. Okay. 24 So, I'll call the meeting to order. It is 25 9:32 a.m., April 30th, 2020, and I'll call the meeting</p>	<p>09:34:39-09:35:26</p> <p style="text-align: right;">Page 5</p> <p>1 MR. COLLINS: Okay. Sorry. I apologize. 2 COMMISSIONER CHAN: No. Thank you. No. 3 Thank you for helping me because, honestly, it's a 4 little difficult with the phone and not being there in 5 person. Just it's hard. 6 MR. COLLINS: There are -- 7 COMMISSIONER CHAN: And I'm actually 8 writing everybody down right now. 9 All right. So, moving on to the main 10 agenda -- and, Tom, please feel free to stop me if I -- 11 MR. COLLINS: No, no. 12 COMMISSIONER CHAN: -- go out of -- you 13 know, go out of order or do anything wrong. 14 MR. COLLINS: Sure. 15 COMMISSIONER CHAN: So, that takes care of 16 Item I. 17 Moving on to Item II, discussion and 18 possible action on Commission minutes for the 19 February 27, 2020 and March 16, 2020 meeting. 20 Tom, can we take care of these as a slate? 21 MR. COLLINS: Yes, I think. As long as the 22 motion includes both, I think that would be fine. 23 COMMISSIONER CHAN: All right. Is there a 24 motion? 25 COMMISSIONER KIMBLE: This is --</p>

09:35:39-09:36:31	Page 6	09:37:30-09:39:23	Page 8
<p>1 COMMISSIONER TITLA: I motion.</p> <p>2 MS. KARLSON: That was garbled, for the</p> <p>3 court reporter.</p> <p>4 MR. COLLINS: So, if -- Commissioner Chan,</p> <p>5 if you could just recognize someone from -- someone --</p> <p>6 either recognize Commissioner Titla or --</p> <p>7 COMMISSIONER CHAN: Sure. Why don't I</p> <p>8 recognize Commissioner Titla. I think I heard him</p> <p>9 first.</p> <p>10 Commissioner Titla, did you have a motion</p> <p>11 regarding --</p> <p>12 COMMISSIONER TITLA: Yeah, I motion to</p> <p>13 approve the minutes as a slate.</p> <p>14 COMMISSIONER CHAN: Okay, for February --</p> <p>15 COMMISSIONER KIMBLE: Commissioner Kimble.</p> <p>16 Second.</p> <p>17 COMMISSIONER CHAN: Thank you.</p> <p>18 All right. We have a motion and a second</p> <p>19 to approve the Commission minutes for February 27, 2020</p> <p>20 and March 16, 2020.</p> <p>21 So, all those -- we'll go ahead and take a</p> <p>22 roll call vote. I believe we have to do that, right,</p> <p>23 Tom?</p> <p>24 MR. COLLINS: It definitely makes an easier</p> <p>25 record, especially when you're on the phone.</p>		<p>1 lot of -- a lot of materials, a lot of -- there are a</p> <p>2 lot of updates and new reports. So, I'm happy to take</p> <p>3 questions.</p> <p>4 There is a local election coming up here</p> <p>5 in -- next month, on May 19th. They're local, and they</p> <p>6 are in cities in select counties. We have all that</p> <p>7 information on the Commission's website.</p> <p>8 As you can see, that Avery is continuing to</p> <p>9 do outreach as events have shifted to online -- and I</p> <p>10 think that's good -- and has kept abreast of A -- of</p> <p>11 the DHS -- the Arizona Department of Health Services'</p> <p>12 guidance to election officials thus far.</p> <p>13 Just so everybody knows, I think this</p> <p>14 happened just before our last meeting. Governor Ducey</p> <p>15 had declared -- issued -- I think, he declared a state</p> <p>16 of emergency on the 11th. He subsequently issued an</p> <p>17 executive order. He modified that yesterday but -- but</p> <p>18 continued it in force. And I'm happy to get you the</p> <p>19 details on that if you -- if you would like details on</p> <p>20 the modifications.</p> <p>21 We have been operating the agency with --</p> <p>22 with -- consistent with that guidance. So, we've</p> <p>23 had -- we've expanded the telework but have kept the</p> <p>24 office open during business hours. And we are, you</p> <p>25 know, working. We've -- Paula has been able to obtain,</p>	
09:36:32-09:37:22	Page 7	09:39:29-09:40:48	Page 9
<p>1 MS. KARLSON: That's correct.</p> <p>2 COMMISSIONER CHAN: Absolutely. Thank you.</p> <p>3 All right. In that case, let's go ahead</p> <p>4 and I'll call on Commissioner Paton first.</p> <p>5 How do you vote?</p> <p>6 CHAIRMAN PATON: Aye.</p> <p>7 COMMISSIONER CHAN: Commissioner Titla, how</p> <p>8 do you vote?</p> <p>9 COMMISSIONER TITLA: Aye.</p> <p>10 COMMISSIONER CHAN: Commissioner Meyer?</p> <p>11 COMMISSIONER MEYER: Aye.</p> <p>12 COMMISSIONER CHAN: Commissioner Kimble?</p> <p>13 COMMISSIONER KIMBLE: Aye.</p> <p>14 COMMISSIONER CHAN: And I'm Commissioner</p> <p>15 Chan, and I vote aye.</p> <p>16 All right. And moving on -- so, that's</p> <p>17 Item II.</p> <p>18 Moving on to Item III, I will -- that's</p> <p>19 discussion and possible action on Executive Director's</p> <p>20 report and legislative report.</p> <p>21 Tom, can I turn that over to you now?</p> <p>22 MR. COLLINS: Yes, please. Yes.</p> <p>23 COMMISSIONER CHAN: All right. Thank you.</p> <p>24 MR. COLLINS: Commissioner Chan and</p> <p>25 Commissioners, I just want to -- we tried to cover a</p>		<p>1 you know, some of the now, sort of, standard issues,</p> <p>2 things we'll need to run the office. And Paula has</p> <p>3 been really key here in keeping us abreast of policy</p> <p>4 and procedural changes regarding how the State is</p> <p>5 operating. You know, this is -- the COVID-19 situation</p> <p>6 is, obviously, widespread. We have a narrow piece of</p> <p>7 it, but it's, also, something that's important for us</p> <p>8 to keep on top of.</p> <p>9 So, that's where we are administratively.</p> <p>10 I don't know if anyone has any questions about that</p> <p>11 specifically.</p> <p>12 COMMISSIONER CHAN: Tom, can I just make a</p> <p>13 quick comment? And, then, if any other commissioners</p> <p>14 want to chime in, they can let me know and we can</p> <p>15 recognize them. This Commissioner Chan.</p> <p>16 I just want to say thank you to you and the</p> <p>17 staff for your work while this is going on. Just</p> <p>18 speaking for myself personally, going through this with</p> <p>19 COVID-19 has been extremely traumatic. I mean, I think</p> <p>20 my family has, kind of, adjusted now to a new normal</p> <p>21 and, you know, we're feeling a little more balanced</p> <p>22 now, but initially it was a pretty traumatic adjustment</p> <p>23 to schools at home and the fact that we're social</p> <p>24 distancing.</p> <p>25 And I just want to say I admire you and the</p>	

09:40:51-09:42:21	Page 10	09:44:16-09:46:00	Page 12
<p>1 staff for what you're doing. I'm so pleased that</p> <p>2 you've been able to continue to work at the Commission</p> <p>3 from home, and I'm impressed that you've been able to</p> <p>4 keep the office open. I'm -- I'm very grateful for</p> <p>5 that, and I hope that you are being -- keeping very</p> <p>6 safe and maintaining, you know, social distancing even</p> <p>7 while the person is coming in to keep the office open.</p> <p>8 So, I just hope everyone who works there</p> <p>9 knows that on behalf of myself, and I don't know if any</p> <p>10 other commissioners want to chime in on that. I mean,</p> <p>11 the world has really changed since the last time we</p> <p>12 met. So, thank you very much.</p> <p>13 COMMISSIONER TITLA: Yeah. This is Steve</p> <p>14 Titla. Yeah, I'd like to -- I'd like to, you know,</p> <p>15 join in that statement to commend the staff and the</p> <p>16 director for doing a good job and continued outreach.</p> <p>17 We still have an election -- we still have an election</p> <p>18 coming up, I think, in November. So, we need to keep</p> <p>19 people, get the word out to the people and the entire</p> <p>20 state, to the four corners of the state. We need</p> <p>21 people for that because people are going to get</p> <p>22 confused due to the pandemic going on right now.</p> <p>23 People are going to wonder are we still</p> <p>24 having an election or how are we going to vote, where</p> <p>25 are we going to vote, and that kind of thing. They're</p>	<p>1 we've done substantial work as a state to try to keep</p> <p>2 the level of -- of this down, notwithstanding, you</p> <p>3 know, obviously, you know, the northeast corner of the</p> <p>4 state, obviously, the Navajo reservation and the -- and</p> <p>5 a couple of other specific areas but -- and, then, with</p> <p>6 respect to restaurants, you know, he said that, you</p> <p>7 know, if we were to follow some other states and opened</p> <p>8 with the, sort of, like, 25 percent occupancy cap,</p> <p>9 you'd, basically, cause restaurants to go out of</p> <p>10 business faster which, of course, is something that is</p> <p>11 in his background and he knows.</p> <p>12 I think -- I think -- I think that the</p> <p>13 retail is probably the biggest -- the biggest one so</p> <p>14 far. They -- I think the order -- the order did</p> <p>15 maintain the travel restrictions with respect to</p> <p>16 self-quarantining for folks who have come from</p> <p>17 New York, New Jersey or Connecticut, and then -- I</p> <p>18 think that's -- those are the highlights.</p> <p>19 You know, we will -- we'll see what the</p> <p>20 next steps are. He has been briefing the press about</p> <p>21 once or twice a week, and those are typically carried</p> <p>22 on the ADHS YouTube page, which we can, also, get you</p> <p>23 the link to, but I would think the -- I think the</p> <p>24 highlight is the reopen retail under the restrictions</p> <p>25 with respect to spacing and safe -- you know, health</p>		
09:42:24-09:44:11	Page 11	09:46:04-09:47:32	Page 13
<p>1 going to be confused. So, they're going to be looking</p> <p>2 for clarification, and I think that's where the Clean</p> <p>3 Elections will come in and we can help clarify.</p> <p>4 Regarding the pandemic, Tom, what are the</p> <p>5 modifications that were stated by the governor</p> <p>6 yesterday, you said, but what are those specific</p> <p>7 modifications?</p> <p>8 MR. COLLINS: So, Commissioner Chan,</p> <p>9 Commissioner Titla, they are -- this is as</p> <p>10 comprehensive as I can do, I think. Beginning next</p> <p>11 week, there will be an expansion of, essentially, the</p> <p>12 definition of "essential services" -- goods and</p> <p>13 services to folks who are selling goods. So, retail</p> <p>14 establishments will be able to reopen under certain</p> <p>15 distancing and safety guidelines.</p> <p>16 The governor, also, said that he will be</p> <p>17 considering and looking at the issue of restaurants</p> <p>18 related to -- that will -- and that that plan will be</p> <p>19 modified but will be forthcoming in the following week.</p> <p>20 His -- he wants to modify that, he said yesterday at</p> <p>21 his press conference, but he doesn't want to do it too</p> <p>22 quickly.</p> <p>23 He has two -- two statements associated</p> <p>24 with that, which I think are -- for what it's worth, I</p> <p>25 think, makes sense. One, that, you know, obviously,</p>	<p>1 safety regulations.</p> <p>2 COMMISSIONER TITLA: Okay. Thank you.</p> <p>3 MR. COLLINS: So, we have a -- I wanted to</p> <p>4 cover -- and just a quick note. We had an Item VI</p> <p>5 related to legal matters. We think this is all wrapped</p> <p>6 up in the report, actually, in the Executive Director's</p> <p>7 report. We don't anticipate having to do Item VI on</p> <p>8 your agenda, unless someone wants to.</p> <p>9 We have -- in the outstanding legal</p> <p>10 matters, we've combined two categories of legal</p> <p>11 matters: those which we've had an interest or followed</p> <p>12 and those that affect elections, in general. Some of</p> <p>13 you may know, just as a general matter, Kara and others</p> <p>14 at the AG's office are involved in the candidate</p> <p>15 challenge period for legislative, statewide,</p> <p>16 congressional, county and precinct committee offices</p> <p>17 right now. So, that's happening in Maricopa Superior</p> <p>18 Court, largely.</p> <p>19 You know, we have -- we have an oral</p> <p>20 argument date for the Arizona Advocacy Network v. State</p> <p>21 case. That's going to be at the end of June. The</p> <p>22 State in that ABOR case, we've followed. They had</p> <p>23 arguments, I want to say, last week. So, we'll see a</p> <p>24 decision on that at some point.</p> <p>25 The Attorney General's Office filed a</p>		

09:47:37-09:48:42	Page 14	09:50:17-09:51:27	Page 16
<p>1 petition for serve in the -- in the U.S. Supreme Court</p> <p>2 related to a Ninth Circuit opinion that its main effect</p> <p>3 was to strike down an Arizona law that restricts the</p> <p>4 collection of mailed ballots. So, that will be --</p> <p>5 that's on file now.</p> <p>6 MS. KARLSON: And --</p> <p>7 MR. COLLINS: Sorry.</p> <p>8 MS. KARLSON: Tom, I'm sorry to interrupt</p> <p>9 you, but the other big part of that lawsuit strikes</p> <p>10 down the precinct --</p> <p>11 MR. COLLINS: Oh, right.</p> <p>12 MS. KARLSON: -- requirements that will</p> <p>13 have impact on or could, potentially, have impact on</p> <p>14 election officials, but basically, Arizona law for the</p> <p>15 last --</p> <p>16 COMMISSIONER CHAN: Wait. I'm sorry. This</p> <p>17 is Commissioner Chan.</p> <p>18 Is that Kara speaking?</p> <p>19 MR. COLLINS: Yes. Sorry. Yes.</p> <p>20 MS. KARLSON: Yes. This is Kara Karlson.</p> <p>21 COMMISSIONER CHAN: That's okay. I just --</p> <p>22 thank you.</p> <p>23 MS. KARLSON: Arizona law, for the last 50</p> <p>24 years, allowed for -- or required people to vote in</p> <p>25 their proper precinct, and the Ninth Circuit en banc</p>	<p>1 MR. COLLINS: Yes, Commissioner -- or</p> <p>2 Chairman Paton. I think that -- yeah, we -- we -- we</p> <p>3 can. The one piece of information that I haven't had a</p> <p>4 chance to clarify yet is whether or not the State</p> <p>5 sought a stay. My -- my memory was that the State</p> <p>6 sought a stay in the Ninth Circuit for purposes of the</p> <p>7 PPE, the Presidential Preference Election. Because</p> <p>8 this decision came out days before the Presidential</p> <p>9 Preference Election, I don't know if that stay expires</p> <p>10 or not.</p> <p>11 So, yes, once we have that information</p> <p>12 nailed down, we can -- we can -- we can put that out so</p> <p>13 people have a clear understanding of what is -- of what</p> <p>14 is -- the law is on that. Obviously, we want to be</p> <p>15 absolutely correct because the -- especially on the</p> <p>16 ballot collection piece because it's a ballot</p> <p>17 collection -- unauthorized ballot collection is a</p> <p>18 felony, in theory. So, we don't want to -- we want to</p> <p>19 be as precise as possible.</p> <p>20 CHAIRMAN PATON: You would think that --</p> <p>21 MS. KARLSON: And --</p> <p>22 CHAIRMAN PATON: You would think that --</p> <p>23 this is Commissioner Paton. You would think that</p> <p>24 something of this magnitude would go to the Supreme</p> <p>25 Court even before that, I mean, the election.</p>		
09:48:47-09:50:10	Page 15	09:51:31-09:53:11	Page 17
<p>1 decision, also, struck down that requirement. So,</p> <p>2 counties that -- I mean, the laws have been amended</p> <p>3 since then to allow counties to make a decision to move</p> <p>4 to vote centers. So, there are certain rural counties,</p> <p>5 specifically, that have moved to vote centers, but the</p> <p>6 counties that have -- that are currently reliant on</p> <p>7 voters showing up at the correct polling place and</p> <p>8 those counties have technology specific to that, you</p> <p>9 know, that could affect the elections administrators if</p> <p>10 that -- if the Ninth Circuit en banc holding stands.</p> <p>11 MR. COLLINS: Okay. So, that's -- yes.</p> <p>12 That's -- yeah, that's -- so, that will be -- that will</p> <p>13 be interesting.</p> <p>14 Another case --</p> <p>15 CHAIRMAN PATON: Tom?</p> <p>16 MR. COLLINS: Yes.</p> <p>17 CHAIRMAN PATON: Tom, this is -- if I</p> <p>18 could, this is Commissioner Paton.</p> <p>19 MR. COLLINS: Yes.</p> <p>20 CHAIRMAN PATON: I have a question about</p> <p>21 that.</p> <p>22 Is that going to change for the November</p> <p>23 election? And if there are changes, I guess, maybe we</p> <p>24 should trumpet out those changes any way we can so that</p> <p>25 most people -- so people will know about those changes.</p>	<p>1 MR. COLLINS: I'll defer to Kara on that.</p> <p>2 MS. KARLSON: Commissioner Chan,</p> <p>3 Commissioner Paton, the real issue, I think, at this</p> <p>4 point with mounting a voter education campaign is that</p> <p>5 this case is still in flux so much and we don't know</p> <p>6 when we will have finality, whether it's from the en</p> <p>7 blanc Ninth Circuit's opinion or if the Supreme Court</p> <p>8 takes it, you know, or if there's a stay in place.</p> <p>9 So, due to the fluctuating nature of this,</p> <p>10 I think that it's fair to be concerned about putting</p> <p>11 out statements that you then have to, you know, revise</p> <p>12 repeatedly as this moves, probably rather</p> <p>13 expeditiously, through the courts. I mean, as long as</p> <p>14 I've been involved in this case, it's been -- it's</p> <p>15 moved very rapidly. So, hopefully, we'll have finality</p> <p>16 soon. Do I know for certain that it will occur before</p> <p>17 the 2020 general, particularly given the changes in how</p> <p>18 everyone has been operating under COVID-19? I can't --</p> <p>19 I can't make a prediction on that.</p> <p>20 So, I hope I have answered your question</p> <p>21 without actually answering your question.</p> <p>22 CHAIRMAN PATON: Yes.</p> <p>23 MS. KARLSON: My apologies.</p> <p>24 CHAIRMAN PATON: No. It's, obviously, in</p> <p>25 flux, and this is so -- this is Commissioner Paton --</p>		

<p>09:53:16-09:54:37</p> <p>Page 18</p> <p>1 it is so -- you know, a big presidential election. You 2 would think that we would have finality rather -- you 3 know, several months, you would think, before the 4 election so that would give us time to explain what the 5 final, you know, procedures are going to be. 6 MR. COLLINS: I mean, Commissioner Chan, 7 Commissioner Paton, I think that, yeah, having, you 8 know, like, Kara work on some of these cases right at 9 the -- at the -- right as election season is 10 approaching, that's certainly always a hope. There is 11 a body of case law that says that that should be the 12 way things are done. 13 MS. KARLSON: And yet. 14 MR. COLLINS: But -- yeah, but -- so, 15 we'll -- but we'll see. I think, I mean, Commissioner 16 Chan, also, has a background -- has worked on some of 17 those matters -- a lot of those matters, actually. 18 COMMISSIONER CHAN: Yeah. This is -- 19 Commissioner Chan. I was just going to pipe up and say 20 I remember -- I can't remember what the issue was, but 21 I remember a case where we were sure, when I was at the 22 Secretary of State, they had to decide this case in 23 time for the election to be conducted with a law either 24 in place or not in place. Like, we had to know. And 25 instead -- and I think it was the Supreme -- I don't</p>	<p>09:56:01-09:57:38</p> <p>Page 20</p> <p>1 Arizona ballots had already been cast. It took the 2 Supreme -- the United States Supreme Court 3 approximately 22 hours to strike that down, but I say 4 that -- and Commissioner Chan was actually a witness on 5 that case. 6 I just give that contextual background to 7 say that this case procedurally is a case that I've 8 gotten called from other lawyers to try to explain what 9 happened because it is just very convoluted. It's a 10 very interesting case from a civil procedure 11 standpoint, but I don't know -- yeah, that's part of 12 the reason that I'm so cagy on trying to predict 13 anything about that case. 14 MR. COLLINS: Okay. So, yeah, it's a very 15 high-interest case to begin with. 16 A couple of other cases that, I think, are 17 worth being aware of and, you know -- and, obviously, 18 we've had a chance to talk a little bit about these 19 with Kara -- oh, my apologies, Commissioners. The Voto 20 Latino v. Hobbs has to do with -- I think the main 21 issue there, if I'm correct, is the -- is the deadline 22 for the return of ballots. 23 The relief that the Plaintiffs are seeking 24 there is, essentially, that rather than have your 25 ballot delivered no later than the close of the polls;</p>
<p>09:54:40-09:55:59</p> <p>Page 19</p> <p>1 remember, but it was, like, either the Arizona Supreme 2 Court or the U.S. Supreme Court. I mean, it was 3 definitely, like, the final arbiter of the matter. And 4 they just kept it. Like, they just didn't decide it, 5 you know. And so, we were, like, what, you know. 6 And so, that definitely happens. The 7 courts sometimes disappoint us in that way. You know, 8 they, kind of, leave us hanging with no real answer 9 unless there's -- the answer would be whether there's a 10 stay in place, as Tom is going to let us know. 11 But, anyway, that's my two cents. 12 MS. KARLSON: And, Commissioner Chan and 13 all the commissioners, just to give you guys a little 14 bit of a procedural background on Feldman and what -- 15 it's known by a different name now. So, please, excuse 16 me for referring to the case that it was called four 17 years ago when it first started, but the procedural 18 oddity of this, they -- the Ninth Circuit issued an 19 order striking Arizona law the Friday before the 20 election, at least in regards to the ballot collection 21 ban, despite the unanimous Supreme Court's decision 22 known as the Purcell principle that you cannot change 23 election law right before the election. 24 And we thought that was particularly 25 important, given the fact that the vast majority of</p>	<p>09:57:42-09:59:13</p> <p>Page 21</p> <p>1 that is, 7:00 p.m. on election day, they seek, 2 essentially, a court order saying that that deadline 3 should be made a postmark by the -- by the -- by 4 election day and that five further days from the 5 postmark for the ballot to arrive at the election 6 place. 7 And Kara has been working on this case, and 8 I filed -- did I file a thing in this case? 9 MS. KARLSON: Yes, you did. You filed a 10 declaration. 11 MR. COLLINS: I probably did, yeah. 12 MS. KARLSON: And Commissioner Chan and the 13 others commissioners, I'd just like to add a slight 14 wrinkle. Not just five days afterwards but five 15 business days afterwards, which, as we all know, 16 it's -- you know, when you are talking about an 17 election, that's seven days. So, what they effectually 18 want or effectively want is a postmark by election day 19 received seven days after the election, and that's -- 20 that is the lawsuit that they are seeking. 21 MR. COLLINS: And, Commissioners, just to 22 give you a sense of the procedural issue there and to, 23 sort of, anticipate, at least, some of the questions 24 you might have, the PI briefing and the PI hearing on 25 that case is not going to be held until the end of June</p>

<p>09:59:17-10:00:38 Page 22</p> <p>1 and early --</p> <p>2 MS. KARLSON: End of May.</p> <p>3 MR. COLLINS: End of May. I'm sorry. End</p> <p>4 of May.</p> <p>5 MS. KARLSON: Excuse me.</p> <p>6 MR. COLLINS: No, no, no. I knew it was</p> <p>7 the end of something, and it was only going to be May</p> <p>8 or June. So, it was a 50/50 chance. In the end of</p> <p>9 May.</p> <p>10 And just to put that in perspective, early</p> <p>11 ballots will be sent out, essentially, one month after</p> <p>12 that, really, because it was sent out on July 8th. So,</p> <p>13 again, this is one of the -- this is a case where the</p> <p>14 lawsuit is right up against the actual casting of</p> <p>15 ballots in terms of its -- in terms of trying to get</p> <p>16 relief and, then, presumably, expedited appellate</p> <p>17 matters.</p> <p>18 So, it's a -- that one, too, I think,</p> <p>19 will -- will be -- you know, regardless of the</p> <p>20 outcome -- and I don't want to anticipate the outcome</p> <p>21 too much, but that one, too, will be, you know, a</p> <p>22 last-minute thing that we'll be keeping our eyes on</p> <p>23 because in the event -- because -- especially, for the</p> <p>24 August primary. There's, obviously, more time before</p> <p>25 the -- before the general election.</p>	<p>10:02:11-10:03:16 Page 24</p> <p>1 various procedural restrictions the legislature has</p> <p>2 placed on top of the constitutional process for</p> <p>3 circulating and resolving issues around the initiative</p> <p>4 and referendum petitions are impinging on the First and</p> <p>5 Fourteenth Amendment rights of the Plaintiffs.</p> <p>6 They were denied preliminary relief some</p> <p>7 months ago there on appeal, I believe, from the denial</p> <p>8 of preliminary relief. I don't think they got a</p> <p>9 stay -- I don't know if they got a stay from that.</p> <p>10 MS. KARLSON: And from a motion to dismiss.</p> <p>11 Many of their claims were actually dismissed.</p> <p>12 MR. COLLINS: Oh, that's right. That's</p> <p>13 right. That's right. There was a -- there was a</p> <p>14 motion to dismiss. So -- so, yeah, I think only one of</p> <p>15 their -- I think only their Fourteenth Amendment claim</p> <p>16 survived the motion to dismiss.</p> <p>17 MS. KARLSON: First Amendment claim.</p> <p>18 MR. COLLINS: Or the First Amendment.</p> <p>19 Okay. So -- sorry. So, to rehash that, just real</p> <p>20 quickly to be more clear, let me recap. The challenge</p> <p>21 is to the processes the legislature has put on top of</p> <p>22 the constitutional processes for referendum and</p> <p>23 initiative. The Plaintiffs had many other claims</p> <p>24 dismissed. One is alive, but they are appealing the</p> <p>25 dismissal, in addition to the denial of preliminary</p>
<p>10:00:40-10:02:06 Page 23</p> <p>1 MS. KARLSON: Well, and to be clear, I</p> <p>2 don't believe they're seeking that relief for the</p> <p>3 August primary due to the issues --</p> <p>4 MR. COLLINS: Okay.</p> <p>5 MS. KARLSON: -- of timing. They would</p> <p>6 just be seeking it for the November general election.</p> <p>7 And, fortunately, because I'm lead counsel on the case,</p> <p>8 I will definitely keep the Commission apprised of</p> <p>9 anything that has occurred. We have filed a motion to</p> <p>10 dismiss. The Plaintiffs have filed a preliminary</p> <p>11 injunction motion that we are responding to.</p> <p>12 And just to get everyone an idea of how</p> <p>13 many early ballots are rejected or, at least, were</p> <p>14 rejected in 2018 for failure to arrive on time, it was</p> <p>15 approximately 2,500 out of over 1.7 or 1.8 million.</p> <p>16 MR. COLLINS: So, that's not a lot</p> <p>17 percentagewise.</p> <p>18 MS. KARLSON: Percentagewise, it is almost</p> <p>19 zero.</p> <p>20 MR. COLLINS: Okay. And, then, finally,</p> <p>21 the other -- the last case that we identified is a case</p> <p>22 called Miracle v. Hobbs, which has to do with the right</p> <p>23 to petition under the Arizona Constitution and how it</p> <p>24 interacts with the First and Fourteenth Amendments.</p> <p>25 Essentially, the Plaintiff's argument there is that the</p>	<p>10:03:20-10:04:29 Page 25</p> <p>1 relief, and we will keep you posted on that.</p> <p>2 That will, theoretically -- well, that case</p> <p>3 will become moot, for all intents and purposes, at some</p> <p>4 point.</p> <p>5 MS. KARLSON: That case was just argued</p> <p>6 before --</p> <p>7 MR. COLLINS: Right.</p> <p>8 MS. KARLSON: -- the Ninth Circuit.</p> <p>9 MR. COLLINS: No, I understand, but I mean,</p> <p>10 as a practical matter, July 2nd is the deadline for</p> <p>11 these petition signatures, if they are out there, to</p> <p>12 get submitted. So, it's -- it might -- you know, it's</p> <p>13 a -- it is what it is. I don't know.</p> <p>14 So, those are the main ones we felt like</p> <p>15 folks needed to -- folks needed to be aware of. I'm</p> <p>16 going to ask Kara, just real quick, if there's any</p> <p>17 others you want to mention. I don't think we -- I</p> <p>18 don't think -- but -- and as Kara mentioned, she's been</p> <p>19 leading -- she's been leading most of these cases and</p> <p>20 led what's now Brnovich v. DNC at the -- at the trial</p> <p>21 court level. So, she's -- so, we are -- we're in a</p> <p>22 good position to be well-informed on these matters, and</p> <p>23 I really appreciate her being here today to help me</p> <p>24 make sure we get you the right information.</p> <p>25 The legislature -- real quick -- and I know</p>

