



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

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**Location:** Citizens Clean Elections Commission  
1400 W. Washington St., Conference Rooms 1-1102A & B  
Phoenix, Arizona 85007

**Date:** Thursday, August 25, 2022

**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 August 25, 2022. This meeting will be held at 9:30 a.m., at the Citizens Clean Elections Commission, 1400 W. Washington St., Conference Rooms 1-1102A & B. Phoenix, Arizona 85007. The meeting may be available for live streaming online at <https://www.youtube.com/c/AZCCEC/live>. You can also visit <https://www.azcleelections.gov/clean-elections-commission-meetings>. Members of the Citizens Clean Elections Commission will attend either in person or by telephone, video, or internet conferencing. **This meeting will be held in person and virtually.** Instructions on how the public may participate virtually in this meeting are below. For additional information, please call (602) 364-3477 or contact Commission staff at [ccec@azcleelections.gov](mailto:ccec@azcleelections.gov).

**Join Zoom Meeting**

<https://us02web.zoom.us/j/88490147580>

**Meeting ID: 884 9014 7580**

**One tap mobile**

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Please note that members of the public that choose to use the Zoom video link must keep their microphone muted for the duration of the meeting. If a member of the public wishes to speak, they may use the Zoom raise hand feature and once called on, unmute themselves on Zoom once the meeting is open for public comment. Members of the public may participate via Zoom by computer, tablet or telephone (dial in only option is available but you will not be able to use the Zoom raise hand feature, meeting administrator will assist phone attendees). Please keep yourself muted unless you are prompted to speak. The Commission allows time for public comment on any item on the agenda. Council members may

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

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

The agenda for the meeting is as follows:

- I. Call to Order.
- II. Discussion and Possible Action on Commission Minutes for July 28, 2022.
- III. Discussion and Possible Action on Executive Director’s Report, Enforcement and Regulatory Updates and Legislative Update.
- IV. Discussion and Possible Action on MUR 22-01 Freedom’s Future Fund.  
**Possible action on this item may include, but is not limited to, authorizing or entering into a conciliation agreement with subject of the MUR, determining whether there is reason to believe a violation may have, or terminating a proceeding.**
- V. Discussion and Possible Action on Proposed Amendments to Ariz. Admin. Code Title 2, Chapter 20, Article 3, Standard of Conduct for Commissioners and Employees § § R2-20-305 (Reporting suspected violations) & R2-20-306 (Disciplinary and other remedial actions).
- VI. Discussion and Possible Action on Proposed Meeting Dates, September – December, 2022.
- VII. Public Comment  
This is the time for consideration of comments and suggestions from the public. Action taken as a result of public comment will be limited to directing staff to study the matter or rescheduling the matter for further consideration and decision at a later date or responding to criticism
- VIII. Adjournment.  
This agenda is subject to change up to 24 hours prior to the meeting. A copy of the agenda background material provided to the Commission (with the exception of material relating to possible executive sessions) is available for public inspection at the Commission’s office, 1616 West Adams, Suite 110, Phoenix, Arizona 85007.

Dated this 23rd day of August, 2022  
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  
CITIZENS CLEAN ELECTIONS COMMISSION  
  
REPORTER'S TRANSCRIPT OF VIRTUAL PUBLIC MEETING

Phoenix, Arizona  
July 28, 2022  
9:30 a.m.

COASH & COASH, INC.  
Court Reporting, Video & Videoconferencing  
1802 N. 7th Street, Phoenix, AZ 85006  
602-258-1440      staff@coashandcoash.com