10:04:35-10:05:45	Page 26	10:07:06-10:08:21	Page 28
<p>1 we're -- I took a little longer than I probably should</p> <p>2 have, but the legislature -- the legislature is</p> <p>3 recessed. It's not clear when the legislature will</p> <p>4 come back. There was a discussion in the press around</p> <p>5 the leadership suggesting that, perhaps, the</p> <p>6 legislature simply come back and sine die, you know,</p> <p>7 and adjourn for the session. The members -- a majority</p> <p>8 of the members indicated that was not their preference.</p> <p>9 So, we're, sort of, in a holding pattern</p> <p>10 there. There are two bills that we've been watching</p> <p>11 throughout the legislative session that are still alive</p> <p>12 in so far as the session continues. So, we'll keep you</p> <p>13 informed on that.</p> <p>14 COMMISSIONER CHAN: Tom?</p> <p>15 MR. COLLINS: Yes.</p> <p>16 COMMISSIONER CHAN: This is Commissioner</p> <p>17 Chan.</p> <p>18 MR. COLLINS: Please.</p> <p>19 COMMISSIONER CHAN: A quick question</p> <p>20 regarding the legislature.</p> <p>21 Do you know the date they're coming back?</p> <p>22 MR. COLLINS: No, no. They had --</p> <p>23 Commissioner Chan -- sorry. They had said -- we had</p> <p>24 heard -- I think we had heard Monday last and then we</p> <p>25 heard May 1st, and I haven't heard a date since the</p>	<p>1 voters for the time being, but I'm only one person.</p> <p>2 And, I guess, what I'm trying to point out here is that</p> <p>3 even if I've been encouraging people or even if we all</p> <p>4 encourage everyone who votes to enroll on the permanent</p> <p>5 early voter list, I'm very concerned about our election</p> <p>6 workers and pollworkers who -- even if everybody is on</p> <p>7 the permanent early voter list, they're still going to</p> <p>8 have to put on an election together. And I think it's</p> <p>9 kind of hard to be socially distant --</p> <p>10 THE OPERATOR: Leaving the meeting: Mike</p> <p>11 Becker.</p> <p>12 COMMISSIONER CHAN: You use touchscreen,</p> <p>13 et cetera, during an election. And what, I guess, I'm</p> <p>14 trying to say is -- and I don't know if it's okay to</p> <p>15 bring it up and, if not, you can stop me and we can put</p> <p>16 it on another agenda, but do we, as the Commission,</p> <p>17 want to take a policy position on this for this year,</p> <p>18 discuss it, as far as asking the legislature to</p> <p>19 consider doing this this year? I'm sorry to, kind of,</p> <p>20 you know, bring this up over the phone without being</p> <p>21 face to face.</p> <p>22 MR. COLLINS: No, no. No, Commissioner</p> <p>23 Chan, let me -- let me answer that question in two</p> <p>24 ways. The first is that, you know, we do have room to</p> <p>25 discuss that in the context of the voter education</p>		
10:05:49-10:07:03	Page 27	10:08:24-10:09:42	Page 29
<p>1 last discussion, since the discussion about simply</p> <p>2 returning and adjourning went over without any</p> <p>3 resolution. So --</p> <p>4 COMMISSIONER CHAN: Okay.</p> <p>5 MR. COLLINS: So, we don't know.</p> <p>6 COMMISSIONER CHAN: I ask because I have</p> <p>7 been very passionate about making a change for this</p> <p>8 year to all mail voting due to the pandemic. I was</p> <p>9 concerned about the PPE taking place in polling places,</p> <p>10 and I don't know what the actual specifics are. You</p> <p>11 know, there was one story about a man who voted and</p> <p>12 contracted the coronavirus who died, I believe, here in</p> <p>13 Phoenix. I've seen some of the information coming out</p> <p>14 of Wisconsin, you know, because the coronavirus</p> <p>15 pandemic has, kind of, been going on a little longer.</p> <p>16 I think more people were infected at the time they</p> <p>17 conducted their Presidential Preference Election up</p> <p>18 there.</p> <p>19 I am personally very concerned. We're</p> <p>20 going to vote in August. I think August 4th is the</p> <p>21 date or is it August 6th.</p> <p>22 MR. COLLINS: Yes, it is August 4th.</p> <p>23 COMMISSIONER CHAN: I can't remember.</p> <p>24 August 4th maybe. I've been encouraging people, using</p> <p>25 my social media, to register to become permanent early</p>	<p>1 agenda item which deals with a lot of our contingency</p> <p>2 planning around that. You know, with respect to the</p> <p>3 legislature, generally, the -- and we can discuss that,</p> <p>4 I think, here and there, but just to -- just to answer</p> <p>5 the question, is the president of the Senate has</p> <p>6 said --</p> <p>7 THE OPERATOR: Joining the meeting: Mike</p> <p>8 Becker.</p> <p>9 MR. COLLINS: -- has said expressly that</p> <p>10 the -- that a ballot by mail without a request for the</p> <p>11 state primary and the general election is not something</p> <p>12 that she would be inclined to put on the floor.</p> <p>13 COMMISSIONER CHAN: I know that.</p> <p>14 MR. COLLINS: So, I --</p> <p>15 COMMISSIONER CHAN: I -- I'm sorry. Go</p> <p>16 ahead, Tom.</p> <p>17 MR. COLLINS: No, I guess, it would be</p> <p>18 probably easier to put this in the context of our voter</p> <p>19 education discussion because our discussions with the</p> <p>20 Secretary's office have included that topic. So, it</p> <p>21 would be easier to put that in that context for me,</p> <p>22 anyways, if that's okay.</p> <p>23 COMMISSIONER CHAN: Okay. I guess, I'm</p> <p>24 happy to talk about it in the context of voter</p> <p>25 education. The reason I bring it up in terms of</p>		

10:09:43-10:11:06	Page 30	10:12:10-10:13:34	Page 32
<p>1 legislative stuff is because, again, you know, even if</p> <p>2 we educate all the voters on going to PEVL for the year</p> <p>3 and then taking ourselves off once we get past this</p> <p>4 thing, hopefully sooner rather than later, just to</p> <p>5 maintain their safety as much as possible so they don't</p> <p>6 have to interact with other people or limit it as much</p> <p>7 as possible.</p> <p>8 So, with the legislature not making this</p> <p>9 change is putting people in danger. It's requiring</p> <p>10 people to go in public and interact with people. And I</p> <p>11 have a friend who voted in the PPE in February and</p> <p>12 blurted on her Facebook how aware she was of every</p> <p>13 single thing she had to touch, every single person she</p> <p>14 had to interact with, touching her driver's license,</p> <p>15 handing it back to her, all of that stuff and the</p> <p>16 touchscreen, et cetera. So, even back then when this</p> <p>17 was just, kind of, unrolling and still taking shape</p> <p>18 with the coronavirus, I am still finding out that</p> <p>19 voters were uncomfortable.</p> <p>20 And I think it's irresponsible of the</p> <p>21 legislature not to take on this stuff and I'm sorry</p> <p>22 because I know I tend to be a rabble-rouser, I guess.</p> <p>23 I just thought I'd bring it up as far as whether we</p> <p>24 wanted to do it since -- (inaudible) -- against us, if</p> <p>25 that's what we want, anyway. But, I'm happy to talk</p>		<p>1 comments for Tom?</p> <p>2 CHAIRMAN PATON: I do. This is</p> <p>3 Commissioner Paton.</p> <p>4 COMMISSIONER CHAN: Okay. Commissioner</p> <p>5 Paton, go ahead.</p> <p>6 CHAIRMAN PATON: So, where do we stand on</p> <p>7 nominating or appointing new commissioners? Do we</p> <p>8 know?</p> <p>9 MR. COLLINS: Commissioner Chan and</p> <p>10 Commissioner Paton, no. I mean, we -- I'll be honest</p> <p>11 with you. I have not checked in with the Governors's</p> <p>12 office on that for some time. We are -- I mean,</p> <p>13 honestly, I don't think that that's going to be top of</p> <p>14 mind for either the Governor's office or the Secretary</p> <p>15 of State's office for -- certainly in the near future.</p> <p>16 I mean, obviously, we, as staff, appreciate</p> <p>17 and are happy to have, you know, the three</p> <p>18 commissioners who have been holding over -- or continue</p> <p>19 to hold over, and we appreciate the, you know,</p> <p>20 generosity of the time -- your time in doing so, but</p> <p>21 Commissioner Paton, I don't anticipate, in view of the</p> <p>22 election itself and then, on top of that, the COVID</p> <p>23 situation. I just -- I just can't imagine we're going</p> <p>24 to hear anything from them, and I can't -- and I have</p> <p>25 not -- I haven't -- I have not asked since the last</p>	
10:11:09-10:12:08	Page 31	10:13:37-10:14:49	Page 33
<p>1 about it in voter education. I just wanted to mention</p> <p>2 it in front of the other commissioners, as well.</p> <p>3 Thank you.</p> <p>4 MR. COLLINS: With respect to -- yeah. No,</p> <p>5 thank you. And just to clarify, Commissioner Chan,</p> <p>6 with respect to the notice on the -- on the agenda,</p> <p>7 we're in a position where, you know, we can be given</p> <p>8 direction to do something, but I suspect that on that</p> <p>9 issue, we would want to have a discussion and actually</p> <p>10 have a -- have a vote. And we aren't really equipped</p> <p>11 for that with the way this agenda is noticed.</p> <p>12 COMMISSIONER CHAN: Okay. And thank you,</p> <p>13 Tom. And I understand that. Okay.</p> <p>14 MR. COLLINS: And, then -- that's it. So,</p> <p>15 I mean, that's -- that's really all I have. I do want</p> <p>16 to note we have 38 participating candidates. We've</p> <p>17 funded 11.</p> <p>18 Things are going smoothly with the</p> <p>19 Governor's Regulatory Review Commission in terms of the</p> <p>20 terms we've, sort of, come to, at least informally.</p> <p>21 And that's all -- that's all I have.</p> <p>22 So, I mean, without any -- without any</p> <p>23 further ado, that concludes my report.</p> <p>24 COMMISSIONER CHAN: Thank you.</p> <p>25 Does anyone have any other questions or</p>		<p>1 time I asked, which was, I think, in -- which was in --</p> <p>2 which was about -- about a month -- probably a month</p> <p>3 and a half ago, before this all turned to what it is.</p> <p>4 CHAIRMAN PATON: Okay. Thank you.</p> <p>5 COMMISSIONER CHAN: Commissioner Paton,</p> <p>6 this is Commissioner Chan. And you know how I feel</p> <p>7 about it, but I will say that I've grown a little more</p> <p>8 contemplative over this past month and a half, and I</p> <p>9 have come to the conclusion that I should be grateful</p> <p>10 for the Commission we have. And I think similar to</p> <p>11 what Tom just said. I'll just echo my extreme thanks</p> <p>12 to Commissioner Titla, first of all, for his being a</p> <p>13 holdover because he's been here the longest. So, thank</p> <p>14 you, Commissioner Titla.</p> <p>15 Commissioner Kimble and Meyer -- well, let</p> <p>16 me think. Meyer, I think you've been here longer than</p> <p>17 Kimble.</p> <p>18 Kimble, you just aged out or timed out, I</p> <p>19 guess. So, thank you to all three.</p> <p>20 And, you know, hopefully, Commissioner</p> <p>21 Paton, you'll stick around, too, next year, depending</p> <p>22 on how this goes. And we'll just continue to have the</p> <p>23 fab five here for a while.</p> <p>24 CHAIRMAN PATON: The cabal.</p> <p>25 COMMISSIONER CHAN: All right. So, are</p>	

10:14:51-10:15:58	Page 34	10:17:19-10:18:35	Page 36
<p>1 there any other questions for Tom on this item?</p> <p>2 (No response.)</p> <p>3 COMMISSIONER CHAN: If not, I'll take us on</p> <p>4 to Item IV for discussion, and I don't think staff is</p> <p>5 recommending any actions. It's discussion and possible</p> <p>6 action on voter education, including, A, debate format</p> <p>7 change and, B, ballot by mail and pollworker</p> <p>8 recruitment campaign.</p> <p>9 So, is Gina Roberts available?</p> <p>10 MS. ROBERTS: Yes, Commissioner Chan,</p> <p>11 Commissioners. This is Gina.</p> <p>12 All right. Good morning.</p> <p>13 COMMISSIONER CHAN: Hi.</p> <p>14 MS. ROBERTS: Hi. Good morning. And I</p> <p>15 think what we have on the agenda here is to provide the</p> <p>16 Commission some updates on how staff has adapted some</p> <p>17 of our voter education plans in light of COVID-19 and</p> <p>18 the new norm.</p> <p>19 So, first up, we do want to share the</p> <p>20 changes that we've made to our debates. This -- for</p> <p>21 some background context, with the debate process,</p> <p>22 historically what we would do is we would hold</p> <p>23 on-the-ground debates at every legislative district.</p> <p>24 So, what that meant was staff, candidates, voters and</p> <p>25 all of our partners, we would be traveling to each</p>		<p>1 debate. So, we would have staff available to collect</p> <p>2 those and get those over to the moderator so they can</p> <p>3 be answered real time.</p> <p>4 So, we did provide several, kind of,</p> <p>5 heads-up messages to the candidates letting them know</p> <p>6 that we were transitioning to this process, and I'm</p> <p>7 happy to say so far we have not received any type of</p> <p>8 concerns from candidates about this change. So, we do</p> <p>9 have our very first debate this evening, and so far,</p> <p>10 again, it seems as if the candidates and the public are</p> <p>11 on board. I think right now this is, kind of, the</p> <p>12 world that we live in. Most people are now very</p> <p>13 comfortable with these virtual meetings and Zoom.</p> <p>14 So, we do have plans to address any issues</p> <p>15 that being a voter will have if, perhaps, they don't</p> <p>16 have broadband access or connectivity. So, we do have</p> <p>17 some backup plans on how we can get them information on</p> <p>18 those debates. We do have plans for our legislative</p> <p>19 districts that -- maybe the Navajo Nation. We intend</p> <p>20 on streaming the recording post of the event on KTNN to</p> <p>21 ensure that those communities enjoy the debate, as</p> <p>22 well. And we did partner with the Arizona Capitol</p> <p>23 Times this year again to moderate several of these</p> <p>24 debates.</p> <p>25 And as far as the actual format of the</p>	
10:16:02-10:17:16	Page 35	10:18:40-10:19:42	Page 37
<p>1 legislative district and we'd secure facilities, like</p> <p>2 at hotels or libraries, schools, many of which are no</p> <p>3 longer available right now, and we would have debates</p> <p>4 in the evening, kind of, that were open to the public.</p> <p>5 We would record those so they can be</p> <p>6 available post debate but -- and, again, in light of</p> <p>7 COVID-19, we saw that that wasn't really feasible</p> <p>8 anymore just in terms of being able to practice social</p> <p>9 distancing. And in an effort to reduce exposure to</p> <p>10 candidates, voters and staff, we transitioned to a</p> <p>11 virtual debate process. And so, what that looks like</p> <p>12 is we are utilizing the Zoom platform for our</p> <p>13 candidates and the moderators, and we will conduct the</p> <p>14 debate through Zoom but live stream it through our</p> <p>15 YouTube page. And that's how voters are able to view</p> <p>16 it in real time.</p> <p>17 So, voters would access the Clean Elections</p> <p>18 YouTube page where they could see the debate occurring.</p> <p>19 We were very cognizant of the need to make sure that</p> <p>20 voters could interact as much as possible with the</p> <p>21 debate. So, voters are able to email questions that</p> <p>22 they may have for the candidates or call the office and</p> <p>23 submit those questions ahead of the debate and, then,</p> <p>24 during the debate, the public can actually either</p> <p>25 email, call in or text their questions throughout the</p>		<p>1 debate goes, we do have a very -- more relaxed format</p> <p>2 this year, and the reason behind that is to -- again,</p> <p>3 with this new platform, we just wanted to encourage and</p> <p>4 allow more interaction and dialogue between the</p> <p>5 candidates.</p> <p>6 So, we are excited and hopeful that that</p> <p>7 will produce a more substantive discussion, but</p> <p>8 overall, that's, kind of, a really high-level overview</p> <p>9 of where we are with the debate change. Again, this is</p> <p>10 done to ensure that we could practice those CDC</p> <p>11 guidelines and social distancing and, again, we are so</p> <p>12 far very excited about this new platform.</p> <p>13 Historically, the Commission has always looked at new</p> <p>14 ways to engage with the public and voters, and we feel</p> <p>15 this falls right in line with that.</p> <p>16 If there's any questions about the debate</p> <p>17 process, I'm happy to answer those before I jump into</p> <p>18 the next item.</p> <p>19 COMMISSIONER CHAN: Anyone have any</p> <p>20 questions for Gina?</p> <p>21 (No response.)</p> <p>22 COMMISSIONER CHAN: All right. Thank you.</p> <p>23 Gina, go right on ahead.</p> <p>24 MS. ROBERTS: Great. Thank you,</p> <p>25 Commissioner Chan and Commissioners --</p>	

10:19:45-10:20:52	Page 38	10:22:18-10:23:23	Page 40
<p>1 COMMISSIONER MEYER: Sorry. This is</p> <p>2 Commissioner Meyer.</p> <p>3 COMMISSIONER CHAN: Sorry, Commissioner</p> <p>4 Meyer. Go ahead.</p> <p>5 COMMISSIONER MEYER: No, no. My apologies.</p> <p>6 I was on mute.</p> <p>7 I had a question probably for -- for both</p> <p>8 Tom and Gina; and that is, you know, if this</p> <p>9 continues -- this pandemic continues, you know, longer</p> <p>10 than any of us want to and runs into the elections, are</p> <p>11 there plans in place? Is anyone planning on how to</p> <p>12 actually do the polling on day of and -- I'm sorry --</p> <p>13 voting at the polls on the day of the locations?</p> <p>14 MR. COLLINS: So -- Gina, do you want to go</p> <p>15 first?</p> <p>16 MS. ROBERTS: Sure. So, Chairwoman Chan</p> <p>17 and Commissioner Meyer, I apologize. I want to make</p> <p>18 sure that I fully understand your question. So, were</p> <p>19 you -- were you inquiring about how to inform people</p> <p>20 about how to vote on the day of the election? And I</p> <p>21 apologize. I just want to make sure I fully understood</p> <p>22 your question.</p> <p>23 Do you mind elaborating a little more?</p> <p>24 COMMISSIONER MEYER: Not at all. It was</p> <p>25 not my most eloquent moment by any stretch.</p>	<p>1 To do that, the voter would have to make a</p> <p>2 request, and that either -- that request is either done</p> <p>3 by joining the permanent early voting list. So, it's a</p> <p>4 one-time request and, then, going forward, any election</p> <p>5 that they're eligible to vote in, the ballot is</p> <p>6 automatically mailed to them, or voters can do a</p> <p>7 one-time request per election. So, maybe they don't</p> <p>8 want to join the permanent early voting list but they</p> <p>9 decide this particular election they want to vote by</p> <p>10 mail, they can make that simple one-time request.</p> <p>11 So, what we've seen from our election</p> <p>12 officials from several counties and from the Secretary</p> <p>13 of State's office here in Arizona, there has been a</p> <p>14 call for the legislature to authorize all mail, and</p> <p>15 what that would mean is that every eligible voter would</p> <p>16 automatically be mailed a ballot, not just if you're on</p> <p>17 the permanent early voting list or if you made that</p> <p>18 one-time request.</p> <p>19 And so, the thought process behind that was</p> <p>20 if we can get those ballots out to all of those voters,</p> <p>21 that will reduce the number of people voting in person.</p> <p>22 In-person locations with an all-mail election would</p> <p>23 still be required because voters would still need the</p> <p>24 opportunity to get a replacement ballot. Maybe, you</p> <p>25 know, they lost their ballot that was mailed to them or</p>		
10:20:57-10:22:14	Page 39	10:23:26-10:24:43	Page 41
<p>1 My question is, if this pandemic lasts</p> <p>2 longer than we want to and we still have the social</p> <p>3 distancing or, you know, worse. I mean, we all saw the</p> <p>4 footage in Wisconsin where people were going to the</p> <p>5 polls and, you know, lined up for blocks because of the</p> <p>6 social distancing requirement. I think some folks</p> <p>7 actually may have contracted the virus when they were</p> <p>8 voting.</p> <p>9 Are there any plans or is there any thought</p> <p>10 of an alternative system or how people are going to</p> <p>11 vote at locations if we don't get to a better place</p> <p>12 with this virus?</p> <p>13 MS. ROBERTS: Okay. Commissioner, thank</p> <p>14 you. That helps clarify. And I think that really</p> <p>15 leads into our next section about the ballot by mail</p> <p>16 and voter education campaign and the pollworker</p> <p>17 recruitment.</p> <p>18 With what was discussed a little bit</p> <p>19 earlier in terms of legislation authorizing an all-mail</p> <p>20 election, the background behind that is that,</p> <p>21 Commissioners, so to vote -- voters have always had</p> <p>22 several options in how they can cast their ballot.</p> <p>23 They can either vote in person early or on election day</p> <p>24 or they can get a ballot mailed to them, and that's --</p> <p>25 voting by mail has been around for well over a decade.</p>	<p>1 they spoiled it.</p> <p>2 So, that would have been the discussion</p> <p>3 that's been happening about what that alternate plan</p> <p>4 would look like, but I think, as Tom alluded to, it</p> <p>5 doesn't seem like that's a possibility right now with</p> <p>6 the legislature. So, in terms of the voter education</p> <p>7 context, what staff has been working on is a Voter</p> <p>8 Education Plan to inform voters about those options for</p> <p>9 requesting your ballot by -- ballot by mail.</p> <p>10 Right now, in Arizona, about 80 percent of</p> <p>11 voters already vote by mail. So, we need to reach that</p> <p>12 other 20 percent and inform them about their options in</p> <p>13 so much as if you decide this year that, you know, it's</p> <p>14 in the best interest for you and your family to vote at</p> <p>15 home, here's the steps that you need to take on how to</p> <p>16 do it.</p> <p>17 And so, we've been working -- staff has</p> <p>18 been working on this plan to launch a Voter Education</p> <p>19 Plan, and we did -- we were contacted by the Secretary</p> <p>20 of State's office. They would like to partner with us</p> <p>21 on that, as well, and the counties, as well. So, right</p> <p>22 now the stance in terms of voter education context is</p> <p>23 informing the public about how to make that request for</p> <p>24 that ballot.</p> <p>25 Does that address your question,</p>		

<p>10:24:45-10:25:56 Page 42</p> <p>1 Commissioner Meyer -- 2 COMMISSIONER MEYER: I mean -- 3 MS. ROBERTS: I guess -- 4 COMMISSIONER MEYER: No, thank you for 5 that. I mean, I guess -- I guess what I'm hearing is 6 we're going to try to emphasize the options that are 7 currently available on a voting by mail but no real 8 legislative changes are expected on how polling or 9 voting will happen or the locations at this election. 10 Is that fair to say? 11 MS. ROBERTS: Commissioners, Commissioner 12 Meyer, I believe that is fair to say. 13 Tom, I don't know if you'd like to chime in 14 more on the legislative aspect of it, but I believe 15 that's correct. 16 MR. COLLINS: I think that's -- I think 17 that -- I mean -- yeah, I think that as long as the 18 legislature is in session, I think that you will hear 19 folks try to talk about the possibility of changing 20 their minds, but the legislature is divided, really, 21 into three camps, and two of the three camps are not 22 amenable to changes that would be in making more 23 available -- with having a non-request early ballot. 24 So, there's a camp that wants to have 25 non-request early ballots sent to voters. It's not</p>	<p>10:27:23-10:28:32 Page 44</p> <p>1 early voting begins. And so we will, in that guide, 2 call attention to those options of getting your ballot 3 by mail and what you need to do, as well, too. So, in 4 addition to our paid media campaign that we will 5 employ, we do have that direct mailer that is going to 6 every household. And so, that's another opportunity 7 for us to connect with voters and explain the options 8 that are available to them. 9 And, also, if I -- if I may, the other 10 component of this, too, is even, you know, if it's all 11 mail or status quo, we do, also, have the added 12 component of independent voters. So, independent 13 voters that wish to vote by mail, whether or not 14 they're already on PEVL or if they're making a one-time 15 request, independent voters must take an extra step of 16 contacting their county recorders to tell them which 17 party ballot to mail them in the primary. So, we will 18 be sure that we have that educational piece in our 19 outreach, as well, too. 20 COMMISSIONER CHAN: I think that -- 21 COMMISSIONER MEYER: This is Commissioner 22 Meyer. Thank you, Gina and Tom. 23 COMMISSIONER CHAN: Sorry, Commissioner 24 Meyer, to speak over you. 25 COMMISSIONER MEYER: No, no. I was just</p>
<p>10:26:00-10:27:20 Page 43</p> <p>1 clear what universe of voters they mean but -- you 2 know, because there are eligible voters. There are 3 eligible voters who are on the rolls. There are active 4 voters and there are inactive voters, but that's -- 5 anyways. There's the expansion folks, but there are 6 two sets of folks who are opposed to that, folks who 7 would like the status quo and folks who would like to 8 roll back the status quo. 9 So, that's just the reality. I think that 10 you will see efforts -- well, "The Republic" had a 11 column by EJ Montini maybe a couple of weeks ago where 12 the Maricopa County Recorder talked about sending out 13 requests for early ballots to voters. My understanding 14 of the legal basis for that is there's no law against 15 it. I don't know if that will come to pass or not, but 16 that would be something that would really be in their 17 ballpark, not ours, because we don't have that kind of 18 access to the voter -- direct voter files on a regular 19 basis. 20 So, those are the -- that's the, sort of, 21 state of policy right now. 22 MS. ROBERTS: And, Commissioners -- this is 23 Gina -- if I may just tag on to that, we do have our 24 Voter Education Guide, which will be going out to every 25 household with a registered voter before the start of</p>	<p>10:28:34-10:29:53 Page 45</p> <p>1 saying thank you to Tom and Gina for that information. 2 MS. ROBERTS: And, Commissioner Chan, if I 3 may, I can jump into the next piece of that, which 4 would be the pollworker recruitment campaign, if 5 there's no further questions about -- 6 COMMISSIONER CHAN: Yes, please do. Yeah, 7 that's going to be troublesome this year with the 8 coronavirus going around. 9 MS. ROBERTS: Well, Commissioners, and 10 Commissioner Chan, I think, as you mentioned earlier, 11 too, we have seen other states have issues with 12 pollworkers willing to serve. As we know, the 13 demographics for pollworkers are typically going to 14 fall into that high-risk category. We are on the -- 15 most are typically on the elderly side that choose to 16 serve. 17 And so, our plan this year is -- in 18 partnership with the Secretary of State's Office and 19 the counties is to launch a voter education campaign 20 letting voters know about what it means to serve as a 21 pollworker and it is that they are healthy and willing 22 to step up and serve, and we would explain what it 23 means, what those responsibilities are, that it is a 24 paid position and it's an opportunity to facilitate 25 democracy. We have seen other states do similar</p>

10:29:57-10:31:04	Page 46	10:32:20-10:33:42	Page 48
<p>1 outreach programs. I believe the Iowa Secretary of</p> <p>2 State just launched a similar campaign.</p> <p>3 Again, as I mentioned, in other states we</p> <p>4 are seeing pollworkers who refuse to work just because</p> <p>5 of their -- you know, of the potential risk to them.</p> <p>6 And so, pollworker recruitment is always a top concern</p> <p>7 regardless of the election year or surrounding</p> <p>8 circumstances, but again, in light of COVID-19, we do</p> <p>9 want to make sure that whatever the voting process may</p> <p>10 be, that the counties have the staff that they need to</p> <p>11 execute the election on election day and that they have</p> <p>12 sufficient pollworkers. And so, that will be another</p> <p>13 voter education campaign that we will be employing for</p> <p>14 that outreach.</p> <p>15 And with that, I'm happy to answer any</p> <p>16 questions.</p> <p>17 COMMISSIONER CHAN: Thank you, Gina.</p> <p>18 Commissioners, do you have any questions</p> <p>19 for Gina?</p> <p>20 (No response.)</p> <p>21 COMMISSIONER CHAN: Okay. I was waiting to</p> <p>22 see if anyone needed to take themselves off mute.</p> <p>23 Thank you for that, Gina.</p> <p>24 Tom?</p> <p>25 MR. COLLINS: Commissioner Chan, I just</p>		<p>1 and Mike is free to jump in if he -- if he wants to,</p> <p>2 especially if I say anything completely wrong or --</p> <p>3 COMMISSIONER CHAN: Okay.</p> <p>4 MR. COLLINS: -- or even mostly wrong.</p> <p>5 The -- so, we just wanted to make the</p> <p>6 Commission aware of the fact that, you know, the COVID</p> <p>7 situation and the resulting collapse in the demand and</p> <p>8 other -- other economic remunerations are going to have</p> <p>9 an effect on State revenues. We sent along some of the</p> <p>10 latest information from the Joint Legislative Budget</p> <p>11 Committee.</p> <p>12 What it -- what it -- you know, the</p> <p>13 short-term outlook for the State budget is that this</p> <p>14 fiscal year, which is already almost over, really -- I</p> <p>15 mean, we're coming up on May 1st. There's only two</p> <p>16 months left in the fiscal year. The governor and the</p> <p>17 legislature, I think they've both determined that they</p> <p>18 will not deal with any deficit issues in this fiscal</p> <p>19 year. There's no time to cut budgets left, but they</p> <p>20 will roll those over into the next fiscal year where,</p> <p>21 at least as of April 9th, JLBC estimates are that</p> <p>22 there's a wide range of possible deficit issues.</p> <p>23 The first thing that that will tap is the</p> <p>24 State Rainy Fund, which is about a billion dollars.</p> <p>25 There is some federal assistance that JLBC anticipates</p>	
10:31:06-10:32:17	Page 47	10:33:46-10:35:26	Page 49
<p>1 want to say I wanted to thank Gina and Alec and Avery</p> <p>2 and Paula for their work on this. Paula has helped</p> <p>3 us -- helped significantly with the debate format</p> <p>4 change. We had a change of vendors, and we've had a</p> <p>5 number of different administrative aspects that were</p> <p>6 going on both currently and, then, additionally this.</p> <p>7 So, I think that Gina and Paula's work and leadership</p> <p>8 on this has been really outstanding, and I -- and I --</p> <p>9 we could not -- we would not be in this position</p> <p>10 without them. So, I think we're really lucky.</p> <p>11 MS. THOMAS: Thank you, Tom.</p> <p>12 COMMISSIONER CHAN: Thank you, Tom. We</p> <p>13 really appreciate that, and I really hope you all know</p> <p>14 how much I appreciate you. And I'm sure all the</p> <p>15 commissioners feel the same way. I just -- I feel like</p> <p>16 it's a love session every time we get together, but</p> <p>17 it's really sincere. So, I hope you all feel that.</p> <p>18 Okay. Moving on to Item Number V,</p> <p>19 discussion and possible action on the budget outlook</p> <p>20 report.</p> <p>21 And, Tom, is it you or Mike today?</p> <p>22 MR. COLLINS: Commissioner Chan, I'm going</p> <p>23 to -- I'm going to take this, and then --</p> <p>24 COMMISSIONER CHAN: Okay.</p> <p>25 MR. COLLINS: -- and, then, I think that --</p>		<p>1 lasting until fiscal '22 when there may be a further --</p> <p>2 you know, a further shortfall as that money runs out</p> <p>3 and, then, obviously, how -- what the -- what the</p> <p>4 recovery and when the recovery begins and what it looks</p> <p>5 like.</p> <p>6 Part of the reason we wanted to make you</p> <p>7 all aware of some of these issues is just, you know, we</p> <p>8 are -- as a matter of law and of the application of the</p> <p>9 Voter Protection Act to the Clean Elections Act, we</p> <p>10 were appropriated by the voters. And so, as such, the</p> <p>11 Clean Elections Fund is a fund that is appropriated to</p> <p>12 the purposes outlined in the Clean Elections Act. What</p> <p>13 that means is that the fund is not something that,</p> <p>14 quote, rolls over. And we saw this in this session,</p> <p>15 legislators start to use the term "rollover" to</p> <p>16 describe the fund balance. That was before the budget</p> <p>17 started -- problem started.</p> <p>18 That is an incorrect statement, and we'll</p> <p>19 be working with folks to ensure that they understand</p> <p>20 that that is not a correct statement of what the Clean</p> <p>21 Elections Fund does. The fund is -- the process for</p> <p>22 the Commission in making a determination that there</p> <p>23 are -- that there are, quote, excess funds in the Clean</p> <p>24 Elections Fund is set forth in the Act, something we do</p> <p>25 a projection on every year. And, currently, under the</p>	

10:35:29-10:37:09	Page 50	10:38:47-10:39:50	Page 52
<p>1 formula set forth in the Act, we are significantly</p> <p>2 under the cap, if we want to call it that, at which the</p> <p>3 Commission would consider that kind of excess revenue.</p> <p>4 So, the reality is that in the boom times</p> <p>5 prior to the 2008 recession, the Commission made</p> <p>6 significant contributions to the general fund. At the</p> <p>7 end of that -- toward the end of that recession in</p> <p>8 2012, the legislature removed two of the major funding</p> <p>9 sources for the Clean Elections Fund. And so, the</p> <p>10 reality is that when you combine the monies that the</p> <p>11 prior Commission did hand to the legislature during the</p> <p>12 early part of the 2000s and you combine -- and the fact</p> <p>13 that the tax credits -- voluntary tax credits were</p> <p>14 removed, the legislature -- the general fund is already</p> <p>15 getting significant revenues from Clean Elections that,</p> <p>16 otherwise, it would be getting. And that's another</p> <p>17 part of the -- part of the story that we'll be happy to</p> <p>18 explain to folks.</p> <p>19 Nevertheless, you know, we'll be keeping an</p> <p>20 eye on this because we can't -- we aren't immune</p> <p>21 from -- we aren't immune from pressures that will come</p> <p>22 because of these -- the revenue shortfalls that are</p> <p>23 already baked in and we're, also, not immune from our</p> <p>24 own potential revenue. That's something that Julian</p> <p>25 and Mike have begun to look at. We don't have enough</p>		<p>1 think. So that will change the dynamic and always</p> <p>2 will. We don't know how that will play out, but we --</p> <p>3 you know, but -- long story short, you know, we'll be</p> <p>4 acting in a way that, I think, is budget-conscious, but</p> <p>5 our short-term -- our short-term outlook is good. And</p> <p>6 that's where we are.</p> <p>7 COMMISSIONER CHAN: Thank you, Tom.</p> <p>8 Commissioners, do you -- do any of you have</p> <p>9 any comments or questions for Tom or Mike?</p> <p>10 (No response.)</p> <p>11 COMMISSIONER CHAN: Okay. I think Item VI,</p> <p>12 we already discussed the update on cases in the</p> <p>13 Executive Director's report.</p> <p>14 MR. COLLINS: Yeah.</p> <p>15 COMMISSIONER CHAN: And so, I'm going to --</p> <p>16 if there's no other questions on what Tom just talked</p> <p>17 about in the budget outlook, I will move on to public</p> <p>18 comment.</p> <p>19 Do we have any public comment today?</p> <p>20 MR. COLLINS: We haven't received any</p> <p>21 calls. I don't believe we have any -- any comment.</p> <p>22 COMMISSIONER CHAN: Okay. Thank you.</p> <p>23 MR. COLLINS: Yeah.</p> <p>24 COMMISSIONER CHAN: I wasn't sure.</p> <p>25 MR. COLLINS: Commissioner Chan, if you</p>	
10:37:13-10:38:44	Page 51	10:39:51-10:40:49	Page 53
<p>1 information yet to really form any -- inform -- to</p> <p>2 really form much in the way of speculation on that,</p> <p>3 but -- beyond speculation about that, but it is</p> <p>4 something that we are keeping an eye on.</p> <p>5 So, for this election season, you know,</p> <p>6 most of our costs are pretty much set. We have ample</p> <p>7 money in the fund to pay for the voter education</p> <p>8 outreach efforts that we are required to make and the</p> <p>9 others that we are making, and we have the ample</p> <p>10 funding for the candidates who are -- who have chosen</p> <p>11 to run clean. That's not an issue.</p> <p>12 We've managed the fund, I think, in a way</p> <p>13 that's pretty reasonable over the course of the last --</p> <p>14 I don't know -- seven or eight years, given the --</p> <p>15 given the loss of those two revenue sources. And --</p> <p>16 and so, I think that we're in a -- I think that we're</p> <p>17 in a good position, but again, you know, you take</p> <p>18 the -- the legislature that exists now -- and I don't</p> <p>19 know what the 2020 legislature will look like, but the</p> <p>20 current legislature -- the legislature that, you know,</p> <p>21 began in 2021 will look like.</p> <p>22 The current legislature is different than</p> <p>23 the legislature that worked with Governor Brewer in the</p> <p>24 last economic crisis. This legislature is -- has --</p> <p>25 just has a different attitude about certain things, I</p>		<p>1 could note that people can --</p> <p>2 COMMISSIONER CHAN: I will note for the</p> <p>3 record that --</p> <p>4 MR. COLLINS: Yeah.</p> <p>5 COMMISSIONER CHAN: -- there's no one</p> <p>6 present for public comment today.</p> <p>7 MR. COLLINS: Right.</p> <p>8 COMMISSIONER CHAN: Is that what you wanted</p> <p>9 me to do?</p> <p>10 MR. COLLINS: Well, we also want to</p> <p>11 encourage folks who are watching, if you have a public</p> <p>12 comment that you have been unable to get to the</p> <p>13 Commission, please, that you can call the Commission at</p> <p>14 (602) 364-3477 or you can email the Commission at</p> <p>15 ccec@azcleelections.gov. That's, again,</p> <p>16 ccec@azcleelections.gov, or you can reach us through</p> <p>17 that address through our website. And those are ways</p> <p>18 to -- to get the public comment to the Commission.</p> <p>19 COMMISSIONER CHAN: Thank you, Tom. I</p> <p>20 could not -- I could not have said that, at all, myself</p> <p>21 probably right off the top of my head. So, thank you.</p> <p>22 And so, for anybody listening, yes, if you</p> <p>23 have public comment, you can submit it one of those</p> <p>24 ways.</p> <p>25 And with that, it looks like we're up to</p>	

10:40:54-10:41:43

Page 54

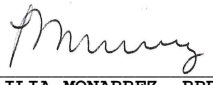
1 Item VIII, which is adjournment.
2 May I call on Commissioner Paton, perhaps,
3 to make a motion?
4 CHAIRMAN PATON: Sure. This is
5 Commissioner Paton, and I would make a motion to
6 adjourn our meeting.
7 COMMISSIONER CHAN: Okay. And is there a
8 second out there?
9 COMMISSIONER MEYER: Commissioner Meyer.
10 Second.
11 COMMISSIONER CHAN: All right. We have a
12 motion and a second to adjourn. Let's go ahead and do
13 a roll call.
14 Commissioner Paton, how do you vote?
15 CHAIRMAN PATON: Aye.
16 COMMISSIONER CHAN: Commissioner Titla?
17 COMMISSIONER TITLA: Aye.
18 COMMISSIONER CHAN: Commissioner Meyer?
19 COMMISSIONER MEYER: Aye.
20 COMMISSIONER CHAN: Commissioner Kimble?
21 COMMISSIONER KIMBLE: Aye.
22 COMMISSIONER CHAN: And I'm Commissioner
23 Chan, and I vote aye.
24 And with that, we'll adjourn this meeting.
25 Thank you all very much and, Tom, I hope this went

10:41:46-10:41:50

Page 55

1 okay.
2 MR. COLLINS: I think it went fine. It
3 worked for us.
4 COMMISSIONER CHAN: All right. Great.
5 Thank you so much, everyone.
6 (Whereupon, the proceedings concluded at
7 10:41 a.m.)
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Page 56

1 STATE OF ARIZONA)
2 COUNTY OF MARICOPA)
3 BE IT KNOWN the foregoing proceedings were
4 taken by me; that I was then and there a Certified
5 Reporter of the State of Arizona, and by virtue thereof
6 authorized to administer an oath; that the proceedings
7 were taken down by me in shorthand and thereafter
8 transcribed into typewriting under my direction; that
9 the foregoing pages are a full, true, and accurate
10 transcript of all proceedings and testimony had and
11 adduced upon the taking of said proceedings, all done to
12 the best of my skill and ability.
13 I FURTHER CERTIFY that I am in no way
14 related to nor employed by any of the parties thereto
15 nor am I in any way interested in the outcome hereof.
16 DATED at Phoenix, Arizona, this 2nd day of
17 May, 2020.
18 
19
20 LILIA MONARREZ, RPR, CR #50699
21
22
23
24
25

/	ahead (9) 3:4;6:21;7:3; 29:16;32:5;35:23; 37:23;38:4;54:12	associated (1) 11:23	blocks (1) 39:5	cast (2) 20:1;39:22
/// (2) 55:8,9	Alec (1) 47:1	attendance (1) 4:2	blurred (1) 30:12	casting (1) 22:14
A	alive (2) 24:24;26:11	attention (1) 44:2	board (1) 36:11	categories (1) 13:10
able (7) 8:25;10:2,3; 11:14;35:8,15,21	all-mail (2) 39:19;40:22	attitude (1) 51:25	body (1) 18:11	category (1) 45:14
ABOR (1) 13:22	allow (2) 15:3;37:4	Attorney (1) 13:25	boom (1) 50:4	cause (1) 12:9
abreast (2) 8:10;9:3	allowed (1) 14:24	August (7) 22:24;23:3; 27:20,20,21,22,24	both (4) 5:22;38:7; 47:6;48:17	ccec@azcanelections.gov (2) 53:15,16
Absolutely (2) 7:2; 16:15	alluded (1) 41:4	authorize (1) 40:14	Brewer (1) 51:23	CDC (1) 37:10
access (3) 35:17; 36:16;43:18	almost (2) 23:18;48:14	authorizing (1) 39:19	briefing (2) 12:20;21:24	centers (2) 15:4,5
Act (5) 49:9,9,12,24; 50:1	along (1) 48:9	automatically (2) 40:6, 16	bring (4) 28:15,20; 29:25;30:23	cents (1) 19:11
acting (1) 52:4	alternate (1) 41:3	available (7) 34:9;35:3, 6:36;14:2;7,23;44:8	Brnovich (1) 25:20	certain (4) 11:14;15:4; 17:16;51:25
action (4) 5:18;7:19; 34:6;47:19	alternative (1) 39:10	Avery (2) 8:8;47:1	broadband (1) 36:16	certainly (2) 18:10; 32:15
actions (1) 34:5	always (5) 18:10; 37:13;39:21;46:6;52:1	aware (5) 20:17;25:15; 30:12;48:6;49:7	budget (5) 47:19;48:10, 13;49:16;52:17	cetera (2) 28:13;30:16
active (1) 43:3	amenable (1) 42:22	Aye (10) 7:6,9,11,13, 15;54:15,17,19,21,23	budget-conscious (1) 52:4	Chairman (21) 3:3,6,9, 12,15;4:7;7:6;15:15, 17,20;16:2,20,22; 17:22,24;32:2,6;33:4, 24;54:4,15
actual (3) 22:14;27:10; 36:25	amended (1) 15:2		budgets (1) 48:19	Chairwoman (1) 38:16
actually (10) 5:7;13:6; 17:21;18:17;20:4; 24:11;31:9;35:24; 38:12;39:7	Amendment (4) 24:5, 15,17,18	B	business (3) 8:24; 12:10;21:15	challenge (2) 13:15; 24:20
adapted (1) 34:16	Amendments (1) 23:24	back (6) 26:4,6,21; 30:15,16;43:8	C	Chan (99) 3:17,20,23; 4:8,12,15,18,19,24;5:2, 7,12,15,23;6:4,7,14,17; 7:2,7,10,12,14,15,23, 24;9:12,15;11:8,14,16, 17,21;17:2;18:6,16,18, 19;19:12;20:4;21:12; 26:14,16,17,19,23; 27:4,6,23;28:12,23; 29:13,15,23;31:5,12, 24;32:4,9;33:5,6,25; 34:3,10,13;37:19,22, 25;38:3,16;44:20,23; 45:2,6,10;46:17,21,25; 47:12,22,24;48:3;52:7, 11,15,22,24,25;53:2,5, 8,19;54:7,11,16,18,20, 22,23;55:4
add (1) 21:13	ample (2) 51:6,9	background (6) 12:11; 18:16;19:14;20:6; 34:21;39:20	cabal (1) 33:24	chance (3) 16:4;20:18; 22:8
added (1) 44:11	answered (2) 17:20; 36:3	backup (1) 36:17	cagy (1) 20:12	change (10) 15:22; 19:22;27:7;30:9;34:7; 36:8;37:9;47:4,4;52:1
addition (2) 24:25;44:4	anticipate (4) 13:7; 21:23;22:20;32:21	baked (1) 50:23	call (15) 3:5,18,19,24, 25;6:22;7:4;35:22,25; 40:14;44:2;50:2;53:13; 54:2,13	changed (1) 10:11
additionally (1) 47:6	anticipates (1) 48:25	balance (1) 49:16	called (4) 4:24;19:16; 20:8;23:22	changes (8) 9:4;15:23, 24,25;17:17;34:20; 42:8,22
address (3) 36:14; 41:25;53:17	anymore (1) 35:8	balanced (1) 9:21	calls (1) 52:21	changing (1) 42:19
ADHS (1) 12:22	anyways (2) 29:22;43:5	ballot (21) 16:16,16,17; 19:20;20:25;21:5; 29:10;34:7;39:15,22, 24;40:5,16,24,25;41:9, 9,24;42:23;44:2,17	came (1) 16:8	checked (1) 32:11
adjourn (4) 26:7;54:6, 12,24	apologies (3) 17:23; 20:19;38:5	ballots (9) 14:4;20:1, 22;22:11,15;23:13; 40:20;42:25;43:13	camp (1) 42:24	chime (3) 9:14;10:10; 42:13
adjourning (1) 27:2	apologize (3) 5:1; 38:17,21	ballpark (1) 43:17	campaign (8) 17:4; 34:8;39:16;44:4;45:4, 19;46:2,13	choose (1) 45:15
adjournment (1) 54:1	appeal (1) 24:7	ban (1) 19:21	camps (2) 42:21,21	chosen (1) 51:10
adjusted (1) 9:20	appealing (1) 24:24	banc (2) 14:25;15:10	can (35) 3:7;5:20;7:21; 8:8;9:12,14,14;11:3, 10;12:22;15:24;16:3, 12,12,12;28:15,15; 29:3;31:7;35:5,24; 36:2,17;39:22,23,24; 40:6,10,20;45:3;53:1, 13,14,16,23	Circuit (6) 14:2,25; 15:10;16:6;19:18;25:8
adjustment (1) 9:22	appellate (1) 22:16	basically (2) 12:9;14:14	candidate (1) 13:14	Circuit's (1) 17:7
administrative (1) 47:5	application (1) 49:8	basis (2) 43:14,19	candidates (10) 31:16; 34:24;35:10,13,22; 36:5,8,10;37:5;51:10	circulating (1) 24:3
administratively (1) 9:9	appointing (1) 32:7	Becker (2) 28:11;29:8	cap (2) 12:8;50:2	circumstances (1) 46:8
administrators (1) 15:9	appreciate (5) 25:23; 32:16,19;47:13,14	become (2) 25:3;27:25	Capitol (1) 36:22	cities (1) 8:6
admire (1) 9:25	apprised (1) 23:8	began (1) 51:21	car (1) 3:12	Citizens (1) 4:1
ado (1) 31:23	approaching (1) 18:10	begin (1) 20:15	care (2) 5:15,20	
Advocacy (1) 13:20	appropriated (2) 49:10, 11	Beginning (1) 11:10	carried (1) 12:21	
affect (2) 13:12;15:9	approve (2) 6:13,19	begins (2) 44:1;49:4	case (25) 7:3;13:21,22; 15:14;17:5,14;18:11, 21,22;19:16;20:5,7,7, 10,13,15;21:7,8,25; 22:13;23:7,21,21;25:2, 5	
afterwards (2) 21:14,15	approximately (2) 20:3; 23:15	begun (1) 50:25	cases (4) 18:8;20:16; 25:19;52:12	
again (12) 22:13;30:1; 35:6;36:10,23;37:2,9, 11;46:3,8;51:17;53:15	argued (1) 25:5	behalf (1) 10:9		
against (3) 22:14; 30:24;43:14	argument (2) 13:20; 23:25	behind (3) 37:2;39:20; 40:19		
aged (1) 33:18	arguments (1) 13:23	best (1) 41:14		
agency (1) 8:21	Arizona (12) 8:11; 13:20;14:3,14,23;19:1, 19;20:1;23:23;36:22; 40:13;41:10	better (1) 39:11		
agenda (7) 5:10;13:8; 28:16;29:1;31:6,11; 34:15	around (6) 24:3;26:4; 29:2;33:21;39:25;45:8	beyond (1) 51:3		
ago (4) 19:17;24:7; 33:3;43:11	arrive (2) 21:5;23:14	big (2) 14:9;18:1		
AG's (1) 13:14	aspect (1) 42:14	biggest (2) 12:13,13		
	aspects (1) 47:5	billion (1) 48:24		
	assistance (1) 48:25	bills (1) 26:10		
		bit (3) 19:14;20:18; 39:18		
		blanc (1) 17:7		

<p>civil (1) 20:10 claim (2) 24:15,17 claims (2) 24:11,23 clarification (1) 11:2 clarify (4) 11:3;16:4; 31:5;39:14 Clean (11) 4:1;11:2; 35:17;49:9,11,12,20, 23;50:9,15;51:11 clear (5) 16:13;23:1; 24:20;26:3;43:1 close (1) 20:25 cognizant (1) 35:19 collapse (1) 48:7 collect (1) 36:1 collection (5) 14:4; 16:16,17,17;19:20 COLLINS (67) 3:3,8,11, 13,16,21;4:20,23;5:1,6, 11,14,21;6:4,24;7:22, 24;11:8;13:3;14:7,11, 19;15:11,16,19;16:1; 17:1;18:6,14;20:14; 21:11,21;22:3,6;23:4, 16,20;24:12,18;25:7,9; 26:15,18,22;27:5,22; 28:22;29:9,14,17;31:4, 14;32:9;38:14;42:16; 46:25;47:22,25;48:4; 52:14,20,23,25;53:4,7, 10;55:2 column (1) 43:11 combine (2) 50:10,12 combined (1) 13:10 comfortable (1) 36:13 coming (6) 8:4;10:7,18; 26:21;27:13;48:15 commend (1) 10:15 comment (8) 9:13; 52:18,19,21;53:6,12, 18,23 comments (2) 32:1; 52:9 Commission (20) 4:1; 5:18;6:19;10:2;23:8; 28:16;31:19;33:10; 34:16;37:13;48:6; 49:22;50:3,5,11;53:13, 13,14,18;54:18 Commissioner (166) 3:14,17,20,23;4:3,5,8, 8,10,12,13,14,15,16,17, 18,19,20,24;5:2,7,12, 15,23,25;6:1,4,6,7,8,10, 12,14,15,15,17;7:2,4,7, 7,9,10,10,11,12,12,13, 14,14,23,24;9:12,15; 10:13;11:8,9;13:2; 14:16,17,21;15:18; 16:1,23;17:2,3,25;18:6, 7,15,18,19;19:12;20:4; 21:12;26:14,16,16,19, 23;27:4,6,23;28:12,22;</p>	<p>29:13,15,23;31:5,12, 24;32:3,4,4,9,10,21; 33:5,5,6,12,14,15,20, 25;34:3,10,13;37:19, 22,25;38:1,2,3,3,5,17, 24;39:13;42:1,2,4,11; 44:20,21,21,23,23,25; 45:2,6,10;46:17,21,25; 47:12,22,24;48:3;52:7, 11,15,22,24,25;53:2,5, 8,19;54:2,5,7,9,9,11,14, 16,16,17,18,19,20,20, 21,22,22;55:4 commissioners (20) 3:21;7:25;9:13;10:10; 19:13;20:19;21:13,21; 31:2;32:7,18;34:11; 37:25;39:21;42:11; 43:22;45:9;46:18; 47:15;52:8 Commission's (1) 8:7 committee (2) 13:16; 48:11 communities (1) 36:21 completely (1) 48:2 component (2) 44:10, 12 comprehensive (1) 11:10 concern (1) 46:6 concerned (4) 17:10; 27:9,19;28:5 concerns (1) 36:8 concluded (1) 55:6 concludes (1) 31:23 conclusion (1) 33:9 conduct (1) 35:13 conducted (2) 18:23; 27:17 conference (1) 11:21 confused (2) 10:22; 11:1 congressional (1) 13:16 connect (1) 44:7 Connecticut (1) 12:17 connectivity (1) 36:16 consider (2) 28:19;50:3 considering (1) 11:17 consistent (1) 8:22 Constitution (1) 23:23 constitutional (2) 24:2, 22 contacted (1) 41:19 contacting (1) 44:16 contemplative (1) 33:8 context (7) 28:25; 29:18,21,24;34:21; 41:7,22 contextual (1) 20:6 contingency (1) 29:1 continue (3) 10:2; 32:18;33:22 continued (2) 8:18;</p>	<p>10:16 continues (3) 26:12; 38:9,9 continuing (1) 8:8 contracted (2) 27:12; 39:7 contributions (1) 50:6 convoluted (1) 20:9 corner (1) 12:3 corners (1) 10:20 coronavirus (4) 27:12, 14;30:18;45:8 costs (1) 51:6 counsel (1) 23:7 counties (10) 8:6;15:2, 3,4,6,8;40:12;41:21; 45:19;46:10 county (3) 13:16;43:12; 44:16 couple (3) 12:5;20:16; 43:11 course (3) 3:23;12:10; 51:13 court (10) 6:3;13:18; 14:1;16:25;17:7;19:2, 2;20:2;21:2;25:21 courts (2) 17:13;19:7 Court's (1) 19:21 cover (2) 7:25;13:4 COVID (2) 32:22;48:6 COVID-19 (6) 9:5,19; 17:18;34:17;35:7;46:8 credits (2) 50:13,13 crisis (1) 51:24 current (2) 51:20,22 currently (4) 15:6;42:7; 47:6;49:25 cut (1) 48:19</p>	<p>15:1,3;16:8;19:21 declaration (1) 21:10 declared (2) 8:15,15 defer (1) 17:1 deficit (2) 48:18,22 definitely (4) 6:24;19:3, 6;23:8 definition (1) 11:12 delivered (1) 20:25 demand (1) 48:7 democracy (1) 45:25 demographics (1) 45:13 denial (2) 24:7,25 denied (1) 24:6 Department (1) 8:11 depending (1) 33:21 describe (1) 49:16 despite (1) 19:21 details (2) 8:19,19 determination (1) 49:22 determined (1) 48:17 DHS (1) 8:11 dialogue (1) 37:4 die (1) 26:6 died (1) 27:12 different (4) 19:15;47:5; 51:22,25 difficult (1) 5:4 direct (2) 43:18;44:5 direction (1) 31:8 director (1) 10:16 Director's (3) 7:19;13:6; 52:13 disappoint (1) 19:7 discuss (3) 28:18,25; 29:3 discussed (2) 39:18; 52:12 discussion (12) 5:17; 7:19;26:4;27:1,1; 29:19;31:9;34:4,5; 37:7;41:2;47:19 discussions (1) 29:19 dismiss (4) 23:10; 24:10,14,16 dismissal (1) 24:25 dismissed (2) 24:11,24 distancing (7) 9:24; 10:6;11:15;35:9;37:11; 39:3,6 distant (1) 28:9 district (2) 34:23;35:1 districts (1) 36:19 divided (1) 42:20 DNC (1) 25:20 dollars (1) 48:24 done (4) 12:1;18:12; 37:10;40:2 down (7) 5:8;12:2;14:3, 10;15:1;16:12;20:3 driver's (1) 30:14 Ducey (1) 8:14</p>	<p>due (4) 10:22;17:9; 23:3;27:8 during (4) 8:24;28:13; 35:24;50:11 dynamic (1) 52:1</p>
E				
<p>earlier (2) 39:19;45:10 early (15) 22:1,10; 23:13;27:25;28:5,7; 39:23;40:3,8,17;42:23, 25;43:13;44:1;50:12 easier (3) 6:24;29:18, 21 echo (1) 33:11 economic (2) 48:8; 51:24 educate (1) 30:2 education (16) 17:4; 28:25;29:19,25;31:1; 34:6,17;39:16;41:6,8, 18,22;43:24;45:19; 46:13;51:7 educational (1) 44:18 effect (2) 14:2;48:9 effectively (1) 21:18 effectually (1) 21:17 effort (1) 35:9 efforts (2) 43:10;51:8 eight (1) 51:14 either (8) 6:6;18:23; 19:1;32:14;35:24; 39:23;40:2,2 EJ (1) 43:11 elaborating (1) 38:23 elderly (1) 45:15 election (44) 8:4,12; 10:17,17,24;14:14; 15:23;16:7,9,25;18:1,4, 9,23;19:20,23,23;21:1, 4,5,17,18,19;22:25; 23:6,27;17:28;5,8,13; 29:11;32:22;38:20; 39:20,23;40:4,7,9,11, 22;42:9;46:7,11,11; 51:5 Elections (13) 4:1;11:3; 13:12;15:9;35:17; 38:10;49:9,11,12,21, 24;50:9,15 eligible (4) 40:5,15; 43:2,3 eloquent (1) 38:25 else (1) 3:7 email (3) 35:21,25; 53:14 emergency (1) 8:16 emphasize (1) 42:6 employ (1) 44:5 employing (1) 46:13 en (3) 14:25;15:10; 17:6</p>				

encourage (3) 28:4; 37:3;53:11 encouraging (2) 27:24; 28:3 end (9) 13:21;21:25; 22:2,3,3,7,8;50:7,7 engage (1) 37:14 enjoy (1) 36:21 enough (1) 50:25 enroll (1) 28:4 ensure (3) 36:21; 37:10;49:19 entire (1) 10:19 equipped (1) 31:10 especially (4) 6:25; 16:15;22:23;48:2 essential (1) 11:12 essentially (5) 11:11; 20:24;21:2;22:11; 23:25 establishments (1) 11:14 estimates (1) 48:21 et (2) 28:13;30:16 even (9) 10:6;16:25; 28:3,3,6;30:1,16; 44:10;48:4 evening (2) 35:4;36:9 event (2) 22:23;36:20 events (1) 8:9 everybody (3) 5:8;8:13; 28:6 everyone (5) 10:8; 17:18;23:12;28:4;55:5 Excellent (2) 4:12,15 excess (2) 49:23;50:3 excited (2) 37:6,12 excuse (2) 19:15;22:5 execute (1) 46:11 Executive (4) 7:19; 8:17;13:6;52:13 exists (1) 51:18 expanded (1) 8:23 expansion (2) 11:11; 43:5 expected (1) 42:8 expedited (1) 22:16 expeditiously (1) 17:13 expires (1) 16:9 explain (5) 18:4;20:8; 44:7;45:22;50:18 exposure (1) 35:9 expressly (1) 29:9 extra (1) 44:15 extreme (1) 33:11 extremely (1) 9:19 eye (2) 50:20;51:4 eyes (1) 22:22	Facebook (1) 30:12 facilitate (1) 45:24 facilities (1) 35:1 fact (4) 9:23;19:25; 48:6;50:12 failure (1) 23:14 fair (3) 17:10;42:10,12 fall (1) 45:14 falls (1) 37:15 family (2) 9:20;41:14 far (9) 8:12;12:14; 26:12;28:18;30:23; 36:7,9,25;37:12 faster (1) 12:10 feasible (1) 35:7 February (4) 5:19;6:14, 19;30:11 federal (1) 48:25 feel (6) 5:10;33:6; 37:14;47:15,15,17 feeling (1) 9:21 Feldman (1) 19:14 felony (1) 16:18 felt (1) 25:14 file (2) 14:5;21:8 filed (5) 13:25;21:8,9; 23:9,10 files (1) 43:18 final (2) 18:5;19:3 finality (3) 17:6,15;18:2 finally (1) 23:20 finding (1) 30:18 fine (2) 5:22;55:2 first (13) 6:9;7:4;19:17; 23:24;24:4,17,18; 28:24;33:12;34:19; 36:9;38:15;48:23 fiscal (5) 48:14,16,18, 20;49:1 five (4) 21:4,14,14; 33:23 floor (1) 29:12 fluctuating (1) 17:9 flux (2) 17:5,25 folks (13) 11:13;12:16; 25:15,15;39:6;42:19; 43:5,6,6,7;49:19; 50:18;53:11 follow (1) 12:7 followed (2) 13:11,22 following (1) 11:19 footage (1) 39:4 force (1) 8:18 form (2) 51:1,2 format (4) 34:6;36:25; 37:1;47:3 formula (1) 50:1 forth (2) 49:24;50:1 forthcoming (1) 11:19 fortunately (1) 23:7 forward (1) 40:4 four (2) 10:20;19:16 Fourteenth (3) 23:24;	24:5,15 free (2) 5:10;48:1 Friday (1) 19:19 friend (1) 30:11 front (1) 31:2 fully (2) 38:18,21 Fund (13) 48:24;49:11, 11,13,16,21,21,24; 50:6,9,14;51:7,12 funded (1) 31:17 funding (2) 50:8;51:10 funds (1) 49:23 further (5) 21:4;31:23; 45:5;49:1,2 future (1) 32:15	happening (2) 13:17; 41:3 happens (1) 19:6 happy (9) 8:2,18;29:24; 30:25;32:17;36:7; 37:17;46:15;50:17 hard (2) 5:5;28:9 head (1) 53:21 heads-up (1) 36:5 Health (2) 8:11;12:25 healthy (1) 45:21 hear (2) 32:24;42:18 heard (5) 6:8;26:24,24, 25,25 hearing (2) 21:24;42:5 held (1) 21:25 help (2) 11:3;25:23 helped (2) 47:2,3 helping (1) 5:3 helps (1) 39:14 here's (1) 41:15 Hi (3) 4:17;34:13,14 high-interest (1) 20:15 high-level (1) 37:8 highlight (1) 12:24 highlights (1) 12:18 high-risk (1) 45:14 historically (2) 34:22; 37:13 Hobbs (2) 20:20;23:22 hold (2) 32:19;34:22 holding (3) 15:10;26:9; 32:18 holdover (1) 33:13 home (3) 9:23;10:3; 41:15 honest (1) 32:10 honestly (2) 5:3;32:13 hope (7) 10:5,8;17:20; 18:10;47:13,17;54:25 hopeful (1) 37:6 hopefully (3) 17:15; 30:4;33:20 hotels (1) 35:2 hours (2) 8:24;20:3 household (2) 43:25; 44:6 hurried (1) 3:9	inactive (1) 43:4 Inaudible (2) 3:15; 30:24 inclined (1) 29:12 included (1) 29:20 includes (1) 5:22 including (1) 34:6 incorrect (1) 49:18 independent (3) 44:12, 12,15 indicated (1) 26:8 infected (1) 27:16 inform (4) 38:19;41:8, 12;51:1 informally (1) 31:20 information (9) 8:7; 16:3,11;25:24;27:13; 36:17;45:1;48:10;51:1 informed (1) 26:13 informing (1) 41:23 initially (1) 9:22 initiative (2) 24:3,23 injunction (1) 23:11 In-person (1) 40:22 inquiring (1) 38:19 instead (1) 18:25 intend (1) 36:19 intents (1) 25:3 interact (4) 30:6,10,14; 35:20 interaction (1) 37:4 interacts (1) 23:24 interest (2) 13:11;41:14 interesting (2) 15:13; 20:10 interrupt (1) 14:8 into (7) 37:17;38:10; 39:15;42:21;45:3,14; 48:20 involved (2) 13:14; 17:14 Iowa (1) 46:1 irresponsible (1) 30:20 issue (7) 11:17;17:3; 18:20;20:21;21:22; 31:9;51:11 issued (3) 8:15,16; 19:18 issues (8) 9:1;23:3; 24:3;36:14;45:11; 48:18,22;49:7 Item (13) 5:16,17;7:17, 18;13:4,7;29:1;34:1,4; 37:18;47:18;52:11; 54:1 IV (1) 34:4			
F		G	garbled (1) 6:2 general (8) 13:12,13; 17:17;22:25;23:6; 29:11;50:6,14 generally (1) 29:3 General's (1) 13:25 generosity (1) 32:20 Gina (14) 34:9,11; 37:20,23;38:8,14; 43:23;44:22;45:1; 46:17,19,23;47:1,7 given (5) 17:17;19:25; 31:7;51:14,15 goes (2) 33:22;37:1 good (9) 3:13;4:10; 8:10;10:16;25:22; 34:12,14;51:17;52:5 goods (2) 11:12,13 Governor (5) 8:14;11:5, 16;48:16;51:23 Governor's (2) 31:19; 32:14 Governors's (1) 32:11 grateful (2) 10:4;33:9 Great (3) 4:18;37:24; 55:4 grown (1) 33:7 guess (12) 3:5,5;15:23; 28:2,13;29:17,23; 30:22;33:19;42:3,5,5 guidance (2) 8:12,22 Guide (2) 43:24;44:1 guidelines (2) 11:15; 37:11 guys (1) 19:13	H	half (2) 33:3,8 hand (1) 50:11 handing (1) 30:15 hanging (1) 19:8 happen (1) 42:9 happened (2) 8:14; 20:9	I	idea (1) 23:12 identified (1) 23:21 identify (1) 3:22 II (2) 5:17;7:17 III (1) 7:18 imagine (1) 32:23 immune (3) 50:20,21, 23 impact (2) 14:13,13 impinging (1) 24:4 important (2) 9:7;19:25 impressed (1) 10:3
		J	Jersey (1) 12:17 JLBC (2) 48:21,25 job (1) 10:16 join (2) 10:15;40:8				

Joining (2) 29:7;40:3 Joint (1) 48:10 Julian (1) 50:24 July (2) 22:12;25:10 jump (3) 37:17;45:3;48:1 June (3) 13:21;21:25;22:8	leadership (2) 26:5;47:7 leading (2) 25:19;19 leads (1) 39:15 least (5) 19:20;21:23;23:13;31:20;48:21 leave (1) 19:8 Leaving (1) 28:10 led (1) 25:20 left (2) 48:16,19 legal (4) 13:5,9,10;43:14 legislation (1) 39:19 legislative (10) 7:20;13:15;26:11;30:1;34:23;35:1;36:18;42:8;44:8;10 legislators (1) 49:15 legislature (27) 24:1;21:25;25;26:2,2,3,6,20;28:18;29:3;30:8,21;40:14;41:6;42:18,20;48:17;50:8,11,14;51:18,19,20,20,22,23,24 letting (2) 36:5;45:20 level (2) 12:2;25:21 libraries (1) 35:2 license (1) 30:14 light (3) 34:17;35:6;46:8 limit (1) 30:6 line (3) 3:4;4:9;37:15 lined (1) 39:5 link (1) 12:23 list (5) 28:5;7;40:3,8,17 listening (1) 53:22 little (9) 5:4;9:21;19:13;20:18;26:1;27:15;33:7;38:23;39:18 live (2) 35:14;36:12 local (2) 8:4,5 locations (4) 38:13;39:11;40:22;42:9 long (4) 5:21;17:13;42:17;52:3 longer (6) 26:1;27:15;33:16;35:3;38:9;39:2 longest (1) 33:13 look (4) 41:4;50:25;51:19,21 looked (1) 37:13 looking (2) 11:1,17 looks (3) 35:11;49:4;53:25 loss (1) 51:15 lost (1) 40:25 lot (7) 8:1,1,1,2;18:17;23:16;29:1 love (1) 47:16 lucky (1) 47:10	M magnitude (1) 16:24 mail (14) 27:8;29:10;34:7;39:15,25;40:10;14;41:9,11;42:7;44:3,11,13,17 mailed (5) 14:4;39:24;40:6,16,25 mailer (1) 44:5 main (4) 5:9;14:2;20:20;25:14 maintain (2) 12:15;30:5 maintaining (1) 10:6 major (1) 50:8 majority (2) 19:25;26:7 makes (2) 6:24;11:25 making (6) 27:7;30:8;42:22;44:14;49:22;51:9 man (1) 27:11 managed (1) 51:12 many (4) 23:13;24:11,23;35:2 March (2) 5:19;6:20 Maricopa (2) 13:17;43:12 materials (1) 8:1 matter (4) 13:13;19:3;25:10;49:8 matters (7) 13:5,10,11;18:17,17;22:17;25:22 May (17) 8:5;13:13;22:2,3,4,7,9;26:25;35:22;39:7;43:23;44:9;45:3;46:9;48:15;49:1;54:2 maybe (6) 15:23;27:24;36:19;40:7,24;43:11 mean (21) 9:19;10:10;15:2;16:25;17:13;18:6;15;19:2;25:9;31:15,22;32:10,12,16;39:3;40:15;42:2,5,17;43:1;48:15 means (3) 45:20,23;49:13 meant (1) 34:24 media (2) 27:25;44:4 meeting (9) 3:18,24,25;5:19;8:14;28:10;29:7;54:6,24 meetings (1) 36:13 members (2) 26:7,8 memory (1) 16:5 mention (2) 25:17;31:1 mentioned (3) 25:18;45:10;46:3 messages (1) 36:5 met (1) 10:12 Meyer (24) 4:13,14;7:10,11;33:15,16;38:1,2,4,5,17,24;42:1,2,4,12;44:21,22,24,25;54:9,9,18,19 might (2) 21:24;25:12 Mike (6) 28:10;29:7;47:21;48:1;50:25;52:9 million (1) 23:15 mind (2) 32:14;38:23 minds (1) 42:20 minutes (3) 5:18;6:13,19 Miracle (1) 23:22 moderate (1) 36:23 moderator (1) 36:2 moderators (1) 35:13 modifications (3) 8:20;11:5,7 modified (2) 8:17;11:19 modify (1) 11:20 moment (1) 38:25 Monday (1) 26:24 money (2) 49:2;51:7 monies (1) 50:10 month (5) 8:5;22:11;33:2,2,8 months (3) 18:3;24:7;48:16 Montini (1) 43:11 moot (1) 25:3 more (11) 9:21;22:24;24:20;27:16;33:7,37:1,4,7;38:23;42:14,22 morning (3) 4:10;34:12,14 most (6) 15:25;25:19;36:12;38:25;45:15;51:6 mostly (1) 48:4 motion (14) 5:22,24;6:1,10,12,18;23:9,11;24:10,14,16;54:3,5,12 mounting (1) 17:4 move (2) 15:3;52:17 moved (2) 15:5;17:15 moves (1) 17:12 moving (5) 5:9,17;7:16,18;47:18 much (12) 10:12;17:5;22:21;30:5,6;35:20;41:13;47:14;51:2,6;54:25;55:5 must (1) 44:15 mute (2) 38:6;46:22 myself (3) 9:18;10:9;53:20	Navajo (2) 12:4;36:19 near (1) 32:15 need (9) 9:2;10:18,20;35:19;40:23;41:11,15;44:3;46:10 needed (3) 25:15,15;46:22 Network (1) 13:20 Nevertheless (1) 50:19 new (9) 8:2;9:20;12:17,17;32:7;34:18;37:3,12,13 next (8) 8:5;11:10;12:20;33:21;37:18;39:15;45:3;48:20 Ninth (7) 14:2,25;15:10;16:6;17:7;19:18;25:8 nominating (1) 32:7 non-request (2) 42:23,25 norm (1) 34:18 normal (1) 9:20 northeast (1) 12:3 note (4) 13:4;31:16;53:1,2 notice (1) 31:6 noticed (1) 31:11 notwithstanding (1) 12:2 November (3) 10:18;15:22;23:6 number (3) 40:21;47:5,18
K Kara (9) 13:13;14:18,20;17:1;18:8;20:19;21:7;25:16,18 KARLSON (25) 4:22;6:2;7:1;14:6,8,12,20,20,23;16:21;17:2,23;18:13;19:12;21:9,12;22:2,5;23:1,5,18;24:10,17;25:5,8 keep (8) 9:8;10:4,7,18;12:1;23:8;25:1;26:12 keeping (5) 9:3;10:5;22:22;50:19;51:4 kept (3) 8:10,23;19:4 key (1) 9:3 kick (2) 3:5,17 Kimble (12) 4:16,17;5:25;6:15,15;7:12,13;33:15,17,18;54:20,21 kind (14) 3:9;9:20;10:25;19:8;27:15;28:9,19;30:17;35:4;36:4,11;37:8;43:17;50:3 knew (1) 22:6 known (2) 19:15,22 knows (3) 8:13;10:9;12:11 KTNN (1) 36:20	L largely (1) 13:18 last (11) 8:14;10:11;13:23;14:15,23;23:21;26:24;27:1;32:25;51:13,24 lasting (1) 49:1 last-minute (1) 22:22 lasts (1) 39:1 later (2) 20:25;30:4 latest (1) 48:10 Latino (1) 20:20 launch (2) 41:18;45:19 launched (1) 46:2 law (10) 14:3,14,23;16:14;18:11,23;19:19,23;43:14;49:8 laws (1) 15:2 lawsuit (3) 14:9;21:20;22:14 lawyers (1) 20:8 lead (1) 23:7	N nailed (1) 16:12 name (1) 19:15 narrow (1) 9:6 Nation (1) 36:19 nature (1) 17:9	O obtain (1) 8:25 obviously (10) 9:6;11:25;12:3,4;16:14;17:24;20:17;22:24;32:16;49:3 occupancy (1) 12:8 occur (1) 17:16 occurred (1) 23:9 occurring (1) 35:18 oddity (1) 19:18 off (3) 30:3;46:22;53:21 office (14) 8:24;9:2;10:4,7;13:14,25;29:20;32:12,14,15;35:22;40:13;41:20;45:18 offices (1) 13:16 officials (3) 8:12;14:14;40:12 once (3) 12:21;16:11;30:3 One (13) 11:25;12:13;16:3;22:11,13,18,21;24:14,24;27:11;28:1;53:5,23 ones (1) 25:14

<p>one-time (5) 40:4,7,10, 18;44:14</p> <p>online (1) 8:9</p> <p>only (5) 22:7;24:14,15; 28:1;48:15</p> <p>on-the-ground (1) 34:23</p> <p>open (4) 8:24;10:4,7; 35:4</p> <p>opened (1) 12:7</p> <p>operating (3) 8:21;9:5; 17:18</p> <p>OPERATOR (2) 28:10; 29:7</p> <p>opinion (2) 14:2;17:7</p> <p>opportunity (3) 40:24; 44:6;45:24</p> <p>opposed (1) 43:6</p> <p>options (6) 39:22;41:8, 12;42:6;44:2,7</p> <p>oral (1) 13:19</p> <p>order (9) 3:18,24;4:1; 5:13;8:17;12:14,14; 19:19;21:2</p> <p>others (4) 13:13;21:13; 25:17;51:9</p> <p>otherwise (1) 50:16</p> <p>ours (1) 43:17</p> <p>ourselves (1) 30:3</p> <p>out (23) 5:12,13;10:19; 12:9;15:24;16:8,12; 17:11;22:11,12;23:15; 25:11;27:13;28:2; 30:18;33:18,18;40:20; 43:12,24;49:2;52:2; 54:8</p> <p>outcome (2) 22:20,20</p> <p>outlined (1) 49:12</p> <p>outlook (4) 47:19; 48:13;52:5,17</p> <p>outreach (6) 8:9;10:16; 44:19;46:1,14;51:8</p> <p>outstanding (2) 13:9; 47:8</p> <p>over (14) 7:21;23:15; 27:2;28:20;32:18,19; 33:8;36:2;39:25;44:24; 48:14,20;49:14;51:13</p> <p>overall (1) 37:8</p> <p>overview (1) 37:8</p> <p>own (1) 50:24</p>	<p>particularly (2) 17:17; 19:24</p> <p>partner (2) 36:22;41:20</p> <p>partners (1) 34:25</p> <p>partnership (1) 45:18</p> <p>party (1) 44:17</p> <p>pass (1) 43:15</p> <p>passionate (1) 27:7</p> <p>past (2) 30:3;33:8</p> <p>Paton (37) 3:3,6,9,12, 15;4:5,7;7:4,6;15:15, 17,18,20;16:2,20,22, 23;17:3,22,24,25;18:7; 32:2,3,5,6,10,21;33:4, 5,21,24;54:2,4,5,14,15</p> <p>pattern (1) 26:9</p> <p>Paula (4) 8:25;9:2; 47:2,2</p> <p>Paula's (1) 47:7</p> <p>pay (1) 51:7</p> <p>people (22) 10:19,19, 21,21,23;14:24;15:25, 25;16:13;27:16,24; 28:3;30:6,9,10,10; 36:12;38:19;39:4,10; 40:21;53:1</p> <p>per (1) 40:7</p> <p>percent (3) 12:8;41:10, 12</p> <p>percentagewise (2) 23:17,18</p> <p>perhaps (3) 26:5; 36:15;54:2</p> <p>period (1) 13:15</p> <p>permanent (6) 27:25; 28:4,7;40:3,8,17</p> <p>person (6) 5:5;10:7; 28:1;30:13;39:23; 40:21</p> <p>personally (2) 9:18; 27:19</p> <p>perspective (1) 22:10</p> <p>petition (3) 14:1;23:23; 25:11</p> <p>petitions (1) 24:4</p> <p>PEVL (2) 30:2;44:14</p> <p>Phoenix (1) 27:13</p> <p>phone (3) 5:4;6:25; 28:20</p> <p>PI (2) 21:24,24</p> <p>piece (5) 9:6;16:3,16; 44:18;45:3</p> <p>pipe (1) 18:19</p> <p>place (9) 15:7;17:8; 18:24,24;19:10;21:6; 27:9;38:11;39:11</p> <p>placed (1) 24:2</p> <p>places (1) 27:9</p> <p>Plaintiffs (4) 20:23; 23:10;24:5,23</p> <p>Plaintiff's (1) 23:25</p> <p>plan (6) 11:18;41:3,8, 18,19;45:17</p>	<p>planning (2) 29:2;38:11</p> <p>plans (6) 34:17;36:14, 17,18;38:11;39:9</p> <p>platform (3) 35:12;37:3, 12</p> <p>play (1) 52:2</p> <p>please (8) 3:18;4:3; 5:10;7:22;19:15;26:18; 45:6;53:13</p> <p>pleased (1) 10:1</p> <p>pm (1) 21:1</p> <p>point (4) 13:24;17:4; 25:4;28:2</p> <p>policy (3) 9:3;28:17; 43:21</p> <p>polling (4) 15:7;27:9; 38:12;42:8</p> <p>polls (3) 20:25;38:13; 39:5</p> <p>pollworker (5) 34:7; 39:16;45:4,21;46:6</p> <p>pollworkers (5) 28:6; 45:12,13;46:4,12</p> <p>position (6) 25:22; 28:17;31:7;45:24;47:9; 51:17</p> <p>possibility (2) 41:5; 42:19</p> <p>possible (9) 5:18;7:19; 16:19;30:5,7;34:5; 35:20;47:19;48:22</p> <p>post (2) 35:6;36:20</p> <p>posted (1) 25:1</p> <p>postmark (3) 21:3,5,18</p> <p>potential (2) 46:5;50:24</p> <p>potentially (1) 14:13</p> <p>PPE (3) 16:7;27:9; 30:11</p> <p>practical (1) 25:10</p> <p>practice (2) 35:8;37:10</p> <p>precinct (3) 13:16; 14:10,25</p> <p>precise (1) 16:19</p> <p>predict (1) 20:12</p> <p>prediction (1) 17:19</p> <p>Preference (4) 16:7,9; 26:8;27:17</p> <p>preliminary (4) 23:10; 24:6,8,25</p> <p>presence (1) 4:4</p> <p>Present (2) 4:14;53:6</p> <p>president (1) 29:5</p> <p>Presidential (4) 16:7,8; 18:1;27:17</p> <p>press (3) 11:21;12:20; 26:4</p> <p>pressures (1) 50:21</p> <p>presumably (1) 22:16</p> <p>pretty (3) 9:22;51:6,13</p> <p>primary (4) 22:24;23:3; 29:11;44:17</p> <p>principle (1) 19:22</p> <p>prior (2) 50:5,11</p>	<p>probably (8) 12:13; 17:12;21:11;26:1; 29:18;33:2;38:7;53:21</p> <p>problem (2) 3:16;49:17</p> <p>procedural (5) 9:4; 19:14,17;21:22;24:1</p> <p>procedurally (1) 20:7</p> <p>procedure (1) 20:10</p> <p>procedures (1) 18:5</p> <p>proceedings (1) 55:6</p> <p>process (8) 24:2;34:21; 35:11;36:6;37:17; 40:19;46:9;49:21</p> <p>processes (2) 24:21,22</p> <p>produce (1) 37:7</p> <p>programs (1) 46:1</p> <p>projection (1) 49:25</p> <p>proper (1) 14:25</p> <p>Protection (1) 49:9</p> <p>provide (2) 34:15;36:4</p> <p>public (12) 30:10;35:4, 24;36:10;37:14;41:23; 52:17,19;53:6,11,18,23</p> <p>Purcell (1) 19:22</p> <p>purposes (3) 16:6;25:3; 49:12</p> <p>put (8) 16:12;22:10; 24:21;28:8,15;29:12, 18,21</p> <p>putting (2) 17:10;30:9</p>	<p>recessed (1) 26:3</p> <p>recession (2) 50:5,7</p> <p>recognize (4) 6:5,6,8; 9:15</p> <p>recommending (1) 34:5</p> <p>record (5) 3:22;4:4; 6:25;35:5;53:3</p> <p>Recorder (1) 43:12</p> <p>recorders (1) 44:16</p> <p>recording (1) 36:20</p> <p>recovery (2) 49:4,4</p> <p>recruitment (4) 34:8; 39:17;45:4;46:6</p> <p>reduce (2) 35:9;40:21</p> <p>referendum (2) 24:4,22</p> <p>referring (1) 19:16</p> <p>refuse (1) 46:4</p> <p>regarding (4) 6:11;9:4; 11:4;26:20</p> <p>regardless (2) 22:19; 46:7</p> <p>regards (1) 19:20</p> <p>register (1) 27:25</p> <p>registered (1) 43:25</p> <p>regular (1) 43:18</p> <p>regulations (1) 13:1</p> <p>Regulatory (1) 31:19</p> <p>rehash (1) 24:19</p> <p>rejected (2) 23:13,14</p> <p>related (3) 11:18;13:5; 14:2</p> <p>relaxed (1) 37:1</p> <p>reliant (1) 15:6</p> <p>relief (6) 20:23;22:16; 23:2;24:6,8;25:1</p> <p>remember (5) 18:20,20, 21;19:1;27:23</p> <p>removed (2) 50:8,14</p> <p>remunerations (1) 48:8</p> <p>reopen (2) 11:14;12:24</p> <p>repeatedly (1) 17:12</p> <p>replacement (1) 40:24</p> <p>report (7) 7:20,20;13:6, 7;31:23;47:20;52:13</p> <p>reporter (1) 6:3</p> <p>reports (1) 8:2</p> <p>Republic (1) 43:10</p> <p>request (9) 29:10;40:2, 2,4,7,10,18;41:23; 44:15</p> <p>requesting (1) 41:9</p> <p>requests (1) 43:13</p> <p>required (3) 14:24; 40:23;51:8</p> <p>requirement (2) 15:1; 39:6</p> <p>requirements (1) 14:12</p> <p>requiring (1) 30:9</p> <p>reservation (1) 12:4</p> <p>resolution (1) 27:3</p> <p>resolving (1) 24:3</p> <p>respect (6) 12:6,15,25; 29:2;31:4,6</p>
Q				
<p>quick (5) 9:13;13:4; 25:16,25;26:19</p> <p>quickly (2) 11:22;24:20</p> <p>quo (3) 43:7,8;44:11</p> <p>quote (2) 49:14,23</p>				
R				
<p>rabble-rouser (1) 30:22</p> <p>Rainy (1) 48:24</p> <p>range (1) 48:22</p> <p>rapidly (1) 17:15</p> <p>rather (5) 3:22;17:12; 18:2;20:24;30:4</p> <p>reach (2) 41:11;53:16</p> <p>real (8) 17:3;19:8; 24:19;25:16,25;35:16; 36:3;42:7</p> <p>reality (3) 43:9;50:4,10</p> <p>really (19) 9:3;10:11; 22:12;25:23;31:10,15; 35:7;37:8;39:14;42:20; 43:16;47:8,10,13,13, 17;48:14;51:1,2</p> <p>reason (4) 20:12; 29:25;37:2;49:6</p> <p>reasonable (1) 51:13</p> <p>recap (1) 24:20</p> <p>received (3) 21:19; 36:7;52:20</p>				
P				
<p>page (3) 12:22;35:15, 18</p> <p>paid (2) 44:4;45:24</p> <p>pandemic (6) 10:22; 11:4;27:8,15;38:9;39:1</p> <p>part (6) 14:9;20:11; 49:6;50:12,17,17</p> <p>participating (1) 31:16</p> <p>particular (1) 40:9</p>				

<p>responding (1) 23:11 response (4) 34:2; 37:21;46:20;52:10 responsibilities (1) 45:23 restaurants (3) 11:17; 12:6,9 restrictions (3) 12:15, 24;24:1 restricts (1) 14:3 resulting (1) 48:7 retail (3) 11:13;12:13, 24 return (1) 20:22 returning (1) 27:2 revenue (4) 50:3,22,24; 51:15 revenues (2) 48:9; 50:15 Review (1) 31:19 revise (1) 17:11 right (36) 5:8,9,23;6:18, 22;7:3,16,23;10:22; 13:17;14:11;18:8,9; 19:23;22:14;23:22; 24:12,13,13;25:7,24; 33:25;34:12;35:3; 36:11;37:15,22,23; 41:5,10,21;43:21;53:7, 21;54:11;55:4 rights (1) 24:5 risk (1) 46:5 Roberts (11) 34:9,10, 14;37:24;38:16;39:13; 42:3,11;43:22;45:2,9 roll (5) 3:19;6:22;43:8; 48:20;54:13 rollover (1) 49:15 rolls (2) 43:3;49:14 room (1) 28:24 run (2) 9:2;51:11 runs (2) 38:10;49:2 rural (1) 15:4</p>	<p>seeing (1) 46:4 seek (1) 21:1 seeking (4) 20:23; 21:20;23:2,6 seem (1) 41:5 seems (1) 36:10 select (1) 8:6 self-quarantining (1) 12:16 selling (1) 11:13 Senate (1) 29:5 sending (1) 43:12 sense (2) 11:25;21:22 sent (4) 22:11,12; 42:25;48:9 serve (5) 14:1;45:12, 16,20,22 services (2) 11:12,13 Services' (1) 8:11 session (6) 26:7,11,12; 42:18;47:16;49:14 set (3) 49:24;50:1;51:6 sets (1) 43:6 seven (3) 21:17,19; 51:14 several (5) 18:3;36:4, 23;39:22;40:12 shape (1) 30:17 share (1) 34:19 shifted (1) 8:9 short (1) 52:3 shortfall (1) 49:2 shortfalls (1) 50:22 short-term (3) 48:13; 52:5,5 showing (1) 15:7 side (1) 45:15 signatures (1) 25:11 significant (2) 50:6,15 significantly (2) 47:3; 50:1 similar (3) 33:10;45:25; 46:2 simple (1) 40:10 simply (2) 26:6;27:1 sincere (1) 47:17 sine (1) 26:6 single (2) 30:13,13 situation (3) 9:5;32:23; 48:7 slate (2) 5:20;6:13 slight (1) 21:13 smoothly (1) 31:18 social (7) 9:23;10:6; 27:25;35:8;37:11;39:2, 6 socially (1) 28:9 somebody (1) 3:7 someone (3) 6:5,5;13:8 sometimes (1) 19:7 soon (1) 17:16 sooner (1) 30:4 Sorry (15) 5:1;14:7,8,</p>	<p>16,19;22:3;24:19; 26:23;28:19;29:15; 30:21;38:1,3,12;44:23 sort (6) 9:1;12:8;21:23; 26:9;31:20;43:20 sought (2) 16:5,6 Sounds (1) 3:13 sources (2) 50:9;51:15 spacing (1) 12:25 speak (1) 44:24 speaking (2) 9:18; 14:18 specific (3) 11:6;12:5; 15:8 specifically (2) 9:11; 15:5 specifics (1) 27:10 speculation (2) 51:2,3 spoiled (1) 41:1 staff (12) 9:17;10:1,15; 32:16;34:4,16,24; 35:10;36:1;41:7,17; 46:10 stance (1) 41:22 stand (1) 32:6 standard (1) 9:1 standpoint (1) 20:11 stands (1) 15:10 start (3) 4:6;43:25; 49:15 started (3) 19:17;49:17, 17 state (18) 4:3;8:15;9:4; 10:20,20;12:1,4;13:20, 22;16:4,5;18:22;29:11; 43:21;46:2;48:9,13,24 stated (1) 11:5 statement (3) 10:15; 49:18,20 statements (2) 11:23; 17:11 states (5) 12:7;20:2; 45:11,25;46:3 State's (4) 32:15;40:13; 41:20;45:18 statewide (1) 13:15 status (3) 43:7,8;44:11 stay (7) 16:5,6,9;17:8; 19:10;24:9,9 step (2) 44:15;45:22 steps (2) 12:20;41:15 Steve (1) 10:13 stick (1) 33:21 still (11) 10:17,17,23; 17:5;26:11;28:7;30:17, 18;39:2;40:23,23 stop (2) 5:10;28:15 story (3) 27:11;50:17; 52:3 stream (1) 35:14 streaming (1) 36:20 stretch (1) 38:25 strike (2) 14:3;20:3</p>	<p>strikes (1) 14:9 striking (1) 19:19 struck (1) 15:1 stuff (3) 30:1,15,21 submit (2) 35:23;53:23 submitted (1) 25:12 subsequently (1) 8:16 substantial (1) 12:1 substantive (1) 37:7 sufficient (1) 46:12 suggesting (1) 26:5 Superior (1) 13:17 Supreme (9) 14:1; 16:24;17:7;18:25;19:1, 2,21;20:2,2 Sure (14) 3:20;5:14; 6:7;18:21;25:24;35:19; 38:16,18,21;44:18; 46:9;47:14;52:24;54:4 surrounding (1) 46:7 survived (1) 24:16 suspect (1) 31:8 system (1) 39:10</p>	<p>15:15,17;19:10;26:14; 29:16;31:13;32:1; 33:11;34:1;38:8;41:4; 42:13;44:22;45:1; 46:24;47:11,12,21; 52:7,9,16;53:19;54:25 took (2) 20:1;26:1 top (7) 9:8;24:2,21; 32:13,22;46:6;53:21 topic (1) 29:20 touch (1) 30:13 touching (1) 30:14 touchscreen (2) 28:12; 30:16 toward (1) 50:7 transitioned (1) 35:10 transitioning (1) 36:6 traumatic (2) 9:19,22 travel (1) 12:15 traveling (1) 34:25 trial (1) 25:20 tried (1) 7:25 troublesome (1) 45:7 trumpet (1) 15:24 try (4) 12:1;20:8;42:6, 19 trying (4) 20:12;22:15; 28:2,14 turn (1) 7:21 turned (1) 33:3 twice (1) 12:21 two (11) 11:23,23; 13:10;19:11;26:10; 28:23;42:21;43:6; 48:15;50:8;51:15 type (1) 36:7 typically (3) 12:21; 45:13,15</p>
S		T		
<p>safe (2) 10:6;12:25 safety (3) 11:15;13:1; 30:5 same (1) 47:15 saw (3) 35:7;39:3; 49:14 saying (2) 21:2;45:1 schools (2) 9:23;35:2 season (2) 18:9;51:5 second (6) 4:25;6:16, 18;54:8,10,12 Secretary (6) 18:22; 32:14;40:12;41:19; 45:18;46:1 Secretary's (1) 29:20 section (1) 39:15 secure (1) 35:1</p>	<p>seeing (1) 46:4 seek (1) 21:1 seeking (4) 20:23; 21:20;23:2,6 seem (1) 41:5 seems (1) 36:10 select (1) 8:6 self-quarantining (1) 12:16 selling (1) 11:13 Senate (1) 29:5 sending (1) 43:12 sense (2) 11:25;21:22 sent (4) 22:11,12; 42:25;48:9 serve (5) 14:1;45:12, 16,20,22 services (2) 11:12,13 Services' (1) 8:11 session (6) 26:7,11,12; 42:18;47:16;49:14 set (3) 49:24;50:1;51:6 sets (1) 43:6 seven (3) 21:17,19; 51:14 several (5) 18:3;36:4, 23;39:22;40:12 shape (1) 30:17 share (1) 34:19 shifted (1) 8:9 short (1) 52:3 shortfall (1) 49:2 shortfalls (1) 50:22 short-term (3) 48:13; 52:5,5 showing (1) 15:7 side (1) 45:15 signatures (1) 25:11 significant (2) 50:6,15 significantly (2) 47:3; 50:1 similar (3) 33:10;45:25; 46:2 simple (1) 40:10 simply (2) 26:6;27:1 sincere (1) 47:17 sine (1) 26:6 single (2) 30:13,13 situation (3) 9:5;32:23; 48:7 slate (2) 5:20;6:13 slight (1) 21:13 smoothly (1) 31:18 social (7) 9:23;10:6; 27:25;35:8;37:11;39:2, 6 socially (1) 28:9 somebody (1) 3:7 someone (3) 6:5,5;13:8 sometimes (1) 19:7 soon (1) 17:16 sooner (1) 30:4 Sorry (15) 5:1;14:7,8,</p>	<p>16,19;22:3;24:19; 26:23;28:19;29:15; 30:21;38:1,3,12;44:23 sort (6) 9:1;12:8;21:23; 26:9;31:20;43:20 sought (2) 16:5,6 Sounds (1) 3:13 sources (2) 50:9;51:15 spacing (1) 12:25 speak (1) 44:24 speaking (2) 9:18; 14:18 specific (3) 11:6;12:5; 15:8 specifically (2) 9:11; 15:5 specifics (1) 27:10 speculation (2) 51:2,3 spoiled (1) 41:1 staff (12) 9:17;10:1,15; 32:16;34:4,16,24; 35:10;36:1;41:7,17; 46:10 stance (1) 41:22 stand (1) 32:6 standard (1) 9:1 standpoint (1) 20:11 stands (1) 15:10 start (3) 4:6;43:25; 49:15 started (3) 19:17;49:17, 17 state (18) 4:3;8:15;9:4; 10:20,20;12:1,4;13:20, 22;16:4,5;18:22;29:11; 43:21;46:2;48:9,13,24 stated (1) 11:5 statement (3) 10:15; 49:18,20 statements (2) 11:23; 17:11 states (5) 12:7;20:2; 45:11,25;46:3 State's (4) 32:15;40:13; 41:20;45:18 statewide (1) 13:15 status (3) 43:7,8;44:11 stay (7) 16:5,6,9;17:8; 19:10;24:9,9 step (2) 44:15;45:22 steps (2) 12:20;41:15 Steve (1) 10:13 stick (1) 33:21 still (11) 10:17,17,23; 17:5;26:11;28:7;30:17, 18;39:2;40:23,23 stop (2) 5:10;28:15 story (3) 27:11;50:17; 52:3 stream (1) 35:14 streaming (1) 36:20 stretch (1) 38:25 strike (2) 14:3;20:3</p>	<p>strikes (1) 14:9 striking (1) 19:19 struck (1) 15:1 stuff (3) 30:1,15,21 submit (2) 35:23;53:23 submitted (1) 25:12 subsequently (1) 8:16 substantial (1) 12:1 substantive (1) 37:7 sufficient (1) 46:12 suggesting (1) 26:5 Superior (1) 13:17 Supreme (9) 14:1; 16:24;17:7;18:25;19:1, 2,21;20:2,2 Sure (14) 3:20;5:14; 6:7;18:21;25:24;35:19; 38:16,18,21;44:18; 46:9;47:14;52:24;54:4 surrounding (1) 46:7 survived (1) 24:16 suspect (1) 31:8 system (1) 39:10</p>	<p>tag (1) 43:23 talk (4) 20:18;29:24; 30:25;42:19 talked (2) 43:12;52:16 talking (1) 21:16 tap (1) 48:23 tax (2) 50:13,13 technology (1) 15:8 telework (1) 8:23 tend (1) 30:22 term (1) 49:15 terms (9) 22:15,15; 29:25;31:19,20;35:8; 39:19;41:6,22 thanks (1) 33:11 theoretically (1) 25:2 theory (1) 16:18 THOMAS (1) 47:11 thought (4) 19:24; 30:23;39:9;40:19 three (4) 32:17;33:19; 42:21,21 throughout (2) 26:11; 35:25 thus (1) 8:12 timed (1) 33:18 Times (2) 36:23;50:4 timing (1) 23:5 Titla (18) 4:8,10,21;6:1, 6,8,10,12;7:7,9;10:13, 14;11:9;13:2;33:12,14; 54:16,17 today (4) 25:23;47:21; 52:19;53:6 together (2) 28:8;47:16 Tom (30) 5:10,20;6:23; 7:21;9:12;11:4;14:8;</p>
		U		
		<p>unable (1) 53:12 unanimous (1) 19:21 unauthorized (1) 16:17 uncomfortable (1) 30:19 under (6) 11:14;12:24; 17:18;23:23;49:25; 50:2 understood (1) 38:21 United (1) 20:2 universe (1) 43:1 unless (2) 13:8;19:9 unrolling (1) 30:17 up (16) 8:4;10:18;13:6; 15:7;18:19;22:14; 27:17;28:15,20;29:25; 30:23;34:19;39:5; 45:22;48:15;53:25 update (1) 52:12 updates (2) 8:2;34:16 use (2) 28:12;49:15 using (1) 27:24</p>		

utilizing (1) 35:12	39:4	2018 (1) 23:14		
V	wish (1) 44:13	2020 (7) 3:25;5:19,19; 6:19,20;17:17;51:19		
various (1) 24:1	without (7) 17:21;27:2; 28:20;29:10;31:22,22; 47:10	2021 (1) 51:21		
vast (1) 19:25	witness (1) 20:4	22 (2) 20:3;49:1		
vendors (1) 47:4	wonder (1) 10:23	25 (1) 12:8		
VI (3) 13:4,7;52:11	word (1) 10:19	27 (2) 5:19;6:19		
view (2) 32:21;35:15	work (7) 9:17;10:2; 12:1;18:8;46:4;47:2,7	2nd (1) 25:10		
VIII (1) 54:1	worked (3) 18:16; 51:23;55:3	3		
virtual (2) 35:11;36:13	workers (1) 28:6	30th (1) 3:25		
virus (2) 39:7,12	working (6) 8:25;21:7; 41:7,17,18;49:19	364-3477 (1) 53:14		
voluntary (1) 50:13	works (1) 10:8	38 (1) 31:16		
vote (22) 6:22;7:5,8,15; 10:24,25;14:24;15:4,5; 27:20;31:10;38:20; 39:11,21,23;40:5,9; 41:11,14;44:13;54:14, 23	world (2) 10:11;36:12	4		
voted (2) 27:11;30:11	worse (1) 39:3	4th (3) 27:20,22,24		
voter (25) 17:4;28:5,7, 25;29:18,24;31:1;34:6, 17;36:15;39:16;40:1, 15;41:6,7,18,22;43:18, 18,24,25;45:19;46:13; 49:9;51:7	worth (2) 11:24;20:17	5		
voters (30) 15:7;28:1; 30:2,19;34:24;35:10, 15,17,20,21;37:14; 39:21;40:6,20,23;41:8, 11;42:25;43:1,2,3,4,4, 13;44:7,12,13,15; 45:20;49:10	wrapped (1) 13:5	50 (1) 14:23		
votes (1) 28:4	wrinkle (1) 21:14	50/50 (1) 22:8		
voting (12) 27:8;38:13; 39:8,25;40:3,8,17,21; 42:7,9;44:1;46:9	writing (1) 5:8	6		
Voto (1) 20:19	wrong (3) 5:13;48:2,4	602 (1) 53:14		
W	Y	6th (1) 27:21		
	year (16) 27:8;28:17, 19;30:2;33:21;36:23; 37:2;41:13;45:7,17; 46:7;48:14,16,19,20; 49:25	7		
	years (3) 14:24;19:17; 51:14	7:00 (1) 21:1		
	yesterday (3) 8:17; 11:6,20	8		
	York (1) 12:17	80 (1) 41:10		
	YouTube (3) 12:22; 35:15,18	8th (1) 22:12		
	Z	9		
Wait (1) 14:16	zero (1) 23:19	9:32 (1) 3:25		
waiting (1) 46:21	Zoom (3) 35:12,14; 36:13	9th (1) 48:21		
wants (4) 11:20;13:8; 42:24;48:1	1			
watching (2) 26:10; 53:11	1.7 (1) 23:15			
way (8) 15:24;18:12; 19:7;31:11;47:15;51:2, 12;52:4	1.8 (1) 23:15			
ways (4) 28:24;37:14; 53:17,24	10:41 (1) 55:7			
website (2) 8:7;53:17	11 (1) 31:17			
week (4) 11:11,19; 12:21;13:23	11th (1) 8:16			
weeks (1) 43:11	16 (2) 5:19;6:20			
well-informed (1) 25:22	19th (1) 8:5			
what's (1) 25:20	1st (2) 26:25;48:15			
Whereupon (1) 55:6	2			
wide (1) 48:22	2,500 (1) 23:15			
widespread (1) 9:6	20 (1) 41:12			
willing (2) 45:12,21	2000s (1) 50:12			
Wisconsin (2) 27:14;	2008 (1) 50:5			
	2012 (1) 50:8			

**CITIZENS CLEAN ELECTIONS COMMISSION
EXECUTIVE DIRECTOR REPORT
June 25, 2020**

Announcements:

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

Voter Education:

Outreach:

- Avery continues to meet with Mesa Community College's Civic Engagement Team (MCC Votes) On Mondays to plan future virtual events.
- Avery has continued his collaboration efforts with ASU's Voter Mobilization Planning Committee via Zoom.
- Avery continues to represent Clean Elections in the virtual Youth Leadership and Development meetings sponsored by Opportunities for Youth via Video Conference.
- The Voter Ed team produced an American Sign Language Voter Education Guide, for the primary, in a partnership with Arizona Commission for the Deaf and the Hard of Hearing and Linda Bove from Sesame Street.
- Exec. Director Tom Collins and the Voter Ed team met with the Maricopa County Recorder's and Elections office in virtual conference to discuss primary election messaging and voter education. May 28, 2020
- Avery represented Clean Elections by attending the video conference sponsored by MCRO, "The Presidential Preference Election Debrief and Preparing for the Arizona Primary" June 4, 2020
- Gina and Alec met with the Arizona Center for Disability Law to discuss outreach efforts for voters with disabilities.
- CCEC Staff will participate in a panel discussion in the Arizona Capitol Times Morning Scoop segment on June 30th on the Primary Election.
- Commissioner Chan, Avery and Gina gave a presentation to a few high school seniors who are launching a human rights group on how to participate in the primary election.
- Gina and Alec participated in a conference call with the county election directors to discuss vital messaging for voters in the primary election.

Primary Election:

- Primary Election = Tuesday, August 4, 2020
 - Voter Registration Deadline = July 6, 2020
 - Early voting begins = July 8, 2020
 - UOCAVA ballots have been mailed
- The Voter Education Guide began arriving at the post offices today for delivery to households. All guides will be in homes before the start of early voting (July 8th).
 - The Voter Guide was shipped to UOCAVA voters on June 18th.
- Primary Election Debates will wrap on July 8th.
- Alec has been working with the counties and local jurisdictions to develop the primary election pages on our websites, which includes information on the voting process specific to the county.
- Staff published new content on the CCEC website related to the ballot by mail process and election security.

Administration:

- Government offices continue to remain open with minimal staff working in the buildings. Based on guidance from the Governor's office, AZDHS & CDC, the direction continues to be to utilize telework to the greatest extent possible. CEC staff remains on an extended telework schedule with minimal staff in the office during the week. In order to reduce exposure to COVID-19, staff continues to practice social distancing, wear masks and electronic changes have been implemented to reduce incoming traffic.

Miscellaneous

- **Outstanding legal matters**

- Legacy Foundation Action Fund
 - Pending answering brief from LFAF.
- AZAN v. State et. al.
 - Oral argument was held earlier this month. Please see attached news story for summary.
- State Ex Rel Brnovich v. Ariz. Board of Regents.
 - Awaiting Arizona Supreme Court Opinion.the near future.
- Brnovich v. Democratic National Committee
 - Petition for Certiorari filed 4/27
 - Secretary Hobbs opposes.
 - Main issue is 9th Cir. (en banc) striking down Arizona law restricting the collection of ballots.
- Voto Latino v. Hobbs
 - Arizona District Court
 - Settled in mid-June, please see attached settlement agreement and statement from Secretary Hobbs.
- Miracle v. Hobbs
 - First and Fourteenth Amendment challenge to restriction on the right to petition for initiatives under Arizona Constitution.
 - Appeal pending denial of Preliminary Relief.

- **Legislature**

- The Legislature adjourned sine die in May. There have been discussions of a potential special session to address issues potentially including COVID-19, Police Reform, and state budget issue. According to reports, special session unlikely before August primary. JLBC projections show anticipated budget impact of COVID is lower now than in April.

- **Appointments**

- No additional information at this time.

- **Rules**

- GRRC approved final versions of R2-20-701, -702, -702.01, and 703.01.

- Number of Participating Candidates – 38
- Participating Candidates Funded - 11

https://tucson.com/news/local/arizona-asks-court-to-stop-voter-created-panel-from-regulating-dark-money/article_bb7fc3f7-dee8-5e51-a31d-445057f6a8c5.html

Arizona asks court to stop voter-created panel from regulating 'dark money'

By Howard Fischer Capitol Media Services

Jun 12, 2020



"I Voted" stickers line a ballot box

Casey Page / Billings Gazette 2018

PHOENIX — Arizona has asked a court to block the Citizens Clean Elections Commission from enforcing certain laws that regulate how much candidates and others can spend on campaigns and what has to be disclosed.



UPDATES: Tucson area coronavirus developments, June 22: Here's what we know

An attorney for the state, Tim Berg, told Court of Appeals judges Wednesday that the Republican-controlled Legislature was within its power in 2016 when it created exceptions to campaign finance laws.

He said the changes were not directly part of the Clean Elections Act voters enacted in 1998.

But commission attorney Joseph Roth said the 2016 alterations violated the Voter Protection Act, which bars legislators from tinkering with laws voters enacted. He said the Legislature unconstitutionally undermined the intent of the 1998 Clean Elections Act, which was designed to reduce the influence of money on politics.

The appellate judges gave no indication when they will rule.

One of the changes legislators made in 2016 allows supporters to effectively provide unlimited amounts of money to get candidates elected without having to disclose who they are. The 2016 law was championed by then-House Speaker J.D. Mesnard, R-Chandler.

He said existing laws interfered with the rights of free speech and people to participate in the political process with their dollars without giving up their right of privacy. It was approved on a largely party-line vote and signed into law by Republican Gov. Doug Ducey.

The flip side of that, according to supporters of the Clean Elections Act, is that a decrease in disclosure requirements denies voters an indication of who is spending money to influence campaigns. They said voters in 1998 gave broad powers to the Citizens Clean Elections Commission to police campaign contributions.

The 1998 law set up a voluntary system of public financing for statewide and legislative candidates who agree not to take money from special interests. It also imposed other limits on spending, both by candidates and supporters, and on disclosure requirements for those who spend money to influence races.

It is overseen by a five-member bipartisan commission.

Berg argued to the court that the commission's power extends only to candidates who run with public financing.

Roth disagreed, saying what voters approved gave the commission authority to police spending by all candidates.

Pima Canyon Trail

 [AZCensus2020 \(https://azcensus2020.gov/\)](https://azcensus2020.gov/)  [Visit OpenBooks \(https://openbooks.az.gov\)](https://openbooks.az.gov)

[Ombudsman-Citizens Aide \(https://www.azoca.gov\)](https://www.azoca.gov)

Get the facts on COVID-19 (<https://azdhs.gov/preparedness/epidemiology-disease-control/infectious-disease-epidemiology/index.php#novel-coronavirus-home>)

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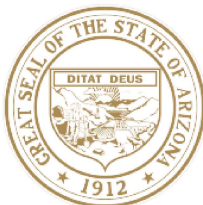
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» *Secretary of State's Office settles on lawsuit over the deadline to return early ballots, will continue to expand efforts to keep voters informed and engaged* (</about-office/media-center/press-releases/1191>)

Secretary of State's Office settles on lawsuit over the deadline to return early ballots, will continue to expand efforts to keep voters informed and engaged

PRESS RELEASE

For Immediate Release



KATIE HOBBS
SECRETARY OF STATE

Friday, June 19, 2020

Secretary of State's Office settles on lawsuit over the deadline to return early ballots, will continue to expand efforts to keep voters informed and engaged

PHOENIX— Arizona Secretary of State Katie Hobbs today said the settlement reached in a lawsuit over the deadline to return early ballots is designed to keep voters informed and engaged.

At issue in the Voto Latino, et al. v. Hobbs suit is the law requiring that mail-in ballots must be received by county election officials before 7 p.m. on Election Day. The settlement reached leaves the Election Day deadline as it currently is, and the Secretary of State's Office will continue and expand its efforts to address the factors the plaintiffs identified as contributing to late returns.

"We were able to come to an agreement quickly in this case because our office was already working on many of the initiatives being requested," Hobbs said. "This settlement was possible because both sides share the same goal of ensuring voters have the ability to participate in a way that is meaningful to them." The terms of the settlement include the Secretary of State's commitment to:

- Conduct voter outreach and education about the Election Day Receipt Deadline in multiple languages;
- Launch a webpage dedicated to information about voting by mail, including the Election Day Receipt Deadline, ballot drop-box locations, and other ballot drop-off options; and
- Allocate funding for counties to increase early voting opportunities across the state.

In addition to these ongoing efforts, the settlement also commits the Secretary of State's Office to studying the feasibility of implementing a postmark deadline in Arizona for future elections, including assessing the costs of bar code readers, the various ways that other states have successfully implemented post-mark deadlines, and how such a process would apply to Arizona.

"The agreement is reflective of a shared commitment to safe, accessible, and accurate elections," Hobbs said. "I look forward to continuing this work in partnership with Voto Latino, Priorities USA, and other voting rights organizations throughout Arizona."

-30-

Exhibit A

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**Admitted pro hac vice*

Attorneys for Plaintiffs

UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA

Voto Latino Foundation, Priorities USA, and
Shelby Aguallo,

Plaintiffs,

v.

Katie Hobbs, in her official capacity as
Arizona Secretary of State,

Defendant.

No. 2:19-cv-05685-DWL

SETTLEMENT AGREEMENT

1
2 This Settlement Agreement is entered into as of June 18, 2020 (the “Effective Date”)
3 by and between Plaintiffs Voto Latino Foundation, Priorities USA, and Shelby Aguallo,
4 and Defendant Katie Hobbs, in her official capacity as the Secretary of State of Arizona
5 (the “Secretary”). All Plaintiffs and Defendant shall hereafter be referred to as the “Parties.”
6 The Parties hereby agree to settle the case based upon the following terms.

7 **RECITALS**

8 WHEREAS, on November 26, 2019, Plaintiffs initiated this action against the
9 Secretary. Plaintiffs later filed amended complaints. The Second Amended Complaint
10 alleged that the Arizona law requiring that mail-in ballots be received by 7:00 p.m. on
11 Election Day to be counted, A.R.S. § 16-548(A) (the “Election Day Receipt Deadline”),
12 violates the First and Fourteenth Amendments of the U.S. Constitution. The Second
13 Amended Complaint alleged that the Election Day Receipt Deadline disproportionately
14 affected Arizona’s Hispanic and Latino, Native American, and rural voters, and had
15 disenfranchised more than 17,000 Arizona voters since 2008.

16 WHEREAS, the Secretary denies that Arizona’s Election Day Receipt Deadline
17 violates the First and Fourteenth Amendments and states that she and other Arizona
18 elections officials have regularly engaged in voter education efforts as to the Election Day
19 Receipt Deadline. As part of this Settlement Agreement and consistent with plans to
20 address the projected increase in vote by mail for the 2020 election, the Secretary will
21 increase voter education efforts relating to the Election Receipt Deadline, conduct
22 additional voter education campaigns for all voters, including Latino and Native American
23 populations, and facilitate additional opportunities for these voters to return their early
24 ballots.

25 WHEREAS, the Parties have negotiated in good faith and enter into this Settlement
26 Agreement as an appropriate resolution of the claims in the Complaint. Accordingly, the
27 Parties stipulate and agree as follows:
28

BACKGROUND

1
2 1. Voto Latino Foundation is a nonprofit organization that engages, educates,
3 and empowers Latino communities across the United States. It works to ensure that Latinos
4 are enfranchised and included in the democratic process. Voto Latino believes that the
5 Election Day Receipt Deadline harms it by burdening and disenfranchising the voters Voto
6 Latino seeks to support, among other harms.

7 2. Priorities USA is a 501(c)(4) non-profit organization that engages in voter-
8 centric progressive advocacy. Its mission is to build a sustainable infrastructure to engage
9 Americans in the progressive movement by running a permanent digital campaign to
10 persuade and mobilize citizens around issues and elections that affect their lives. Priorities
11 USA works to help educate, mobilize, and turn out voters across the country, including in
12 Arizona. Priorities USA believes that the Election Day Receipt Deadline harms it because
13 it burdens and disenfranchises the voters Priorities supports through its work and
14 contributions in Arizona, among other harms.

15 3. Shelby Aguillo is a U.S. citizen and registered Arizona voter whose ballot
16 was not counted in the 2018 General Election because of application of the Election Day
17 Receipt Deadline.

18 4. Katie Hobbs is the Arizona Secretary of State, sued in her official capacity
19 only. She is the Chief Elections Officer for Arizona, responsible for overseeing the voting
20 process in Arizona. A.R.S. § 16-142(A)(1). For example, the Secretary drafts the Arizona
21 Election Procedures Manual (“Manual”), which establishes election procedures and
22 administration across Arizona’s fifteen counties. A.R.S. § 16-452. The Manual is approved
23 by the Governor and the Arizona Attorney General and carries the force of law. A.R.S. §
24 16-452(B). Arizona law also requires the Secretary, after consulting with county officials,
25 to draft the Manual to “achieve and maintain the maximum degree of correctness,
26 impartiality, uniformity and efficiency on the procedures for early voting and voting, and
27 of producing, distributing, collecting, counting, tabulating and storing ballots.” A.R.S. §
28 16-452(A).

5. This action was brought by Voto Latino, Priorities USA, and Shelby Aguallo to vindicate First and Fourteenth Amendment rights related to voting.

6. The Secretary denies that the Election Day Receipt Deadline violates the First or Fourteenth Amendments to the federal Constitution. By agreeing to this Settlement Agreement, the Secretary seeks to serve Arizona's citizens by (1) complying with Arizona law; (2) increasing public awareness campaigns of the Election Day Receipt Deadline to encourage Arizona's voters to return their mail ballots by the Deadline; and (3) facilitating additional opportunities for Latino, Native American, and other voters to return their early ballots. Additionally, the Secretary deems this Settlement Agreement to be in the public interest to reduce litigation costs to the public and to focus the Secretary's resources and efforts toward ensuring that Arizona's election procedures run smoothly amidst the COVID-19 pandemic. The terms of the Settlement Agreement are also in line with the types of preparedness efforts the Secretary has previously engaged in and plans to implement to ensure free, fair, and safe elections.

DEFINITIONS

1. “Election Day Receipt Deadline” means the 7:00 p.m. deadline on Election Day for ballots to arrive at the County Recorder’s Office in order to be counted as identified in A.R.S. § 16-548(A).

2. “County Recorder” means the County Recorder of each of Arizona’s 15 counties, and includes all county election officials working in or in conjunction with their offices.

3. “Procedures Manual” means the State of Arizona Elections Procedures Manual, which provides the rules related to voting and the conduct of elections. A.R.S. § 16-452. The Secretary is required to develop the Procedures Manual in conjunction with the 15 County Recorders. *Id.* Once approved by the Arizona Attorney General and the Governor of Arizona, the Procedures Manual has the force of law. A.R.S. § 16-452(B), (C).

1 4. “Secretary” means the Arizona Secretary of State and her office, as well as
2 successors in office.

3 SETTLEMENT AGREEMENT TERMS

4 1. **Voter outreach and education.** While the Secretary already engages in
5 voter outreach efforts about the Election Day Receipt Deadline, upon the Effective Date of
6 this Agreement the Secretary shall increase those efforts. This additional outreach and
7 education shall be conducted in English and in the languages covered under Section 203 of
8 the Voting Rights Act (i.e. Spanish, Navajo, and Apache). This outreach and education
9 shall occur across multiple platforms and mediums, including, but not limited to, the
10 Secretary of State’s website, the Secretary of State’s social media pages, and on future
11 mailings from the Secretary to Arizona voters. The Secretary shall also engage in
12 reasonable efforts to encourage each of Arizona’s County Recordors to increase their voter
13 education efforts and outreach about the Election Day Receipt Deadline.

14 2. **The Secretary of State’s website.** Within 60 days after the Effective Date
15 of this Settlement Agreement, the Secretary shall add to the official Secretary of State’s
16 website—located at <https://azsos.gov/>—a page specifically dedicated to the vote by mail
17 process that will include prominently featured information about the Election Day Receipt
18 Deadline and general information about ballot drop-off options, including links to county
19 websites listing drop box locations and other mail-ballot drop-off options.

20 3. **Allocation of federal funding.** The Secretary agrees to allocate a portion of
21 funding from the Coronavirus Aid, Relief, and Economic Security (CARES) Act, subject
22 to legislative appropriation, or other available funding source for counties to expand early
23 voting opportunities in Hispanic and Latino, Native American, and rural communities in
24 Arizona. This will include funding for (1) mobile early voting units, which can serve as
25 both early voting locations and drop-off points for mail ballots, (2) temporary staff hires
26 who will be appropriately trained to staff early voting locations and mobile early voting
27 units in rural communities with limited mail access, and who have language capabilities to
28 match the communities in which they will be working, (3) an increased number of ballot

1 drop-boxes for mail ballots in rural, Hispanic and Latino, and tribal communities, and (4)
2 an increased number of non-mobile early voting locations. To the extent that any funds
3 have been distributed to counties as direct subgrants, the Secretary agrees to provide
4 informal guidance to each county listing priorities for the funding. Such informal guidance
5 will include a recommendation that each county consider the optimal number of drop-boxes,
6 mobile early voting units, and early voting locations needed based on the county's
7 geography, population, and best practices. Plaintiffs intend to propose optimal guidance on
8 these issues in consultation with Plaintiffs' experts, and the Secretary agrees to consider in
9 good faith Plaintiffs' proposal in issuing this informal guidance to each county.

10 4. **Elections Procedures Manual.** The Secretary agrees to add a provision to
11 the next revision of the Elections Procedures Manual directing counties to consult the
12 informal guidance provided by the Secretary with respect to the allocation of drop-boxes,
13 mobile early voting units, or other ballot drop-off locations outside of the county elections'
14 office and polling locations or vote centers.

15 5. **Feasibility study on the implementation of a postmark deadline.** Within
16 90 days after the Secretary's official canvass of the November 3, 2020 General Election,
17 the Secretary's Office shall review available data regarding ballots that were received after
18 Election Day in Arizona's past three general election cycles and shall consult with local
19 elections officials to discuss (1) the number of voters whose ballots were not counted
20 because of the deadline over the past three general election cycles; (2) the policy
21 implications associated with implementing a postmark deadline in lieu of Arizona's
22 Election Day Receipt Deadline; and (3) the feasibility of implementing a postmark deadline.
23 In conducting this study, the Secretary's Office shall also consider, *inter alia*: (1) the cost
24 of intelligent mail bar code readers; (2) any administrative burdens placed on election
25 officials and logistical challenges in connection with a postmark deadline; (3) the various
26 ways that other states have successfully implemented postmark deadlines; and (4) whether
27 such factors support seeking a legislative change to Arizona's Election Day Receipt
28 Deadline.

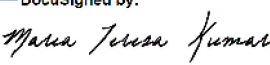
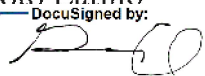
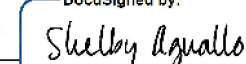
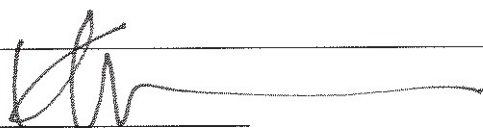
6. **Dismissal of Claim.** Upon the Effective Date of this Settlement Agreement, the Plaintiffs' claims will be dismissed with prejudice.

7. **Standing to enforce Settlement Agreement.** The only parties with standing or authority to seek enforcement of this Settlement Agreement are the parties to this agreement. No person or entity that is not a party to this Settlement Agreement may seek to enforce this Settlement Agreement as a third-party beneficiary.

8. **Integration clause.** The terms of this Settlement Agreement embody the Parties' complete and entire agreement with respect to the subject matter hereof.

9. **Attorneys' fees and costs.** The Parties shall bear their own attorney fees and costs related to the above-captioned matter, and no party shall be considered a prevailing party for the purpose of any law, statute, or regulation providing for the award or recovery of attorney fees and/or costs.

Dated: June 18, 2020

<p>DocuSigned by:  2695EFC6A73642E... Maria Teresa Kumar, Resident</p> <p>Voto Latino DocuSigned by:  B044AAC97987492... Guy Cecil, Chairman Priorities USA</p> <p>DocuSigned by: s/  B43DBA001F6544D... Shelby Aguillo</p>	<p>s/  Katie Hobbs Arizona Secretary of State</p>
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FIVE YEAR REVIEW REPORT
Citizens Clean Elections Commission
A.A.C. Title 2, Chapter 20, All Articles

This report covers all rules in A.A.C. Title 2, Chapter 20, all articles. The Citizens Clean Elections Commission (the “Commission”) adopted these rules to further the goals of the Citizens Clean Elections Act (“Act”). The Act was passed by the voters in 1998 and created the clean elections system to diminish the influence of special-interest money, including the opportunities for and appearance of *quid pro quo* corruption, and thereby to promote the integrity of Arizona state government. The Act promotes freedom of speech under the United States and Arizona Constitutions. It also created a voluntary system wherein participating candidates receive public funds to finance campaigns. To qualify for funding, participating candidates must follow the rules and reporting requirements adopted by the Commission. The Act also applies to candidates who are nonparticipating candidates and independent spenders in elections. The Rules implement the provisions of the Act. All rules created or amended prior to June 25, 2013 have been “pre-cleared” by the U.S. Department of Justice pursuant to Section Five of the Federal Voting Rights Act.

The Commission reports the following analysis of its rules in the order required by Arizona Administrative Code (“A.A.C.”) R1-6-301. Pursuant to A.A.C. R1-6-301(B), Part I includes information pertaining to all, or a great number, of the rules. Part II reports information unique to individual rules.

This report is made without waiver of any of the Commission’s legal positions concerning the Commission’s rulemaking authority or the Governor’s Regulatory Review Council’s authority under A.R.S. § 41-1056.

Part I: Analysis Which Is Identical for all Rules

1. Effectiveness of the rule in achieving the objective

All the rules are effective in achieving their objectives as stated below.

2. Written criticisms of the Rules Received in the Past Five Years

The Commission has not received any written criticisms of the rules in the past five years.

3. Authorization of the Rules by Existing Statutes

The Commission’s general rulemaking authority is found in A.R.S. §§ 16-940 through 16-961 and A.R.S. § 16-956 (C) gives the Commission specific authority to adopt rules to carry out the purposes of the Article and to govern procedures of the Commission.

4. Consistency of the rule with state and federal statutes and rules and enforcement

In the process of preparing this report the rules have been compared against each other and A.R.S. §§ 16-940 through 16-961 and the Commission has determined the rules are consistent and enforced as written.

5. Clarity, conciseness, and understandability of the rule

All the rules are clear, concise, and understandable.

6. Economic, Small Business, and Consumer Impact Comparison

The economic impact has not differed from that projected when the rules were adopted/amended. The rules create no discernible economic impact for small businesses or consumers. For small businesses or consumers who make expenditures subject to the rules' reporting requirements, compliance with the rules imposes zero economic impact because the reporting requirement is simple and may be filed without any filing fee. To the extent that the obligation to file a report itself imposes an economic impact, that impact comes from the statutory reporting requirement and not from the rules. A failure to abide by any of the statutes or rules may create an economic impact on those subject to the penalties the Commission may impose.

The main costs are born by the Commission and include staff time to process reports. The Commission receives funds from the following sources:

- A 10% surcharge imposed on all civil and criminal fines and penalties collected pursuant to A.R.S. § 12-116.01;
- A \$5 voluntary contribution per taxpayer (\$10 when married and filing jointly) who files an Arizona state income tax return and marks an optional check-off box on the first page of the form. A taxpayer who checks this box receives a \$5 reduction in tax liability and \$5 goes to the Clean Elections Fund (NOTE: As of August 2, 2012, the Commission only receives \$5 voluntary taxpayer contributions from individuals filing tax returns for tax years 2012 and earlier.);
- A voluntary donation to the Clean Elections Fund by designating the Fund on an income tax return form filed by the individual or business entity, or by making a payment directly to the Fund. Any taxpayer making a donation shall receive a dollar-for-dollar tax credit not to exceed 20 percent of the tax amount on the return or \$680 per taxpayer, whichever is higher (NOTE: As of August 2, 2012, the Commission no longer accepts donations for the dollar-for-dollar tax credit.);
- Qualifying contributions received by participating candidates; and
- Civil penalties assessed against violators of the Citizens Clean Elections Act.

7. Analysis Submitted by Another Person Regarding the Rules' Impact on this State's Business Competitiveness as Compared to the Competitiveness of Businesses in Other States

No analysis has been submitted to the Commission.

8. Completion of the Previous Five-Year –Review Report Process

The last five-year-review report was completed and did not identify any needed course of action, with the exception of R2-20-206 and R2-20-208 which are discussed individually below.

9. Probable Benefits Outweigh Probable Costs / Rules Impose Least Burden on Regulated Persons

In the process of preparing this report, the Commission has determined that the rules achieve their regulatory objectives with the least burden and cost possible, and the probable benefits of the rules outweigh the probable costs.

10. Corresponding federal law

There are no corresponding federal laws.

11. Compliance with A.R.S. § 41-1037

Commission rules do not require the issuance of a regulatory permit, license, or agency authorization.

12. Course of action the agency proposes to take regarding each rule

The Commission does not propose any course of action for the rules..

Part II: Analysis of Individual Rules

ARTICLE 1 – GENERAL PROVISIONS

R2-20-101. Definitions

1. Objective

Supplement the definitions provided in A.R.S. §§16-901 and 16-961 for Chapter 20 of the Arizona Administrative Code, which includes the Commission rules.

R2-20-103. Communications: Time and Method

1. Objective

Clarify procedures for computing periods of time and methods of communicating between the candidate and the Commission.

R2-20-104. Certification as a Participating Candidate

1. Objective

Provide guidance on filing an application for certification and electronic campaign finance reports; accepting contributions and making expenditures; and requirements for a nonparticipating candidate to be eligible for participating candidate status.

R2-20-105. Certification for Funding

1. Objective

Provide the process for certifying clean elections candidates.

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

1. Objective

Provide the process and criteria for the Commission to evaluate a candidate's application for funding.

R2-20-107. Candidate Debates

1. Objective

Provide procedures for conducting debates, for candidates seeking to be excused from participation in the debates and the penalty for failing to participate in the debates.

R2-20-108. Termination of Participating Candidate Status

1. Objective

Provide a method for candidates to withdraw their application for certification or funding.

R2-20-109. Independent Expenditure Reporting Requirements

1. Objective

Provide the requirements for the submission of independent expenditure reports.

R2-20-110. Participating Candidate Reporting Requirements

1. Objective

Provide the reporting requirements of participating candidates.

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

1. Objective

Provide the reporting requirements of non-participating candidates.

R2-20-112. Political Party Exceptions

1. Objective

Provide guidance on the scope of the political party exceptions in A.R.S. § 16-911(B)(4) to the definitions of contributions and expenditures in A.R.S. § 16-901(5), (8). Note, A.R.S. § 16-911(B)(4)(b) is currently subject to the injunction in Arizona Advocacy Network Fdn. v. State, CV2017-096705 (Ariz. Sup. Ct. Maricopa June 5, 2019).

R2-20-113. Candidate Statement Pamphlet

1. Objective

Provide procedures for candidate eligibility and submission of statements for the Commission's primary and general election candidate statement pamphlets in accordance with A.R.S. § 16-956.

R2-20-114. Candidate Campaign Bank Account

1. Objective

Specify the method for maintaining campaign accounts.

R2-20-115. Books and Records Requirements

1. Objective

Specify the manner for keeping records and giving the public access to campaign records.

ARTICLE 2 – COMPLIANCE AND ENFORCEMENT PROCEDURES

R2-20-201. Scope

1. Objective

Specify the scope of the rules.

R2-20-202. Initiation of Compliance Matters

1. Objective

Describe methods for initiating an enforcement matter.

R2-20-203. Complaints

1. Objective

Provide the process for filing a complaint.

R2-20-204. Initial Complaint Processing; Notification

1. Objective

Specify the procedures for processing complaints.

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

1. Objective

Specify the method and time period allowed for an alleged violator to respond to a complaint.

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

1. Objective

Specify the Executive Director's and complainant's role prior to bringing a reason-to-believe recommendation to the Commission.

8. Completion of the Previous Five-Year –Review Report Process

The 2015 report described a proposal to amend this rule to require the Executive Director to first receive Commission approval to initiate an inquiry if a person making an independent expenditure in an election without a participating candidate faces penalties under A.R.S. § 16-942(B). The proposal, however, is not consistent with the Clean Elections Act and the Commission took no action on it.

R2-20-207. Internally Generated Matters; Referrals

1. Objective

Provide the Executive Director with authority to generate an internal complaint.

R2-20-208. Complaint Processing; Notification

1. Objective

Provide the process for notifying the complainant and the respondent of a reason-to-believe determination.

8. Completion of the Previous Five-Year –Review Report Process

The 2015 report described a proposal to amend this rule to clarify processing procedures when a complaint alleges an “Article 1” violation involving an independent expenditure. That amendment was not completed because it is not consistent with the Clean Elections Act. XX..

R2-20-209. Investigation

1. Objective

Specify the methods used by the Commission to investigate following a reason-to-believe determination.

R2-20-210. Written Questions Under Order

1. Objective

Allow the Commission to issue an order requiring any person to submit sworn, written answers to written questions.

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

1. Objective

Allow the Commission to authorize the Administrative Counsel or Assistant Attorney General to issue subpoenas for a deposition or issue a subpoena *duces tecum* during its investigation.

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

1. Objective

Allow any person to whom a subpoena is directed to apply to the Commission to quash or modify the subpoena.

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

1. Objective

Specify the procedure for the Commission’s determination of probable cause to believe that a violation of the statute or rule has occurred or is about to occur.

R2-20-215. The Probable Cause to Believe Finding; Notification

1. Objective

Provide the process for notifying the respondent of a probable cause finding.

R2-20-216. Conciliation

1. Objective

Provide the process for settling matters informally.

R2-20-217. Enforcement Proceedings

1. Objective

Provide the process for assessing civil penalties.

R2-20-220. Ex Parte Communications

1. Objective

Prohibit ex parte communications with the Commission staff or Commissioner.

R2-20-221. Representation by Counsel; Notification

1. Objective

Specify the extent of a respondent's right to be represented.

R2-20-222. Civil Penalties

1. Objective

Designate potential civil penalties.

R2-20-223. Notice of Appealable Agency Action

1. Objective

Specify the Commission's notice requirement after making a probable cause finding.

R2-20-224. Request for Administrative Hearing

1. Objective

Designate the timeline and process for a respondent to request a hearing.

R2-20-225. Informal Settlement Conference

1. Objective

Provide the process for a respondent to request an informal settlement conference.

R2-20-226. Administrative Hearing

1. Objective

Specify the timeline and process for conducting administrative hearings.

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

1. Objective

Specify the Commission's responsibilities when it receives notice of an administrative decision.

R2-20-228. Judicial Review

1. Objective

Provide the process for exhausting administrative remedies prior to seeking judicial review.

ARTICLE 3 - STANDARD OF CONDUCT FOR COMMISSIONERS AND EMPLOYEES

R2-20-301. Purpose and Applicability

1. Objective

Indicate the purpose and scope of this article.

R2-20-302. Definitions

1. Objective

Define terms for this article.

R2-20-303. Notification to Commissioners and Employees

1. Objective

Specify material to be made available to each employee and Commissioner upon revision or entrance of new employment.

R2-20-304. Interpretation and Advisory Service

1. Objective

Specify the process for seeking advice on questions of conflict of interest.

R2-20-305. Reporting Suspected Violations

1. Objective

Provide the procedure for reporting suspected violations of conflict of interest requirements.

R2-20-306. Disciplinary and Other Remedial Action

1. Objective

Specify the disciplinary action for violating this Article.

R2-20-307. General Prohibited Conduct

1. Objective

Specify conduct that is prohibited for Commissioners or employees.

R2-20-308. Outside Employment or Activities

1. Objective

Specify the prohibited conduct related to employment and other activities for Commissioners or employees.

R2-20-309. Financial Interests

1. Objective

Specify financial conflicts of interest requirements.

R2-20-310. Political and Organizational Activity

1. Objective

Specify conflicts of interest related to express advocacy.

R2-20-311. Membership in Associations

1. Objective

Specify potential conflicts of interest related to membership in nongovernmental associations or organizations.

R2-20-312. Use of State Property

1. Objective

Specify limitations on using state property.

ARTICLE 4 – AUDITS

R2-20-401. Purpose and Scope

1. Objective

Provide the purpose and scope of the article.

R2-20-402. General

1. Objective

Establish the tools available to the Commission in conducting audits.

R2-20-402.01. Audits of Participating Legislative Candidates

1. Objective

Authorize Commission staff to conduct audits of legislative candidates.

R2-20-402.02. Audits of Participating Statewide Candidates

1. Objective

Provide for audits of participating statewide legislative candidates.

R2-20-403. Conduct of Fieldwork

1. Objective

Establish candidate responsibilities during an audit.

R2-20-404. Preliminary Audit Report

1. Objective

Provide the procedures for the first phase of the audit process.

R2-20-405. Final Audit Report

1. Objective

Provide the procedures for the final phase of the audit process.

R2-20-406. Release of Audit Report

1. Objective

Provide details on how an audit report is made available to the public.

ARTICLE 5 – RULEMAKING

R2-20-501. Purpose and Scope

1. Objective

Specify the purpose and scope of the Commission's rulemaking.

R2-20-502. Procedural Requirements

1. Objective

Provide the process for filing a written petition regarding the issuance, amendment or repeal of an administrative rule.

R2-20-503. Processing of Petitions

1. Objective

Provide the process for reviewing petitions related to issuing, amending, or repealing rules.

R2-20-504. Disposition of Petitions

1. Objective

Provide the process for disposition of petitions related to rulemaking.

R2-20-505. Commission Considerations

1. Objective

Specify a nonexclusive list of criteria the Commission may consider in disposing of a petition for rulemaking.

R2-20-506. Administrative Record

1. Objective

Designate which records compose the administrative record.

ARTICLE 6 – EX PARTE COMMUNICATIONS

R2-20-601. Purpose and Scope

1. Objective

Specify the purpose and scope of the article.

R2-20-602. Definitions

1. Objective

Define terms as used in the article.

R2-20-603. Audits, Investigations & Litigation

1. Objective

Prohibit ex parte communications with the Commission during audits, investigations or litigation.

R2-20-604. Sanctions

1. Objective

Specify the process for sanctioning those who violate this article.

ARTICLE 7 – AUDITS AND REPAYMENT

R2-20-701. Purpose and Scope

1. Objective

Specify the purpose and scope of the article.

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R2-20-702. Use of Campaign Funds

1. Objective

Specify legal uses of campaign funds.

R2-20-702.01. Use of Assets

1. Objective

Provide a method for a candidate to use campaign materials from prior elections.

R2-20-703. Documentation for Direct Campaign Expenditures

1. Objective

Specify the process by which a participating candidate may ensure that campaign expenditures satisfy the direct campaign expenditure requirement.

R2-20-703.01. Campaign Consultants

1. Objective

Specify how a participating candidate may engage the services of a campaign consultant.

R2-20-704. Repayment

1. Objective

Designate the process for repaying distributed funds to the Clean Elections fund and specify that the Commission may require such repayment.

R2-20-705. Additional Audits or Repayment Determination

1. Objective

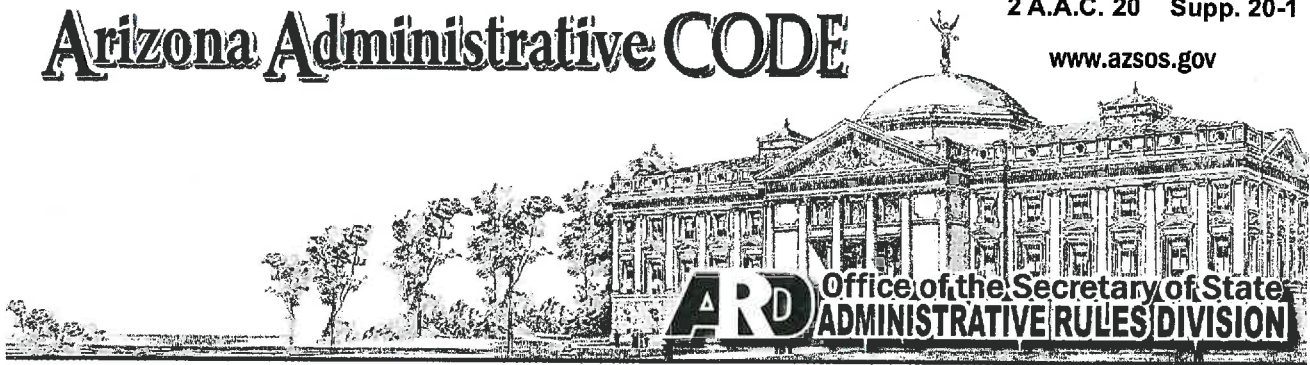
Authorize additional audits or examinations of campaign activity when new facts are available.

DRAFT

Arizona Administrative CODE

2 A.A.C. 20 Supp. 20-1

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TITLE 2. ADMINISTRATION

CHAPTER 20. CITIZENS CLEAN ELECTIONS COMMISSION

The table of contents on the first page contains quick links to the referenced page numbers in this Chapter. Refer to the notes at the end of a Section to learn about the history of a rule as it was published in the *Arizona Administrative Register*.

Sections, Parts, Exhibits, Tables or Appendices codified in this supplement. The list provided contains quick links to the updated rules.

This Chapter contains rule Sections that were filed to be codified in the *Arizona Administrative Code* between the dates of January 1, 2020 through March 31, 2020.

R2-20-113.	Candidate Statement Pamphlet	12	R2-20-702.	Use of Campaign Funds	24
R2-20-209.	Investigation	15	R2-20-704.	Repayment	26

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The release of this Chapter in Supp. 20-1 replaces Supp. 19-4, 1-27 pages

Please note that the Chapter you are about to replace may have rules still in effect after the publication date of this supplement. Therefore, all superseded material should be retained in a separate binder and archived for future reference.

PREFACE

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

Scott Cancelosi, Director
ADMINISTRATIVE RULES DIVISION

RULES

The definition for a rule is provided for under A.R.S. § 41-1001. “Rule” means an agency statement of general applicability that implements, interprets, or prescribes law or policy, or describes the procedures or practice requirements of an agency.”

THE ADMINISTRATIVE CODE

The *Arizona Administrative Code* is where the official rules of the state of Arizona are published. The *Code* is the official codification of rules that govern state agencies, boards, and commissions.

The *Code* is separated by subject into titles. Titles are divided into chapters. A chapter includes state agency rules. Rules in chapters are divided into Articles, then Sections. The “R” stands for “rule” with a sequential numbering and lettering outline separated into subsections.

Rules are codified quarterly in the *Code*. Supplement release dates are printed on the footers of each chapter.

First Quarter: January 1 - March 31

Second Quarter: April 1 - June 30

Third Quarter: July 1 - September 30

Fourth Quarter: October 1 - December 31

For example, the first supplement for the first quarter of 2019 is cited as Supp. 19-1.

Please note: The Office publishes by chapter, not by individual rule section. Therefore there might be only a few sections codified in each chapter released in a supplement. Historical notes at the end of a section provide an effective date and information when a rule was last updated.

AUTHENTICATION OF PDF CODE CHAPTERS

The Office began to authenticate chapters of the *Administrative Code* in Supp. 18-1 to comply with A.R.S. § 41-1012(B) and A.R.S. § 5302(1), (2)(d) through (e), and (3)(d) through (e).

A certification verifies the authenticity of each *Code* chapter posted as it is released by the Office of the Secretary of State. The authenticated pdf of the *Code* includes an integrity mark with a certificate ID. Users should check the validity of the signature, especially if the pdf has been downloaded. If the digital signature is invalid it means the document’s content has been compromised.

HOW TO USE THE CODE

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

ARIZONA REVISED STATUTE REFERENCES

The Arizona Revised Statutes (A.R.S.) are available online at the Legislature’s website, www.azleg.gov. An agency’s authority

note to make rules is often included at the beginning of a chapter. Other Arizona statutes may be referenced in rule under the A.R.S. acronym.

SESSION LAW REFERENCES

Arizona Session Law references in a chapter can be found at the Secretary of State’s website, under Services-> Legislative Filings.

EXEMPTIONS FROM THE APA

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

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

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

Editor’s notes at the beginning of a chapter provide information about rulemaking sections made by exempt rulemaking. Exempt rulemaking notes are also included in the historical note at the end of a rulemaking Section.

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

EXEMPTIONS AND PAPER COLOR

At one time the office published exempt rules on either blue or green paper. Blue meant the authority of the exemption was given by the Legislature; green meant the authority was determined by a court order. In 2001 the Office discontinued publishing rules using these paper colors.

PERSONAL USE/COMMERCIAL USE

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

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



Arizona
Secretary
of State

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of State
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Arizona Administrative Code

2 A.A.C. 20

Administrative Rules Division

The Arizona Secretary of State electronically publishes each A.A.C. Chapter with a digital certificate. The certificate-based signature displays the date and time the document was signed and can be validated in Adobe Acrobat Reader.

TITLE 2. ADMINISTRATION

CHAPTER 20. CITIZENS CLEAN ELECTIONS COMMISSION

Editor's Note: The Office of the Secretary of State, Administrative Rules Division, complied with its legal obligation to publish the Notice of Rule Expiration filed for Sections R2-20-109 and R2-20-111 under A.R.S. § 41-1011(C) and 41-1056(G) and (J)(2) in Supp. 17-2, version 2. As a courtesy to the Commission, the Office also published R2-20-109 and R2-20-111 as adopted and made by the Commission because it stated the Governor's Regulatory Review Council did not have the authority to file such a notice. On December 14, 2017, the Commission "re-adopted" rules in the disputed Sections of R2-20-109 and R2-20-111; therefore, our Division has removed the expired rule Sections as published in Supp. 17-2, version 2. The Office will not interpret the legality of any actions made by the Commission or the Council as to whether the rules in R2-20-109 and R2-20-111 were effective at 23 A.A.R. 1761 or expired at 23 A.A.R. 1757 between the dates of June 7, and December 14, 2017. Those interested in that issue should consult counsel.

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

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

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

ARTICLE 1. GENERAL PROVISIONS

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

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

Section	
R2-20-101.	Definitions 3
R2-20-102.	Repealed 4
R2-20-103.	Communications: Time and Method 4
R2-20-104.	Certification as a Participating Candidate 4
R2-20-105.	Certification for Funding 5
R2-20-106.	Distribution of Funds to Certified Candidates 6
R2-20-107.	Candidate Debates 7
R2-20-108.	Termination of Participating Candidate Status 8
R2-20-109.	Independent Expenditure Reporting Requirements 9
R2-20-110.	Participating Candidate Reporting Requirements 10
R2-20-111.	Non-participating Candidate Reporting Requirements and Contribution Limits 12
R2-20-112.	Political Party Exceptions 12
R2-20-113.	Candidate Statement Pamphlet 12
R2-20-114.	Candidate Campaign Bank Account 13
R2-20-115.	Books and Records Requirements 13

ARTICLE 2. COMPLIANCE AND ENFORCEMENT PROCEDURES

Article 2, consisting of Sections R2-20-201 through R2-20-229, made by exempt rulemaking at 8 A.A.R. 588, effective October 17, 2001 (Supp. 02-1).

Section	
R2-20-201.	Scope13
R2-20-202.	Initiation of Compliance Matters14
R2-20-203.	Complaints14
R2-20-204.	Initial Complaint Processing; Notification14
R2-20-205.	Opportunity for No Action on Complaint-generated Matters14
R2-20-206.	Executive Director's Recommendation on Complaint-generated Matters14
R2-20-207.	Internally Generated Matters; Referrals15
R2-20-208.	Complaint Processing; Notification15
R2-20-209.	Investigation15
R2-20-210.	Written Questions Under Order15
R2-20-211.	Subpoenas and Subpoenas Duces Tecum; Depositions15
R2-20-212.	Repealed15
R2-20-213.	Motions to Quash or Modify a Subpoena15
R2-20-214.	The Probable Cause to Believe Recommendation; Briefing Procedures16
R2-20-215.	Probable Cause to Believe Finding16
R2-20-216.	Conciliation16
R2-20-217.	Enforcement Proceedings16
R2-20-218.	Repealed16
R2-20-219.	Repealed16
R2-20-220.	Ex Parte Communications17
R2-20-221.	Representation by Counsel; Notification17
R2-20-222.	Civil Penalties17
R2-20-223.	Notice of Appealable Agency Action17
R2-20-224.	Request for an Administrative Hearing17
R2-20-225.	Informal Settlement Conference17
R2-20-226.	Administrative Hearing18
R2-20-227.	Review of Administrative Decision by Commission18
R2-20-228.	Judicial Review18
R2-20-229.	Repealed18

CHAPTER 20. CITIZENS CLEAN ELECTIONS COMMISSION

R2-20-230.	Repealed	18
R2-20-231.	Repealed	18

ARTICLE 3. STANDARD OF CONDUCT FOR COMMISSIONERS AND EMPLOYEES

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

Section		
R2-20-301.	Purpose and Applicability	18
R2-20-302.	Definitions	18
R2-20-303.	Notification to Commissioners and Employees	19
R2-20-304.	Interpretation and Advisory Service	19
R2-20-305.	Reporting Suspected Violations	19
R2-20-306.	Disciplinary and Other Remedial Action	19
R2-20-307.	General Prohibited Conduct	19
R2-20-308.	Outside Employment or Activities	20
R2-20-309.	Financial Interests	20
R2-20-310.	Political and Organization Activity	21
R2-20-311.	Membership in Associations	21
R2-20-312.	Use of State Property	21

ARTICLE 4. AUDITS

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

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

ARTICLE 5. RULEMAKING

Article 5, consisting of Sections R2-20-501 through R2-20-506, made by exempt rulemaking at 8 A.A.R. 588, effective Novem-

ber 27, 2001 (Supp. 02-1).

Section		
R2-20-501.	Purpose and Scope	22
R2-20-502.	Procedural Requirements	22
R2-20-503.	Processing of Petitions	22
R2-20-504.	Disposition of Petitions	23
R2-20-505.	Commission Considerations	23
R2-20-506.	Administrative Record	23

ARTICLE 6. EX PARTE COMMUNICATIONS

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

Section		
R2-20-601.	Purpose and Scope	23
R2-20-602.	Definitions	23
R2-20-603.	Audits, Investigations, and Litigation	23
R2-20-604.	Sanctions	24

ARTICLE 7. USE OF FUNDS AND REPAYMENT

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

Section		
R2-20-701.	Purpose and Scope	24
R2-20-702.	Use of Campaign Funds	24
R2-20-702.01.	Use of Assets	25
R2-20-703.	Documentation for Direct Campaign Expenditures	25
R2-20-703.01.	Campaign Consultants	26
R2-20-704.	Repayment	26
R2-20-705.	Additional Audits or Repayment Determinations	27
R2-20-706.	Repealed	27
R2-20-707.	Repealed	27
R2-20-708.	Repealed	27
R2-20-709.	Repealed	27
R2-20-710.	Repealed	27

CHAPTER 20. CITIZENS CLEAN ELECTIONS COMMISSION

ARTICLE 1. GENERAL PROVISIONS

R2-20-101. Definitions

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

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

CHAPTER 20. CITIZENS CLEAN ELECTIONS COMMISSION

Historical Note

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

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

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

R2-20-103. Communications: Time and Method

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

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

Historical Note

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

R2-20-104. Certification as a Participating Candidate

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

CHAPTER 20. CITIZENS CLEAN ELECTIONS COMMISSION

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

Historical Note

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

R2-20-105. Certification for Funding

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

CHAPTER 20. CITIZENS CLEAN ELECTIONS COMMISSION

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

- C. A candidate may accept electronic \$5 qualifying contributions for the elected office sought by the candidate. The Secretary of State's secured internet portal must be used to collect electronic \$5 qualifying. A \$5 contribution must accompany every \$5 qualifying contribution form and must be submitted via the Secretary of State's portal using a private electronic payment service, specified by the Secretary of State's Office, bank account, credit or debit card. A non-refundable transaction fee may be assessed on electronic \$5 qualifying contribution transactions. The transaction fee is not a contribution to the candidate's campaign and is paid by the contributor. If excess funds are accumulated by the candidate's campaign based on the transaction fee then all excess funds must be given to the Commission and must be entered into the candidate's campaign finance report in a manner that indicates the transaction fees have been accumulated and transferred.
- D. A solicitor who seeks signatures and qualifying contributions on behalf of a participating candidate shall provide his or her residential address, typed or printed name and signature on each reporting slip. The solicitor shall also sign a sworn statement on the contribution slip avowing that the contributor signed the slip, that the contributor contributed the \$5, that based on information and belief, the contributor's name and address are correctly stated and that each contributor is a qualified elector of this state. If a contribution is received unsolicited, the candidate or contributor may sign the qualifying contribution form as the solicitor and is accountable for all of the responsibilities of a solicitor. Nothing in this rule shall prohibit the use of direct mail or the internet to obtain qualifying contributions as long as an original signature is provided on the qualifying contribution form. The candidate may sign the qualifying contribution form as the solicitor and is accountable for all of the responsibilities of a solicitor. For qualifying contributions received in accordance with subsection (C) of this Section, the residential address and signature of the solicitor is not required.
- E. The Secretary of State has the authority to approve or deny a candidate for Clean Elections funding, pursuant to A.R.S. § 16-950(C) based upon the verification of the qualifying contribution forms by the appropriate county recorder. The county recorder shall disqualify any qualifying contribution forms that are:
 - 1. Unsigned by the contributor;
 - 2. Undated; or
 - 3. That the recorder is unable to verify as matching signature of a person who is registered to vote, on the date specified inside the electoral district the candidate is seeking.
- F. The Secretary of State will notify the candidate and the Commission regarding the approval or denial of Clean Elections funds. A candidate who is denied Clean Elections funding after all of the slips are verified is eligible to submit supplemental qualifying contribution forms for one additional opportunity to be approved for funding pursuant to subsection (G) of this rule.
- G. The amount equal to the sum of the qualifying contributions collected and tendered to the Secretary of State pursuant to A.R.S. § 16-950(B) will be deposited into the fund, and the amount tendered will not be returned to a candidate if a candidate is denied Clean Elections funding.
- H. In accordance with the procedure set forth at A.R.S. § 16-950(C), if the Secretary of State determines that the result of the five percent random sample is less than 110 percent of the slips needed to qualify for funding, then the Secretary of State shall send all of the slips for verification. If the county recorder has verified all of the candidate's signature slips and there is an insufficient number of valid qualifying contribution slips to qualify the candidate for funding, the candidate may make only one supplemental filing of additional qualifying contribution slips and qualifying contributions to the Secretary of State if all of the following apply:
 - 1. The candidate files at least the minimum number of additional slips needed to qualify for funding;
 - 2. The slips are not receipts for duplicate contributions from individuals who have previously contributed to that candidate; and
 - 3. The period for filing qualifying contributions slips has not expired.
- I. The Secretary of State shall forward facsimiles of all of the supplemental qualifying contribution slips to the appropriate county recorders for the county of the contributors' addresses as shown on the contribution slips. The county recorder shall verify all of the supplemental slips within 10 business days after receipt of the facsimiles and shall provide a report to the Secretary of State identifying as disqualified any slips that are unsigned by the contributor or undated or that the recorder is unable to verify as matching the signature of a person who is registered to vote, on the date specified on the slip, inside the electoral district of the office the candidate is seeking. On receipt of the report of the county recorder on all supplemental slips, the Secretary of State shall calculate the candidate's total number of valid qualifying contribution slips and shall approve or deny the candidate for funds.

Historical Note

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

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

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

CHAPTER 20. CITIZENS CLEAN ELECTIONS COMMISSION

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

Historical Note

New Section adopted by exempt rulemaking at 6 A.A.R. 1567, effective June 21, 2000 (Supp. 00-2). Section repealed; new Section made by exempt rulemaking at 8 A.A.R. 588, effective October 17, 2001 (Supp. 02-1). Amended by exempt rulemaking at 13 A.A.R. 2434, effective August 27, 2007 (Supp. 07-2). Amended by final exempt rulemaking at 24 A.A.R. 107, effective December 14, 2017 (Supp. 17-4).

R2-20-107. Candidate Debates

- A. The Commission shall sponsor debates among statewide and legislative office candidates prior to the primary and general elections. Except as set forth in the subsection below, the Commission shall not be required to sponsor a debate if there is no participating candidate in the election for a particular office.
- B. In the primary election period, the Commission shall sponsor political party primary election debates for every office in which:
 1. There are more candidates appearing on the ballot than there are seats available for the political party's nomination for general election candidates, and
 2. At least one of the candidates is a participating candidate.
- C. The following candidates will not be invited to participate in debates as follows:
 1. In the primary election, write-in candidates for the primary election, independent candidates, no party affiliation or unrecognized party candidates.
 2. In the general election, write-in candidates.
- D. In the event that there is no participating candidate in a primary or general election but there is an election involving candidates who are not unopposed, a candidate may request that the Commission sponsor a debate pursuant to this rule. If the requesting candidate is the sole participant in the debate the format shall be as prescribed in R2-20-107(K).
 1. A nonparticipating candidate who requests a debate pursuant to this rule shall complete and return the invitation form sent to the candidate by the Commission by the

CHAPTER 20. CITIZENS CLEAN ELECTIONS COMMISSION

deadline identified on the form. Forms received by the Commission past the deadline may still be considered at the discretion of the Commission. Commission staff shall notify all invited candidates if a debate will be sponsored by the Commission and which candidates will participate.

2. If a candidate requests that the Commission sponsor a debate and fails or refuses to attend the debate, or a candidate agrees to participate in a debate and subsequently fails or refuses to attend the debate sponsored by the Commission, each candidate who fails or refuses to attend the debate shall reimburse the Commission for the cost of debate preparations not to exceed \$10,000 for a non-participating candidate for the legislature and \$25,000 for a non-participating candidate for statewide office. In the event that a candidate requests a general election debate or agrees to participate in a general election debate but does not advance to the general election, the candidate shall not be liable for the reimbursement.
- E. Pursuant to A.R.S. § 16-956(A)(2), all participating candidates certified pursuant to A.R.S. § 16-947 shall attend and participate in the debates sponsored by the Commission. No proxies or representatives are permitted to participate for any candidate and no statements may be read on behalf of an absent candidate.
- F. Unless exempted, if a participating candidate fails to participate in any Commission-sponsored debate, the participating candidate shall be fined \$500.00. For purposes of this Section, each primary or general election shall be considered a separate election.
- G. A participating candidate may request to be exempt from participating in a required debate by doing the following:
 1. Submit a written request to the Commission at least one week prior to the scheduled debate, and
 2. State the reasons and circumstances justifying the request for exemption.
- H. After examining the request to be exempt, the Commission will exempt a candidate from participating in a debate if at least three Commissioners determine that the circumstances are:
 1. Beyond the control of the candidate; or
 2. Of such nature that a reasonable person would find the failure to attend justifiable or excusable.
- I. A participating candidate who fails to participate in a required debate may submit a request for excused absence to the Commission.
 1. The candidate's request for excused absence shall:
 - a. State the reason the candidate failed to participate in the debate, and
 - b. State the reason the candidate failed to request an exemption in advance, and
 - c. Be submitted to the Commission no later than five business days after the date of the debate the candidate failed to attend.
 2. After examining the request for excused absence, the Commission may excuse a candidate from the penalties imposed if at least three Commissioners determine that the circumstances were:
 - a. Beyond the control of the candidate; or
 - b. Of such nature that a reasonable person would find the failure to attend justifiable or excusable.
- J. When a participating candidate is not opposed in the general election, the candidate shall be exempt from participating in a Commission-sponsored debate for the general election.
- K. In the event that a participating candidate is opposed in the primary election or general election but is the only candidate taking part in a primary election period or general election period

debate, as applicable, the debate will be held and will consist of a 30-minute question and answer session for the single participating candidate. If more than one candidate takes part in the debate, regardless of participation status, the debate will be held in accordance with the procedures established by the Commission staff.

Historical Note

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

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

R2-20-108. Termination of Participating Candidate Status

- A. A candidate may voluntarily request termination of his or her participating candidate status at any time prior to notification by the Commission that such candidate has qualified for Clean Elections funding. To withdraw from participating candidate status, a candidate shall send a letter to the Commission stating the candidate's intent to withdraw and the reason for the withdrawal. The candidate shall not accept any private monies until the withdrawal is approved by the Commission. The Commission shall act on the withdrawal request within seven days. If the Commission takes no action within the seven-day time period, the withdrawal is automatic.
- B. A candidate's participating candidate status shall automatically terminate if:
 1. The candidate fails to make such submissions to the Secretary of State as prescribed in R2-20-105(B) within seven days after the end of the qualifying period, or
 2. The candidate is denied Clean Elections funding by the Secretary of State and the candidate is ineligible to make a supplemental filing with the Secretary of State in accordance with R2-20-105(G).
- C. A candidate whose participating candidate status has been terminated in accordance with this Section shall be ineligible to receive Clean Elections funding for that election cycle unless he/she reapplies for certification and is in compliance with R2-20-104(A) and (C).
- D. In the event that a candidate who has collected qualifying contributions decides not to seek certification as a participating candidate, the candidate shall return all qualifying contributions received from contributors who have not given written permission to use their qualify contributions as campaign contributions. Written permission may include a check box on the original \$5 form that authorizes a candidate to treat the qualifying contribution as a general campaign contribution if he or she decides not to participate in the Clean Elections system. If a good faith attempt to return the funds to the contributor is unsuccessful, the contributions shall be submitted to the Fund.

Historical Note

New Section adopted by exempt rulemaking at 6 A.A.R. 1567, effective June 21, 2000 (Supp. 00-2). Section

CHAPTER 20. CITIZENS CLEAN ELECTIONS COMMISSION

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

Revised Editor's Note: The Office will not interpret the legality of any actions made by the Commission or the Governor's Regulatory Review Council as to whether the rules in R2-20-109 and R2-20-111 were effective at 23 A.A.R. 1761 or expired at 23 A.A.R. 1757 between the dates of June 7, and December 14, 2017. Those interested in that issue should consult counsel.

R2-20-109. Independent Expenditure Reporting Requirements

- A.** In accordance with A.R.S. § 16-958(E), all persons obligated to file any campaign finance report under any provisions of Chapter 6, Article 2 of the Arizona Revised Statutes shall file such reports using the Secretary of State's Internet-based finance-reporting system, except if:
1. Expressly provided otherwise by another Commission rule; or
 2. That system, or the necessary function on the system, is unavailable, in which case the executive director shall implement a suitable process.
- B.** Independent Expenditure Reporting Requirements.
1. Any person making independent expenditures cumulatively exceeding the amount prescribed in A.R.S. § 16-941(D) in an election cycle shall file campaign finance reports in accordance with A.R.S. § 16-958 and Commission rules.
 2. Any person who fails to file a timely campaign finance report pursuant to A.R.S. § 16-941(D), A.R.S. § 16-958, shall be subject to a civil penalty as prescribed in A.R.S. § 16-942(B). Subsection R2-20-109(B)(4) does not apply to reports pursuant to A.R.S. §§ 16-941(D) and -958 or this subsection. Any expenditure advocating against one or more candidates shall be considered an expenditure on behalf of any opposing candidate(s). Penalties shall be assessed as follows:
 - a. For an election involving a candidate for statewide office, the civil penalty shall be \$300 per day.
 - b. For an election involving a legislative candidate, the civil penalty shall be \$100 per day.
 - c. The penalties in (a) and (b) shall be doubled if the amount not reported for a particular election cycle exceeds ten (10%) percent of the applicable adjusted primary election spending limit or adjusted general election spending limit.
 - d. The dollar amounts in items (a) and (b), and the spending limits in item (c) are subject to adjustment of A.R.S. § 16-959.
 - e. Penalties imposed pursuant to this subsection shall not exceed twice the amount of expenditures not reported.
 3. A.R.S. § 16-942(B) applies to any entity including political committees that accepts contributions or makes expenditures on behalf of any candidate regardless of any other contributions taken or expenditures made and fails to timely file a campaign finance report under Chapter 6 of Title 16, Arizona Revised Statutes. Any expenditure advocating against one or more candidates shall be considered an expenditure on behalf of any opposing candidate(s). Penalties shall be assessed as follows:
 - a. For an election involving a candidate for statewide office, the civil penalty shall be \$300 per day.

- b. For an election involving a legislative candidate, the civil penalty shall be \$100 per day.
 - c. The penalties in (a) and (b) shall be doubled if the amount not reported for a particular election cycle exceeds ten (10%) percent of the applicable adjusted primary election spending limit or adjusted general election spending limit.
 - d. The dollar amounts in items (a) and (b), and the spending limits in item (c) are subject to adjustment of A.R.S. § 16-959.
 - e. Penalties imposed pursuant to this subsection shall not exceed twice the amount of expenditures not reported.
4. For purposes of A.A.C. R2-20-109(B)(3):
- a. An entity shall not be found to have the predominant purpose of influencing elections unless, a preponderance of the evidence establishes that during a two-year legislative election cycle, the total reportable contributions made by the entity, in any combination, in a calendar year exceeds \$1,000 and is more than fifty percent (50%) of the entity's total spending during the election cycle.
 - i. For purposes of this provision, a "reportable contribution" or "reportable expenditure" shall be limited to a contribution or expenditure, as defined in title 16 of the Arizona revised statutes, that must be reported to the Arizona secretary of state, the Arizona citizens clean elections commission, or local filing officer in Arizona. A contribution or expenditure that must be reported to the federal election commission or to the election authority of any other state, but not to the Arizona secretary of state, the Arizona citizens clean elections commission or a local filing officer in Arizona, shall not be considered a reportable contribution or reportable expenditure.
 - ii. For purposes of this provision, "total spending" shall not include volunteer time or fundraising and administrative expenses but shall include all other spending by the organization.
 - iii. For purposes of this provision, grants to other organizations shall be treated as follows:
 - (1) A grant made to a political committee or an organization organized under section 527 of the internal revenue code shall be counted in total spending and as a reportable contribution or reportable expenditure, unless expressly designated for use outside Arizona or for federal elections, in which case such spending shall be counted in total spending but not as a reportable contribution or reportable expenditure.
 - (2) If the entity making a grant takes reasonable steps to ensure that the transferee does not use such funds to make a reportable contribution or reportable expenditure, such a grant shall be counted in total spending but not as a reportable contribution or reportable expenditure.
 - iv. If the entity making a grant earmarks the grant for reportable contributions or reportable expenditures, knows the grant will be used to make reportable contributions or reportable expenditures, knows that a recipient will likely use a portion of the grant to make reportable

CHAPTER 20. CITIZENS CLEAN ELECTIONS COMMISSION

contributions or reportable expenditures, or responds to a solicitation for reportable contributions or reportable expenditures, the grant shall be counted in total spending and the relevant portion of the grant as set forth in subsection (v) of this section shall count as a reportable contribution or reportable expenditure.

- v. Notwithstanding subsections (iii) and (iv) the amount of a grant counted as a reportable contribution or reportable expenditure shall be limited to the lesser of the grant or the following:
 - (1) The amount that the recipient organization spends on reportable contributions and reportable expenditures, plus
 - (2) The amount that the recipient organization gives to third parties but not more than the amount that such third parties fund reportable contributions or reportable expenditures.
- b. Notwithstanding section a above, the commission may nonetheless determine that an entity is not a political committee if, taking into account all the facts and circumstances of grants made by an entity, it is not persuaded that the preponderance of the evidence establishes that the entity is a political committee as defined in title 16 of Arizona Revised Statutes.

Historical Note

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

the purpose of public notice and clarity at 24 A.A.R. 109, effective December 14, 2017 (Supp. 17-4).

R2-20-110. Participating Candidate Reporting Requirements

- A. All participating candidates shall file campaign finance reports that include all receipts and disbursements for their current campaign account as follows:
 - 1. Expenditures for consulting, advising, or other such services to a candidate shall include a detailed description of what is included in the service, including an allocation of services to a particular election. When appropriate, the Commission may treat such expenditures as though made during the general election period.
 - 2. If a participating candidate makes an expenditure on behalf of the campaign using personal funds, the candidate's campaign shall reimburse the candidate within seven calendar days of the expenditure. After the 7 day period has passed, the expenditure shall be deemed an in-kind contribution subject to all applicable limits.
 - 3. A candidate may authorize an agent to purchase goods or services on behalf of such candidate, provided that:
 - a. Expenditures shall be reported as of the date that the agent promises, agrees, contracts or otherwise incurs an obligation to pay for the goods or services;
 - b. The candidate shall have sufficient funds in the candidate's campaign account to pay for the amount of such expenditure at the time it is made and all other outstanding obligations of the candidate's campaign committee; and
 - c. Within seven calendar days of the date upon which the amount of the expenditure is known, the candidate shall pay such amount from the candidate's campaign account to the agent who purchases the goods or services.
 - 4. A joint expenditure is made when two or more candidates agree to share the cost of goods or services. Candidates may make a joint expenditure on behalf of one or more other campaigns, but must be authorized in advance by the other candidates involved in the expenditure, and must be reimbursed within seven days. Participating candidates may participate in joint expenditures for the cost of goods and services with one or more candidates, subject to the following:
 - a. Joint expenditures must be allocated fairly among candidates. An allocated share of a joint expenditure paid by one candidate pursuant to such an agreement must be reimbursed within seven days.
 - b. Any violator of part (a) shall be liable for a penalty pursuant to R2-20-222, in addition to penalties prescribed by any other law.
 - c. If a fairly allocated share of any joint expenditure is not reimbursed to a candidate, the unreimbursed amount of the joint expenditure fairly allocated to that candidate shall be deemed a contribution to that candidate by the campaign committee of the candidate obligated to reimburse the share.
 - d. If a fairly allocated share of any joint expenditure is not reimbursed to a participating candidate, the candidate obligated to reimburse the share shall reimburse the fund for the unreimbursed amount of the joint expenditure fairly allocated to the obligated candidate, in addition to any penalty specified by law.
 - e. A candidate's payment for an advertisement, literature, material, campaign event or other activity shall

CHAPTER 20. CITIZENS CLEAN ELECTIONS COMMISSION

be considered a joint expenditure including, but not limited to, the following criteria:

- i. The activity includes express advocacy of the election or defeat of more than 2 candidates;
- ii. The purpose of the material or activity is to promote or facilitate the election of a second candidate;
- iii. The use and prominence of a second candidate or his or her name or likeness in the material or activity;
- iv. The material or activity includes an expression by a second candidate of his or her view on issues brought up during the election campaign;
- v. The timing of the material or activity in relation to the election of a second candidate;
- vi. The distribution of the material or the activity is targeted to a second candidate's electorate; or
- vii. The amount of control a second candidate has over the material or activity.

5. For the purposes of the Act and Commission rules, a candidate or campaign shall be deemed to have made an expenditure as of the date upon which the candidate or campaign promises, agrees, contracts or otherwise incurs an obligation to pay for goods or services.

B. Timing of reporting expenditures.

1. Except as set forth in subsection (A)(2) above, a participating candidate shall report a contract, promise or agreement to make an expenditure resulting in an extension of credit as an expenditure, in an amount equal to the full future payment obligation, as of the date the contract, promise or agreement is made.
2. In the alternative to reporting in accordance with subsection (A)(1) above, a participating candidate may report a contract, promise or agreement to make an expenditure resulting in an extension of credit as follows:
 - a. For a month-to-month or other such periodic contract or agreement that is terminable by a candidate at will and without any termination penalty or payment, the candidate may report an expenditure, in an amount equal to each future periodic payment, as of the date upon which the candidate's right to terminate the contract or agreement and avoid such future periodic payment elapses.
 - b. For a contract, promise or agreement to provide goods or services during the general election period that is contingent upon a candidate advancing to the general election period, the candidate may report an expenditure, in an amount equal to the general election period payment obligation, as of the date upon which such contingency is satisfied.
 - c. For a contract, promise or agreement to pay rent, utility charges or salaries payable to individuals employed by a candidate's campaign committee as staff, the candidate may report an expenditure, in an amount equal to each periodic payment, as of the date that is the sooner of (i) the date upon which payment is made; or (ii) the date upon which payment is due.

C. Reports and Refunds of Excess Monies by Participating Candidates.

1. In addition to any campaign finance report required by Chapter 6 of Title 16, Arizona Revised Statutes, participating candidates shall file the following campaign finance reports and dispose of excess monies as follows:
 - a. Prior to filing the application for funding pursuant to A.R.S. § 16-950, participating candidates shall file a

campaign finance report with the names of the persons who have made qualifying contributions to the candidate.

- b. At the end of the qualifying period, a participating candidate shall file a campaign finance report consisting of all early contributions received, including personal monies and the expenditures of such monies.

- i. The campaign finance report shall be filed with the Secretary of State no later than five days after the last day of the qualifying period and shall include all campaign activity through the last day of the qualifying period.

- ii. If the campaign finance report shows any amount of unspent monies, the participating candidate, within five days after filing the campaign finance report, shall remit all unspent contributions to the Fund, pursuant to A.R.S. § 16-945(B). Any unspent personal monies shall be returned to the candidate or the candidates' family member within five days.

2. Each participating candidate shall file a campaign finance report consisting of all expenditures made in connection with an election, all contributions received in the election cycle in which such election occurs, and all payments made to the Clean Elections Fund. If the campaign finance report shows any amount unspent, the participating candidate, within five days after filing the campaign finance report, shall send a check from the candidate's campaign account to the Commission in the amount of all unspent monies to be deposited in the Fund.

- a. The campaign finance report for the primary election shall be filed within five days after the primary election day and shall reflect all activity through the primary election day.

- b. The campaign finance report for the general election shall be filed within five days after the general election day and shall reflect all activity through the general election day.

3. In the event that a participating candidate purchases goods or services from a subcontractor or other vendor through an agent pursuant to subsection (A)(3), the candidate's campaign finance report shall include the same detail as required in A.R.S. § 16-948(C) for each such subcontractor or other vendor. Such detail is also required when petty cash funds are used for such expenditures.

Historical Note

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

Revised Editor's Note: The Office will not interpret the legality of any actions made by the Commission or the Governor's Regulatory Review Council as to whether the rules in R2-20-109 and R2-20-111 were effective at 23 A.A.R. 1761 or expired at 23

CHAPTER 20. CITIZENS CLEAN ELECTIONS COMMISSION

A.A.R. 1757 between the dates of June 7, and December 14, 2017. Those interested in that issue should consult counsel.

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

- A. Any person may file a complaint with the Commission alleging that any non-participating candidate or that candidate's campaign committee has failed to comply with or violated A.R.S. § 16-941(B). Complaints shall be processed as prescribed in Article 2 of these rules. In addition to those penalties outlined in R2-20-222(B), a non-participating candidate or candidate's campaign committee violating A.R.S. § 16-941(B) shall be subject to penalties prescribed in A.R.S. § 16-941(B) and A.R.S. § 16-942(B) and (C) as applicable:
- B. Penalties under A.R.S. § 16-942(B):
 - 1. For an election involving a candidate for statewide office, the civil penalty shall be \$300 per day.
 - 2. For an election involving a legislative candidate, the civil penalty shall be \$100 per day.
 - 3. The penalties in (B)(1) and (B)(2) shall be doubled if the amount not reported for a particular election cycle exceeds ten percent (10%) of the applicable one of the adjusted primary election spending limit or adjusted general election spending limit.
 - 4. The dollar amounts in items (B)(1) and (B)(2), and the spending limits in item (B)(3) are subject to adjustment of A.R.S. § 16-959.
- C. Penalties under A.R.S. § 16-942(C): Where a campaign finance report filed by a non-participating candidate or that candidate's campaign committee indicates a violation of A.R.S. § 16-941(B) that involves an amount in excess of ten percent (10%) of the sum of the adjusted primary election spending limit and the adjusted general election spending limits specified by A.R.S. § 16-961(G) and (H) as adjusted pursuant to A.R.S. § 16-959, that violation shall result in disqualification of a candidate or forfeiture of office.
- D. Penalties under A.R.S. § 16-941(B): Regardless of whether or not there is a violation of a reporting requirement, a person who violates A.R.S. § 16-941(B) is subject to a civil penalty of three times the amount of money that has been received, expended, or promised in violation of A.R.S. § 16-941(B) or three times the value in money for an equivalent of money or other things of value that have been received, expended, or promised in violation of A.R.S. § 16-941(B).
- E. The twenty percent reduction in A.R.S. § 16-941(B) applies to all campaign contributions limits on contributions that are permitted to be accepted by nonparticipating candidates.
- F. Contribution limits as adjusted by A.R.S. § 16-931 shall be the base level contribution limits subject to reduction pursuant to A.R.S. § 16-941(B).

Historical Note

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

effective January 1, 2017 (Supp. 16-3). Amended by final exempt rulemaking at 23 A.A.R. 126, effective January 1, 2017 (Supp. 16-4). Section retained at the request of the Commission at 23 A.A.R. 1761 (Supp. 17-2, version 2). The Commission unanimously adopted and voted to reenact and republish this Section that was "currently in effect" for the purpose of public notice and clarity, with amendments at 24 A.A.R. 111, effective December 14, 2017 (Supp. 17-4).

R2-20-112. Political Party Exceptions

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

Historical Note

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

R2-20-113. Candidate Statement Pamphlet

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

Historical Note

New Section adopted by exempt rulemaking at 6 A.A.R. 1567, effective June 21, 2000 (Supp. 00-2). Section repealed by exempt rulemaking at 8 A.A.R. 588, effective October 17, 2001 (Supp. 02-1). New Section made by exempt rulemaking at 11 A.A.R. 4518, effective May 28, 2005 (Supp. 05-4). Amended by exempt rulemaking at 13 A.A.R. 2434, effective August 27, 2007 (Supp. 07-2). Amended by exempt rulemaking at 13 A.A.R. 3597, effective January 1, 2008 (Supp. 07-4). Amended by exempt rulemaking at 15 A.A.R. 1156, effective August 31, 2009 (Supp. 09-2). Amended by exempt rulemaking at 15 A.A.R. 1423, effective October 22, 2009 (Supp. 09-3). Amended by exempt rulemaking at 15 A.A.R. 1567, effective September 2, 2009 (Supp. 09-3). Amended by exempt rulemaking at 16 A.A.R. 1200, effective January 8, 2010 (Supp. 10-2). Repealed by exempt rulemaking at 19 A.A.R. 1694, effective October 6, 2011 (Supp. 13-2). New Section made by final exempt rulemaking at 21 A.A.R. 1633, effective July 23, 2015 (Supp. 15-3). Amended by final rulemaking at 25 A.A.R. 2118, effective July 29, 2019 (Supp. 19-3). Amended by final rulemaking at 26 A.A.R. 335, effective February 4, 2020;

CHAPTER 20. CITIZENS CLEAN ELECTIONS COMMISSION

amendments made to subsection (A) were originally codified in Supp. 19-3 at 25 A.A.R. 2118 (Supp. 20-1).

R2-20-114. Candidate Campaign Bank Account

- A. Each participating candidate shall designate a single campaign bank account for conducting campaign financial activity. During an election cycle, each participating candidate shall conduct all campaign financial activities through a single, current election campaign bank account and any petty cash accounts as are permitted by law.
- B. A participating candidate may maintain a campaign bank account other than the current election campaign bank account described in subsection (A) if the other campaign bank account is for a campaign in a prior election cycle in which the candidate was not a participating candidate.
- C. During the exploratory period, a candidate may receive debt-retirement contributions for a campaign during a prior election cycle if the funds are deposited in the bank account for that prior campaign. A candidate shall not deposit debt-retirement contributions into the current election campaign bank account.

Historical Note

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

R2-20-115. Books and Records Requirements

- A. All candidates shall maintain, at a single location within the state, the books and records of financial transactions, and other information required by A.R.S. § 16-904.
- B. All candidates shall ensure that the books and records of accounts and transactions of the candidate are recorded and preserved as follows:
 - 1. The treasurer of a candidate's campaign committee is the custodian of the candidate's books and records of accounts and transactions, and shall keep a record of all of the following:
 - a. All contributions or other monies received by or on behalf of the candidate.
 - b. The identification of any individual or political committee that makes any contribution together with the date and amount of each contribution and the date of deposit into the candidate's campaign bank account.
 - c. Cumulative totals contributed by each individual or political committee.
 - d. The name and address of every person to whom any expenditure is made, and the date, amount and purpose or reason for the expenditure.
 - e. All periodic bank statements or other statements for the candidate's campaign bank account.
 - f. In the event that the campaign committee uses a petty cash account the candidate's campaign finance report shall include the same detail for each petty cash expenditure as required in A.R.S. § 16-948(C) for each vendor.
 - 2. No expenditure may be made for or on behalf of a candidate without the authorization of the treasurer or his or her designated agent.
 - 3. Unless specified by the contributor or contributors to the contrary, the treasurer shall record a contribution made by check, money order or other written instrument as a contribution by the person whose signature or name appears on the bottom of the instrument or who endorses the instrument before delivery to the candidate. If a contribution is made by more than one person in a single written instrument, the treasurer shall record the amount to be attributed to each contributor as specified.

- 4. All contributions other than in-kind contributions and qualifying contributions must be made by a check drawn on the account of the actual contributor or by a money order or a cashier's check containing the name of the actual contributor or must be evidenced by a written receipt with a copy of the receipt given to the contributor and a copy maintained in the records of the candidate.
- 5. The treasurer shall preserve all records set forth in subsection (B) and copies of all campaign finance reports required to be filed for three years after the filing of the campaign finance report covering the receipts and disbursements evidenced by the records.
- 6. If requested by the attorney general, the county, city or town attorney or the filing officer, the treasurer shall provide any of the records required to be kept pursuant to this Section.
- C. Any request to inspect a candidate's records under A.R.S. § 16-958(F) shall be sent to the candidate, with a copy to the Commission, 10 or more days before the proposed date of the inspection. If the request is made within two weeks before the primary or general election, the request shall be delivered at least two days before the proposed date of inspection. Every request shall state with reasonable particularity the records sought.
 - 1. The inspection shall occur at a location agreed upon by the candidate and the person making the request. If no agreement can be reached, the inspection shall occur at the Commission office. The inspection shall occur during the Commission's regular business hours and shall be limited to a two-hour time period.
 - 2. The requesting party may obtain copies of records for a reasonable fee. The Commission shall not be responsible for making copies. The person in possession of the records shall produce copies within a reasonable time of the receipt of the copying request and fees.
 - 3. The Commission will not permit public inspection of records if it determines that the inspection is for harassment purposes.
 - 4. If a person who requests to inspect a candidate's records under A.R.S. § 16-958(F) is denied such a request, the requesting party may notify the Commission. The Commission may enforce the public inspection request by issuing a subpoena pursuant to A.R.S. § 16-956(B) for the production of any books, papers, records, or other items sought in the public inspection request. The subpoena shall order the candidate to produce:
 - a. All papers, records, or other items sought in the public inspection request;
 - b. No later than two business days after the date of the subpoena; and
 - c. To the Commission's office during regular business hours.
 - 5. Any person who believes that a candidate or a candidate's campaign committee has not complied with this Section may appeal to Superior Court.

Historical Note

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

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

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

CHAPTER 20. CITIZENS CLEAN ELECTIONS COMMISSION

Historical Note

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

R2-20-202. Initiation of Compliance Matters

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

Historical Note

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

R2-20-203. Complaints

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

Historical Note

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

R2-20-204. Initial Complaint Processing; Notification

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

Historical Note

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

Amended by final exempt rulemaking at 21 A.A.R. 1634, effective July 23, 2015 (Supp. 15-3).

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

- A. A respondent shall be afforded an opportunity to demonstrate that no action should be taken on the basis of a complaint by submitting, within 5 days from receipt of a written copy of the complaint, a letter or memorandum setting forth reasons why the Commission should take no action.
- B. The Commission shall not take any action, or make any finding, against a respondent other than action dismissing the complaint, unless it has considered such response or unless no such response has been served upon the Commission within the 5 day period specified in subsection A.
- C. The respondent's response shall be sworn to and signed in the presence of a notary public and shall be notarized. The respondent's failure to respond in accordance with subsection A within 5 days of receiving the written copy of the complaint may be viewed as an admission to the allegations made in the complaint for purposes of the reason to believe finding pursuant to A.A.C. R2-20-206.

Historical Note

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

Amended by exempt rulemaking at 11 A.A.R. 4518, effective May 28, 2005 (Supp. 05-4). Amended by final exempt rulemaking at 21 A.A.R. 1636, effective July 23, 2015 (Supp. 15-3).

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

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

CHAPTER 20. CITIZENS CLEAN ELECTIONS COMMISSION

Historical Note

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

R2-20-207. Internally Generated Matters; Referrals

- A. On the basis of information ascertained by the Commission in the normal course of carrying out its statutory responsibilities, or on the basis of a referral from an agency of the state, the Executive Director may recommend in writing that the Commission find reason to believe that a person or entity has committed or is about to commit a violation of a statute or rule over which the Commission has jurisdiction.
- B. If the Commission finds reason to believe that a violation of a statute or rule over which the Commission has jurisdiction has occurred or is about to occur, the Executive Director shall notify the respondent of the Commission's decision and shall include a copy of a staff report setting forth the legal basis and the alleged facts which support the Commission's action.

Historical Note

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

R2-20-208. Complaint Processing; Notification

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

Historical Note

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

exempt rulemaking at 12 A.A.R. 758, effective February 15, 2006 (Supp. 06-1).

R2-20-209. Investigation

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

Historical Note

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1). Section amended by final rulemaking at 26 A.A.R. 111, with a immediate effective of December 12, 2019 (Supp. 19-4). Amended by final rulemaking at 26 A.A.R. 542, effective March 9, 2020; the amendments to subsections (A) and (B) were originally codified in Supp. 19-4 at 26 A.A.R. 1111 (Supp. 20-1).

R2-20-210. Written Questions Under Order

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

Historical Note

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

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

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

Historical Note

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

R2-20-212. Repealed**Historical Note**

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

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

- A. Any person to whom a subpoena is directed may, prior to the time specified therein for compliance, but in no event more than five days after the date of receipt of such subpoena, apply to the Commission to quash or modify such subpoena, accom-

CHAPTER 20. CITIZENS CLEAN ELECTIONS COMMISSION

panying such application with a brief statement of the reasons therefore.

- B. The Commission may deny the application, quash the subpoena or modify the subpoena.
- C. The person subpoenaed and the Executive Director may agree to change the date, time, or place of a deposition or for the production of documents without affecting the force and effect of the subpoena, but such agreements shall be confirmed in writing.

Historical Note

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

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

- A. Upon completion of the investigation conducted pursuant to R2-20-209, the Executive Director shall prepare a brief setting forth his or her position on the factual and legal issues of the case and containing a recommendation on whether the Commission should find probable cause to believe that a violation of a statute or rule over which the Commission has jurisdiction has occurred or is about to occur.
- B. The Executive Director shall notify each respondent of the recommendation and enclose a copy of his or her brief.
- C. Within five days from receipt of the Executive Director's brief, the respondent may file a brief with the Commission setting forth the respondent's position on the factual and legal issues of the case.
- D. After reviewing the respondent's brief, the Executive Director shall promptly advise the Commission in writing whether he or she intends to proceed with the recommendation or to withdraw the recommendation from Commission consideration.

Historical Note

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

R2-20-215. Probable Cause to Believe Finding

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

Historical Note

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

rulemaking at 13 A.A.R. 3524, effective January 1, 2008 (Supp. 07-3).

R2-20-216. Conciliation

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

Historical Note

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

R2-20-217. Enforcement Proceedings

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

Historical Note

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

R2-20-218. Repealed**Historical Note**

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

R2-20-219. Repealed**Historical Note**

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

CHAPTER 20. CITIZENS CLEAN ELECTIONS COMMISSION

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

R2-20-220. Ex Parte Communications

- A. In order to avoid the possibility of prejudice, real or apparent, to the public interest in enforcement actions pending before the Commission pursuant to its compliance procedures, except to the extent required for the disposition of ex parte matters as required by law (for example, during the normal course of an investigation or a conciliation effort), no interested person outside the agency shall make or cause to be made to any Commissioner or any member of any Commission staff any ex parte communication relative to the factual or legal merits of any enforcement action, nor shall any Commissioner or member of the Commission's staff make or entertain any such ex parte communications.
- B. This rule shall apply from the time a complaint is filed with the Commission or from the time that the Commission determines on the basis of information ascertained in the normal course of its statutory responsibilities that it has reason to believe that a violation of a statute or rule over which the Commission has jurisdiction has occurred or may occur, and remains in force until the Commission has finally concluded all action with respect to the matter in question.
- C. Nothing in this Section shall be construed to prohibit contact between a respondent or respondent's attorney and any attorney or the Administrative Counsel or the Assistant Attorney General in the course of representing the Commission or the respondent with respect to an enforcement proceeding or civil action. No statement made by a Commission attorney or staff member shall bind or estop the Commission.

Historical Note

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

R2-20-221. Representation by Counsel; Notification

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

Historical Note

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

R2-20-222. Civil Penalties

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

is not in compliance with the Act or Commission rules, then in addition to other penalties under law, the Commission may impose a penalty not to exceed \$1,000.

Historical Note

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

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

Amended by exempt rulemaking at 13 A.A.R. 3524, effective January 1, 2008 (Supp. 07-3). Amended by exempt rulemaking at 19 A.A.R. 1697, effective May 23, 2013 (Supp. 13-2). Amended by exempt rulemaking at 19 A.A.R. 3524, effective September 27, 2013 (Supp. 13-4).

R2-20-223. Notice of Appealable Agency Action

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

1. The statute or rule violated and specific facts constituting the violation;
2. A description of the respondent's right to request a hearing and to request an informal settlement conference; and
3. A description of what the respondent may do if the respondent wishes to remedy the situation without appealing the Commission's decision.

Historical Note

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

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

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

R2-20-224. Request for an Administrative Hearing

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

Historical Note

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

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

R2-20-225. Informal Settlement Conference

- A. If the respondent requests an informal settlement conference, the informal settlement conference shall be held within 15 days after the Commission receives the request. A request for an informal settlement conference shall be in writing and must be filed with the Commission no later than 20 days before the hearing date. A person with the authority to act on behalf of the Commission must represent the Commission at the conference. The AAG shall attend the settlement conference, but shall not be the individual authorized to act on behalf of the Commission.
- B. The Commission representative shall notify the appellant in writing that the statements, either written or oral, made by the

CHAPTER 20. CITIZENS CLEAN ELECTIONS COMMISSION

appellant at the conference, including a written document, created or expressed solely for the purpose of settlement negotiations, are inadmissible in any subsequent administrative hearing. The parties participating in the settlement conference waive their right to object to the participation of the agency representative in the final administrative decision.

Historical Note

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

R2-20-226. Administrative Hearing

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

Historical Note

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

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

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

Historical Note

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

R2-20-228. Judicial Review

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

Historical Note

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

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

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

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

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

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

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

ARTICLE 3. STANDARD OF CONDUCT FOR COMMISSIONERS AND EMPLOYEES**R2-20-301. Purpose and Applicability**

- A. The Commission is committed to implementing the Act in an honest, independent, and impartial fashion and to seeking to uphold public confidence in the integrity of the electoral system. To ensure public trust in the fairness and integrity of the Arizona elections process, all Commissioners and employees must observe the highest standards of conduct. This Article prescribes standards of ethical conduct for Commissioners and employees of the Commission relating to conflicts of interest arising from outside employment, private businesses, professional activities, political activities, and financial interests. The avoidance of misconduct and conflicts of interest on the part of the Commissioners and the employees through informed judgment is indispensable to the maintenance of these prescribed ethical standards. Attainment of these goals necessitates strict and absolute fairness and impartiality in the administration of the law.
- B. This Article applies to all persons included within the terms "employee" and "Commissioner" of the Commission.
- C. These Standards of Conduct shall be construed in accordance with any applicable laws, regulations, and agreements between the Commission and a labor organization.
- D. Pursuant to A.R.S. § 16-955(I), for three years after a Commissioner completes his or her tenure, Commissioners shall not seek or hold any public office, serve as an officer of any political committee, or employ or be employed as a lobbyist.

Historical Note

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

R2-20-302. Definitions

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

1. "Commission" means the Citizens Clean Elections Commission of Arizona.
2. "Commissioner" means a voting member of the Commission, appointed pursuant to A.R.S. § 16-955.
3. "Conflict of interest" means a situation in which a Commissioner's or an employee's private interest is or appears to be inconsistent with the efficient and impartial conduct of his or her official duties and responsibilities.
4. "Employee" means an employee or staff member of the Commission.
5. "Former employee" means one who was, and is no longer, an employee of the Commission.
6. "Official responsibility" means the direct administrative or operating authority, whether intermediate or final, to approve, disapprove, or otherwise direct Commission action. Official responsibility may be exercised alone or with others and either personally or through subordinates.

CHAPTER 20. CITIZENS CLEAN ELECTIONS COMMISSION

7. "Outside employment" or "outside activity" means any work, service or other activity performed by a Commissioner or employee other than in the performance of the Commissioner's or employee's official employment duties. It includes such activities as writing and editing, publishing, teaching, lecturing, consulting, self-employment, and other services or work performed, with or without compensation.
8. "Person" means an individual, corporation, company, association, firm, partnership, society, joint stock company, political committee, or other group, organization, or institution.

Historical Note

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

R2-20-303. Notification to Commissioners and Employees

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

Historical Note

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1).
Amended by exempt rulemaking at 13 A.A.R. 3527, effective January 1, 2008 (Supp. 07-3).

R2-20-304. Interpretation and Advisory Service

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

Historical Note

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1).
Amended by exempt rulemaking at 13 A.A.R. 3527, effective January 1, 2008 (Supp. 07-3).

R2-20-305. Reporting Suspected Violations

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

Historical Note

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

R2-20-306. Disciplinary and Other Remedial Action

- A. A violation of this Article by an employee may be cause for disciplinary action, which may be in addition to any penalty prescribed by law.
- B. When the Commission's Executive Director determines that an employee may have or appears to have a conflict of interest, the Commission's Executive Director may question the employee in the matter and gather other information. The Commission's Executive Director and the employee's supervisor shall discuss with the employee possible ways of eliminat-

ing the conflict or appearance of conflict. If the Commission's Executive Director, after consultation with the employee's supervisor, concludes that remedial action should be taken, he or she shall refer a statement to the Commission containing his or her recommendation for such action. The Commission, after consideration of the employee's explanation and the results of any investigation, may direct appropriate remedial action as it deems necessary.

- C. Remedial action pursuant to subsection (B) of this Section may include, but is not limited to:
 1. Changes in assigned duties;
 2. Divestment by the employee of his or her conflicting interest;
 3. Disqualification for particular action; or
 4. Disciplinary action.

Historical Note

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

R2-20-307. General Prohibited Conduct

- A. A Commissioner or employee shall avoid any action whether or not specifically prohibited by this Section that might result in, or create the appearance of:
 1. Using public office for unlawful private gain;
 2. Giving favorable or unfavorable treatment to any person or organization due to any partisan or political consideration;
 3. Impeding Commission efficiency or economy;
 4. Losing impartiality.
 5. Making a Commission decision without Commission approval; or
 6. Adversely affecting the confidence of the public in the integrity of the Commission.
- B. A Commissioner or employee of the Commission shall not solicit or accept, directly or indirectly, any gift, gratuity, favor, entertainment, loan, or any other thing of monetary value, from a person who:
 1. Has, or is seeking to obtain, contractual or other business or financial relations with the Commission;
 2. Conducts operations or activities that are regulated or examined by the Commission; or
 3. Has an interest that may be substantially affected by the performance or nonperformance of the Commissioner or employee's official duty.
- C. Subsection (B) of this Section shall not apply in the following circumstances:
 1. When circumstances make it clear that obvious family or personal relationships, rather than the business of the persons concerned, are the motivating factors;
 2. To the acceptance of food, refreshments, and accompanying entertainment of nominal value in the ordinary course of a social occasion or a luncheon or dinner meeting or other function where a Commissioner or an employee is properly in attendance;
 3. To the acceptance of unsolicited advertising or promotional material or other items of nominal value such as pens, pencils, note pads, calendars; and
 4. To the acceptance of loans from banks or other financial institutions on customary terms to finance proper and usual activities, such as home mortgage loans.
- D. A Commissioner or an employee shall not solicit a contribution from another employee for a gift to an official superior, make a donation as a gift to an official superior, or accept a gift from an employee receiving less pay than himself or herself. However, this subsection does not prohibit a voluntary gift of nominal value or donation in a nominal amount made on a spe-

CHAPTER 20. CITIZENS CLEAN ELECTIONS COMMISSION

cial occasion such as birthday, holiday, marriage, illness, or retirement.

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

Historical Note

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

R2-20-308. Outside Employment or Activities

- A. A Commissioner or employee shall not engage in outside employment that is incompatible with the full discharge of his or her duties as a Commissioner or employee.
- B. Incompatible outside employment or other activities by Commissioners or employees include, but are not limited to:
1. Outside employment or other activities that involve illegal activities;
 2. Outside employment or other activities that would give rise to a real or apparent conflict of interest situation even though no violation of a specific statutory provision was involved;
 3. Acceptance of a fee, compensation, gift, payment of expense, or any other thing of monetary value in circumstances where acceptance may result in, or create the appearance of, a conflict of interest;
 4. Outside employment or other activities that might bring discredit upon the state or Commission;
 5. Outside employment or other activities that establish relationships or property interests that may result in a conflict between the Commissioner's or the employee's private interests and official duties;
 6. Outside employment or other activities which would involve any contractor or subcontractor connected with any work performed for the Commission or would involve any person or organization in a position to gain advantage in its dealings with the state through the Commissioner's or employee's exercise of his or her official duties;
 7. Outside employment or other activities that may be construed by the public to be the official acts of the Commission. In any permissible outside employment, care shall be taken to ensure that names and titles of Commissioners and employees are not used to give the impression that the activity is officially endorsed or approved by the Commission or is part of the Commission's activities;
 8. Outside employment or other activities which would involve use by a Commissioner or employee of his or her official duty time; use of official facilities, including office space, machines, or supplies, at any time; or use of the services of other employees during their official duty hours;
 9. Outside employment or other activities which impair the Commissioner's or employee's mental or physical capacities to perform Commission duties and responsibilities in an acceptable manner; or
 10. Use of information obtained as a result of state employment that is not freely available to the general public or would not be made available upon request. However,

written authorization for the use of any such information may be given when the Commission determines that such use would be in the public interest.

- C. Commissioners and employees shall not receive any salary or anything of monetary value from a private source as compensation for the Commissioner's or employee's services to the state.
- D. Commissioners and employees are encouraged to engage in teaching, lecturing, and writing that is not prohibited by law or this Article. However, Commissioners and employees shall not, either with or without compensation, engage in teaching or writing that is dependent on information obtained as a result of his or her Commission employment, except when that information has been made available to the public or will be made available on request, or when the Commission gives written authorization for the use of nonpublic information on the basis that the use is in the public interest.
- E. This Section does not preclude a Commissioner or employee from participating in the activities of or acceptance of an award for meritorious public contribution or achievement given by a charitable, religious, professional, social, fraternal, nonprofit, educational, recreational, public service, or civic organization.
- F. An employee who intends to engage in outside employment shall obtain the approval of the Executive Director. The request shall include the name of the person, group, or organization for whom the work is to be performed, the nature of the services to be rendered, the proposed hours of work, or approximate dates of employment, and the employee's certification as to whether the outside employment (including teaching, writing, or lecturing) will depend in any way on information obtained as a result of the employee's official position. The employee will receive, from the Executive Director, written notice of approval or disapproval of any written request. A record of the decision shall be placed in each employee's official personnel folder.

Historical Note

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

R2-20-309. Financial Interests

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

CHAPTER 20. CITIZENS CLEAN ELECTIONS COMMISSION

any other interest that could be substantially affected by the outcome of the proceeding.

- D. This Section does not preclude a Commissioner or employee from having a financial interest or engaging in financial transactions to the same extent as a private citizen not employed by the Commission, as long as the Commissioner's or employee's financial interest does not conflict with official Commission duties.

Historical Note

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

R2-20-310. Political and Organization Activity

- A. Due to the Commission's role in the political process, the following restrictions on political activities are required:

1. Commissioners and employees shall not advocate for the election or defeat of a candidate, nor make contributions to a candidate, political party, or political committee subject to the jurisdiction of the Commission. Commissioners and employees, however, are not prohibited from signing candidate nomination petitions;
2. Commissioners and employees shall not provide volunteer or paid services for a candidate, political party, or political committee subject to the jurisdiction of the Commission; and
3. Commissioners and employees not shall display partisan buttons, badges, or other insignia on Commission premises.

- B. Employees on leave, leave without pay, or on furlough or terminal leave, even though the employees' resignations have been accepted, are subject to the restrictions of this Section. A separated employee who has received a lump-sum payment for annual leave, however, is not subject to the restrictions during the period covered by the lump-sum payment or thereafter, provided he or she does not return to state employment during that period. An employee is not permitted to take a leave of absence to work with a political candidate, committee, or organization or become a candidate for office despite any understanding that he or she will resign his or her position if nominated or elected.

- C. A Commissioner or employee is accountable for political activity by another person acting as his or her agent or under the Commissioner's or employee's direction or control if the Commissioner or employee is thus accomplishing what he or she may not lawfully do directly and openly.

Historical Note

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

R2-20-311. Membership in Associations

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

Historical Note

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

R2-20-312. Use of State Property

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

Historical Note

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

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

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

Historical Note

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

R2-20-402. General

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

Historical Note

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

R2-20-402.01. Audits of Participating Legislative Candidates

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

Historical Note

New Section made by exempt rulemaking at 13 A.A.R. 3529, effective January 1, 2008 (Supp. 07-3). Amended by exempt rulemaking at 19 A.A.R. 1700, effective October 6, 2011 (Supp. 13-2). Amended by final exempt rulemaking at 21 A.A.R. 1640, effective July 23, 2015 (Supp. 15-3). Amended by final exempt rulemaking at 23 A.A.R. 130, effective December 15, 2016 (Supp. 16-4). Amended by final exempt rulemaking at 23 A.A.R. 2944, effective September 28, 2017 (Supp. 17-4).

R2-20-402.02. Audits of Participating Statewide Candidates

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

Historical Note

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

R2-20-403. Conduct of Fieldwork

- A. The Commission will provide the candidate two days notice of the Commission's intention to commence fieldwork on the audit and examination. The Commission will conduct fieldwork at a site provided by the candidate. During or after fieldwork, the Commission may request additional or updated information, which expands the coverage dates of information previously provided. During or after fieldwork, the Commission may also request additional information that was created by or becomes available to the candidate that is of assistance in the Commission's audit. The candidate shall produce the addi-

CHAPTER 20. CITIZENS CLEAN ELECTIONS COMMISSION

tional or updated information no later than two days after service of the Commission's request.

- B. On the date scheduled for the commencement of fieldwork, the candidate shall facilitate the examination or audit by making records available in one central location, such as the Commission's office space, or shall provide the Commission with office space and records. The candidate shall be present at the site of the fieldwork. The candidate shall be familiar with the candidate's records and shall be available to the Commission to answer questions and to aid in locating records.
- C. If the candidate fails to provide adequate office space, personnel or records, the Commission may seek judicial intervention to enforce the request or assess other penalties.
- D. If, in the course of the examination or audit process, a dispute arises over the documentation sought, the candidate may seek review by the Commission of the issues raised. To seek review, the candidate shall submit a written statement within five days after the disputed Commission request is made, describing the dispute and indicating the candidate's proposed alternatives.

Historical Note

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

R2-20-404. Preliminary Audit Report

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

Historical Note

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

R2-20-405. Final Audit Report

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

forth in R2-20-404 and subsections (A) and (B) will be followed in preparing such addenda.

Historical Note

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

R2-20-406. Release of Audit Report

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

Historical Note

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

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

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

Historical Note

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

R2-20-502. Procedural Requirements

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

Historical Note

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

R2-20-503. Processing of Petitions

- A. Within 10 days of receiving a petition, the Commission shall send a letter to the petitioner acknowledging the receipt of the petition and informing the petitioner that the Commission will review and decide whether to deny or accept the petition. To assist in determining whether a rulemaking proceeding should be initiated, the Commission may publish a Notice of Avail-

CHAPTER 20. CITIZENS CLEAN ELECTIONS COMMISSION

ability on the Commission web site or otherwise post notice, stating that the petition is available for public inspection in the Commission's Office and that statements in support of or in opposition to the petition may be filed within a stated period after publication of the Notice of Availability.

- B. If the Commission decides a public hearing on the petition would help determine whether to commence a rulemaking proceeding, it will publish an appropriate notice of the hearing on the Commission web site or otherwise post notice, to notify interested persons and to invite their participation in the hearing.
- C. The Commission will consider all comments regarding whether rulemaking proceedings should be initiated.

Historical Note

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

R2-20-504. Disposition of Petitions

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

Historical Note

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

R2-20-505. Commission Considerations

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

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

Historical Note

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

R2-20-506. Administrative Record

- A. The Commission record for the petition process consists of the following:
 - 1. The petition, including all attachments on which it relies, filed by the petitioner;
 - 2. Written comments on the petition that have been circulated to and considered by the Commission, including attachments submitted as a part of the comments;
 - 3. Agenda documents, in the form they are circulated to and considered by the Commission in the course of the petition process;

- 4. All notices published on the Commission web site and in the Arizona Administrative Register, including the Notice of Availability and Notice of Disposition;
 - 5. The transcripts or audiotapes of any public hearing on the petition;
 - 6. All correspondence between the Commission and the petitioner, other commentators and state agencies pertaining to Commission consideration of the petition; and
 - 7. The Commission's decision on the petition, including all documents identified or filed by the Commission as part of the record relied on in reaching its final decision.
- B. The administrative record specified in subsection (A) of this Section is the exclusive record for the Commission's decision.

Historical Note

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

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

This Article prescribes procedures for handling ex parte communications made regarding Commission audits, investigations, and litigation. Rules governing such communications made in connection with Commission enforcement actions are found at R2-20-220.

Historical Note

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

R2-20-602. Definitions

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

Historical Note

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

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

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

CHAPTER 20. CITIZENS CLEAN ELECTIONS COMMISSION

and deliver the statement to the Executive Director for placement in the applicable case file.

- C. A Commissioner or employee who receives a written ex parte communication concerning any matters addressed in subsection (A) of this Section shall, as soon after the communication as is reasonably possible but no later than three business days after the communication, or prior to the next Commission discussion of the matter, whichever is earlier, deliver a copy of the communication to the Executive Director for placement in the applicable case file.

Historical Note

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

R2-20-604. Sanctions

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

Historical Note

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

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

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

Historical Note

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

R2-20-702. Use of Campaign Funds

- A. A participating candidate shall use funds in the candidate's current campaign account to pay for goods and services for direct campaign purposes only. Funds shall be disbursed and reported in accordance with A.R.S. § 16-948(C).
- B. A participating candidate shall not use funds in the candidate's campaign account for:
1. Costs of legal defense in any campaign law enforcement proceeding or for any affirmative claim or litigation in court or before the Commission regarding a campaign. This prohibition does not bar use of campaign funds for payments to attorneys or certified accountants for proactive compliance advice and assistance.
 2. Food and beverages for staff and volunteers exceeding \$11 for breakfast, \$16 for lunch, and \$27 for dinner, per person.
 3. Personal use, which includes, but is not limited to, any item listed below:
 - a. Household food items or supplies.
 - b. Clothing, other than items of de minimis value that are used in the campaign, such as campaign "t-shirts" or caps with campaign slogans.
 - c. Tuition payments, other than those associated with training campaign staff.
 - d. Mortgage, loan, rent, lease or utility payments:
 - i. For any part of any personal residence of the candidate or a member of the candidate's family; or
 - ii. For real or personal property that is owned or leased by the candidate or a member of the can-

didate's family and used for campaign purposes, to the extent the payments exceed the fair market value of the property usage.

- e. Admission to a sporting event, concert, theater or other form of entertainment, unless part of a specific campaign activity.
 - f. Dues, fees or gratuities at a country club, health club, recreational facility or other nonpolitical organization, unless they are part of the costs of a specific fundraising event that takes place on the organization's premises.
 - g. Gifts or donations.
 - h. Extended warranties or other similar purchase options that extend beyond the campaign.
4. Payment to a candidate or a candidate's family member, as defined in R2-20-101(13), or an enterprise owned in whole or part by a candidate or family member, for the provisions of goods or services to the extent the payments exceed the fair market value of the goods or services. All payments made to family members or to enterprises owned in whole or part by the candidate or a family member shall be clearly itemized and indicated as such in all campaign finance reports.
- C. Participating candidates may purchase fixed assets with a value not to exceed \$800. Fixed assets, including accessories, purchased with campaign funds that can be used for non-campaign purposes with a value of \$200 or more shall be turned into the Commission no later than 14 days after the primary election or the general election if the candidate was successful in the primary. For purposes of determining whether a fixed asset is valued at \$200 or more, the value shall include any accessories purchased for use with the fixed asset in question. A candidate may elect to keep an item by reimbursing the Commission for 80 percent of the original purchase price including the cost of accessories.
- D. During the primary election period, a participating candidate shall not make any expenditure greater than the difference between:
1. The sum of early contributions received plus public funds disbursed through the primary election period; less
 2. All other expenditures made during and for the exploratory, qualifying and primary election periods.
- E. During the general election period, a participating candidate shall not make any expenditure greater than the difference between:
1. The amount of public funds disbursed during and for the general election period; less
 2. All other expenditures made during and for the general election period.
- F. Transportation expenses.
1. Except as otherwise provided in this subsection (D), the costs of transportation relating to the election of a participating statewide or legislative office candidate shall not be considered a direct campaign expense and shall not be reported by the candidate as expenditures or as in-kind contributions.
 2. If a participating candidate travels for campaign purposes in a privately owned automobile, the candidate may:
 - a. Use campaign funds to reimburse the owner of the automobile at a rate not to exceed the state mileage reimbursement rate in which event the reimbursement shall be considered a direct campaign expense and shall be reported as an expenditure and reported in the reporting period in which the expenditure was incurred. If a candidate chooses to use campaign funds to reimburse, the candidate shall keep an itin-

CHAPTER 20. CITIZENS CLEAN ELECTIONS COMMISSION

erary of the trip, including name and type of events(s) attended, miles traveled and the rate at which the reimbursement was made. This subsection applies to candidate owned automobiles in addition to any other automobile.

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

Historical Note

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1). Section repealed; new Section made by exempt rulemaking at 11 A.A.R. 4518, effective May 28, 2005 (Supp. 05-4). Amended by exempt rulemaking at 13 A.A.R. 3606, effective January 1, 2008 (Supp. 07-4). Amended by exempt rulemaking at 15 A.A.R. 1423, effective October 22, 2009 (Supp. 09-3). Amended by exempt rulemaking at 17 A.A.R. 1267, effective April 12, 2011 (Supp. 11-2). Since language in subsections R2-20-702(C)(3)(d)(i) and (ii) and R2-20-702(C)(4) and (5) are substantively identical, the Commission requested to remove the redundant language in R2-20-702(C)(3)(d)(i) and (ii) under A.R.S. § 41-1011(C), Office File No. M11-345, filed October 3, 2011 (Supp. 11-2). Amended by exempt rulemaking at 19 A.A.R. 1702, effective October 6, 2011 (Supp. 13-2). Amended by exempt rulemaking at 22 A.A.R. 2906, effective January 1, 2017 (Supp. 16-3). Amended by exempt rulemaking at 23 A.A.R. 2342, effective January 1, 2018 (Supp. 17-3). Amended by final rulemaking at 25 A.A.R. 2120, effective July 29, 2019 (Supp. 19-3). Amended by final rulemaking at 26 A.A.R. 309, with an immediate effective date of January 23, 2020 (Supp. 20-1).

R2-20-702.01. Use of Assets

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

Historical Note

New Section made by exempt rulemaking at 12 A.A.R. 758, effective February 15, 2006 (Supp. 06-1). Amended by exempt rulemaking at 13 A.A.R. 3606, effective January 1, 2008 (Supp. 07-4). Amended by exempt rulemaking at 15 A.A.R. 1156, effective August 31, 2009 (Supp. 09-2).

R2-20-703. Documentation for Direct Campaign Expenditures

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

Historical Note

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

CHAPTER 20. CITIZENS CLEAN ELECTIONS COMMISSION

2015 (Supp. 15-3). Amended by final exempt rulemaking at 23 A.A.R. 133, effective January 1, 2017 (Supp. 16-4).

R2-20-703.01. Campaign Consultants

- A. For purposes of this rule "Campaign Consultant" means any person paid by a participating candidate's campaign or who provides services that are ordinarily charged to a person, except services provided for in A.R.S. § 16-911(6)(b).
- B. A participating candidate may engage campaign consultants.
- C. A participating candidate may only advance a campaign consultant for services such as consulting, communications, field employees, canvassers, mailers, auto-dialers, telephone town halls, electronic communications and other advertising purchases and other campaign service if an itemized invoice identifying the value of the services is provided directly to that particular candidate at the time of the advance payment.
 - 1. Providing payment for such services as described in subsection (C) of this rule in the absence of an itemized invoice or advance payment for such services shall be deemed not to be a direct campaign expenditure.
 - 2. A participating candidate may advance payment for postage upon the receipt of a written estimate and so long as any balance is returned to the candidate if the advance exceeds the actual cost of postage.
 - 3. A participating candidate may advance payment for advertising that customarily requires pre-payment upon the receipt of a written estimate and so long as any balance is returned to the candidate if the advance exceeds the actual cost of the advertisement.
- D. The Commission shall be included in the mail batch for all mailers and invitations. The Commission shall also be provided with documentation from the mail house, printer or other original source, showing the number of mailers printed and the number of households to which a mailer was sent. Failure to provide this information within 7 days after the mailer has been mailed may be considered as evidence the mailer was not for direct campaign purposes.

Historical Note

New Section made by exempt rulemaking at 23 A.A.R. 2344, effective July 20, 2017 (Supp. 17-3).

R2-20-704. Repayment

- A. In general, the Commission may determine that a participating candidate who has received payments from the Fund must repay the Fund as determined by the Commission.
 - 1. A candidate who has received payments from the Fund shall pay the Fund any amounts that the Commission determines to be repayable. In making repayment determinations, the Commission may utilize information obtained from audits and examinations or otherwise obtained by the Commission in carrying out its responsibilities.
 - 2. The Commission will notify the candidate of any repayment determinations made under this Section as soon as possible.
 - 3. Once the candidate receives notice of the Commission's repayment determination, the candidate should give preference to the repayment over all other outstanding obligations of the candidate, except for any taxes owed by the candidate.
 - 4. Repayments may be made only from the following sources: personal funds of the candidate, funds in the candidate's current election campaign account, and any additional funds raised subject to the limitations and prohibitions of the Act.
 - 5. The Commission may withhold the portion of funds required to be repaid from future payments to a participating candidate if the Commission has made a repayment determination.
- B. The Commission may determine that a participating candidate who has received payments from the Fund must repay the Fund under any of the following circumstances:
 - 1. Payments in excess of candidate's entitlement. If the Commission determines that any portion of the payments made to the candidate was in excess of the aggregate payments to which such candidate was entitled, it will so notify the candidate, and such candidate shall pay to the Fund an amount equal to such portion.
 - 2. Use of funds not for direct campaign expenses. If the Commission determines that any amount of any payment to an eligible candidate from the Fund was used for purposes other than direct campaign purposes described in R2-20-702, it will notify the candidate of the amount so used, and such candidate shall pay to the Fund an amount equal to such amount.
 - 3. Expenditures that were not documented in accordance with campaign finance reporting requirements, expended in violation of state or federal law, or used to defray expenses resulting from a violation of state or federal law, such as the payment of fines or penalties.
 - 4. Surplus. If the Commission determines that a portion of payments from the Fund remains unspent after all direct campaign expenses have been paid, it shall so notify the candidate, and such candidate shall pay the Fund that portion of surplus funds.
 - 5. Income on investment or other use of payments from the Fund. If the Commission determines that a candidate received any income as a result of an investment or other use of payments from the Fund, it shall so notify the candidate, and such candidate shall pay to the Fund an amount equal to the amount determined to be income, less any federal, state or local taxes on such income.
 - 6. Unlawful acceptance of contributions by an eligible candidate. If the Commission determines that a participating candidate accepted contributions, other than early contributions or qualifying contributions, it shall notify the candidate of the amount of contributions so accepted, and the candidate shall pay to the Fund an amount equal to such amount, plus any civil penalties assessed.
- C. Repayment determination procedures. The Commission's repayment determination will be made in accordance with the following procedures:
 - 1. Repayment determination. The Commission will send a repayment determination pursuant to Article 2, Compliance and Enforcement Procedures, and will set forth the legal and factual reasons for such determination, as well as the evidence upon which any such determination is based. The candidate shall repay, in accordance with subsection (D), the amount that the Commission has determined to be repayable.
 - 2. Administrative review of repayment determination. If a candidate disputes the Commission's repayment determination, he or she may request an administrative appeal of the determination in accordance with A.R.S. § 41-1092 et. seq.
- D. Repayment period.
 - 1. Within 30 days of service of the notice of the Commission's repayment determination, the candidate shall repay the amounts the Commission has determined must be repaid. Upon application by the candidate, the Commission may grant an extension of time in which to make repayment.

CHAPTER 20. CITIZENS CLEAN ELECTIONS COMMISSION

2. If the candidate requests an administrative appeal of the Commission's repayment determination of this Section, the time for repayment will be suspended until the Commission has concluded its review of the Administrative Law Judge's (ALJ) decision. Within 30 days after service of the notice of the Commission's review of the ALJ's decision, the candidate shall repay the amounts that the Commission has determined to be repayable. Upon application by the candidate, the Commission may grant an extension of up to 30 days in which to make repayment.
3. Interest shall be assessed on all repayments made after the initial 30-day repayment period or the 30-day repayment period established by this Section. The amount of interest due shall be the greater of:
 - a. An amount calculated in accordance with A.R.S. § 44-1201(A); or
 - b. The amount actually earned on the funds set aside or to be repaid under this Section.

Historical Note

New Section made by exempt rulemaking at 8 A.A.R. 588, effective November 27, 2001 (Supp. 02-1). Section repealed; new Section made by exempt rulemaking at 11 A.A.R. 4518, effective May 28, 2005 (Supp. 05-4). Amended by final exempt rulemaking at 21 A.A.R. 1643, effective July 23, 2015 (Supp. 15-3). Amended by final rulemaking at 25 A.A.R. 2122, effective July 29, 2019 (Supp. 19-3). Amended by final rulemaking at 26 A.A.R. 337, effective February 4, 2020; the amendment to subsection (A)(2) was originally codified in Supp. 19-3 at 25 A.A.R. 2020 (Supp. 20-1).

R2-20-705. Additional Audits or Repayment Determinations

- A. The Commission may conduct an additional audit or examination of any candidate in any case in which the Commission finds reason to believe that a violation of a statute or regulation over which the Commission has jurisdiction has occurred or is about to occur.
- B. The Commission may make additional repayment determinations after it has made an initial repayment determination pursuant to R2-20-704. The Commission may make additional repayment determinations where there exist facts not used as the basis for any previous determination. Any such additional

repayment determination will be made in accordance with the provisions of this Article.

Historical Note

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

R2-20-706. Repealed**Historical Note**

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

R2-20-707. Repealed**Historical Note**

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

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

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

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

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

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

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