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



<p>1 VIRTUAL PUBLIC MEETING BEFORE THE CITIZENS  2 CLEAN ELECTIONS COMMISSION convened at 9:30 a.m. on  3 July 28, 2022, at the State of Arizona, Clean Elections  4 Commission, 1110 West Washington, Conference Room,  5 Phoenix, Arizona, in the presence of the following  6 Board Members:  7 Mr. Damien Meyer, Chairman  8 Mr. Mark Kimble  9 Ms. Amy Chan  10 OTHERS PRESENT:  11 Thomas M. Collins, Executive Director  12 Paula Thomas, Executive Officer  13 Mike Becker, Policy Director  14 Gina Roberts, Voter Education Director  15 Avery Xola, Voter Education Specialist  16 Kara Karlson, Assistant Attorney General  17 Bill Richards, Attorney, Richards &amp;  18 Moskowitz  19 Natalya Ter-Grigoryan, Attorney, Richards &amp;  20 Moskowitz  21 Scott Jarrett, Election Director, Maricopa  22 County Recorder's Office  23 Cara Coleman, Special Assistant, Maricopa  24 County Recorder's Office  25 Cathy Herring, Staff  Christina Borrego, Riestler  Mary Jo Pitzl, Arizona Republic</p>	<p>1 CHAIRMAN MEYER: All right. Good morning,  2 everybody. This is Damien Meyer. I'm Chairperson of  3 the Commission this year.  4 Agenda Item No. I is the call to order. It's  5 9:30 a.m. on July 28, 2022. I'm calling this meeting  6 of the Citizens Clean Elections Commission to order.  7 We're doing this on Zoom, so I'd like to ask that the  8 audience members please keep their microphones on mute,  9 please.  10 And with that, we will take attendance.  11 Commissioners, please identify yourselves for the  12 record. We'll start with Commissioner Chan, and you're  13 on mute.  14 COMMISSIONER CHAN: Thank you. I thought I  15 clicked it, and it -- I don't know what I did wrong.  16 Amy Chan, present.  17 COMMISSIONER KIMBLE: And Mark Kimble,  18 present.  19 CHAIRMAN MEYER: And Commissioner Paton and  20 Commissioner Titla are not here today, but we do have a  21 quorum, so we're going to proceed.  22 Before we move on to Item II, I want to note  23 that we will be taking Item V before Item IV so we can  24 hear from the Maricopa County Election Director Scott  25 Jarrett so he can get back to the most important work</p>
<p>1 of preparing for the primary election.  2 So Item No. II on the agenda is discussion  3 and possible action on minutes for the May 19, 2022  4 meeting. Is there any discussion on the minutes?  5 COMMISSIONER CHAN: Mr. Chairman, I don't  6 have any discussion, but I would move that we adopt the  7 minutes as written.  8 CHAIRMAN MEYER: Thank you.  9 We have a motion to approve. Is there a  10 second?  11 COMMISSIONER KIMBLE: This is Commissioner  12 Kimble. I second.  13 CHAIRMAN MEYER: All right. We have a motion  14 to approve the minutes that's pending. All those in  15 favor say aye. We will vote by roll here, so we'll  16 start with Commissioner Chan.  17 COMMISSIONER CHAN: I vote aye.  18 CHAIRMAN MEYER: Commissioner Kimble.  19 COMMISSIONER KIMBLE: Aye.  20 CHAIRMAN MEYER: I vote aye as well, so the  21 minutes are approved by a vote of three to zero.  22 On to Agenda Item No. III, discussion and  23 possible action on Executive Director's Report,  24 enforcement and regulatory updates, and legislative  25 update.</p>	<p>1 Tom, I'm going to turn this over to you.  2 You're muted, good sir.  3 MS. HERRING: Tom, you are still muted.  4 CHAIRMAN MEYER: Tom, we can't hear you.  5 MR. COLLINS: Great.  6 CHAIRMAN MEYER: There we go.  7 MR. COLLINS: This has really gone off  8 swimmingly for me this morning. I'm truly pleased with  9 modern technology.  10 So the primary is next week. We're going to  11 talk about that with Scott. We're really happy to have  12 Scott here.  13 I wanted to note real quick, Julian is not  14 here today, he has a family thing he had to attend to,  15 but he has taken a position outside of government.  16 And, you know, we may see him again, but, you know,  17 he's been a really valuable member of the team over the  18 course of the last two years and has stuck with us  19 despite, you know, COVID and some things going a little  20 bit differently than we would have anticipated when he  21 started, but -- so I'm not sure he'll be here...  22 CHAIRMAN MEYER: Tom, we lost you again.  23 Tom, we can't hear you.  24 MR. COLLINS: We also delivered 2.3 million  25 Voter Education Guides to voters around the state.</p>

<p>1 CHAIRMAN MEYER: Hey, Tom, you --</p> <p>2 MR. COLLINS: Yes.</p> <p>3 CHAIRMAN MEYER: You cut out right after you</p> <p>4 finished your comment regarding Julian, so can you</p> <p>5 rewind and start that again? I believe you were</p> <p>6 talking about the Voter Education Guide.</p> <p>7 MR. COLLINS: I'm not sure what to do at this</p> <p>8 point, quite honestly, so -- I just don't know what to</p> <p>9 do. So anyone who has any technical advice for me on</p> <p>10 how to proceed, I'm happy to take it; otherwise, I</p> <p>11 think, Chairman, we might want to move to the next</p> <p>12 agenda item.</p> <p>13 CHAIRMAN MEYER: Let's give it one more shot</p> <p>14 here, Tom. Go ahead.</p> <p>15 MR. COLLINS: Okay. We mailed 2.3 million</p> <p>16 Voter Education Guides to the voters of Arizona. We've</p> <p>17 had -- we've expanded again this year our efforts to</p> <p>18 make the Guide as accessible as possible to as many</p> <p>19 voters as possible. We worked with the Arizona</p> <p>20 Commission for the Deaf and Hard of Hearing again on</p> <p>21 the Guide. We have translated it into Navajo. We have</p> <p>22 translated into Apache languages. It's available</p> <p>23 through Sun Sounds for the visually impaired.</p> <p>24 We are -- we had a new vendor this year and</p> <p>25 Paula and Gina successfully transitioned us to a new</p>	<p>1 vendor and that was great. That company is called</p> <p>2 Advantage Colorgraphics. And we believe -- and we</p> <p>3 believe -- we estimate around \$15,000 in paper</p> <p>4 conservation savings with that transition. You know, I</p> <p>5 want to -- we also have had our voter line active for</p> <p>6 people who speak Diné to get voter information. I want</p> <p>7 to -- you can read more of the highlights. It's very</p> <p>8 extensive.</p> <p>9 I want to specifically thank Gina, Avery, and</p> <p>10 Alec and Julian for their work. Obviously, Gina has</p> <p>11 coordinated all of our debates. I think the debates</p> <p>12 were impactful this year perhaps in a way they haven't</p> <p>13 been in the past -- or, at least in -- or, they've been</p> <p>14 -- they have in the past, but more so this year and</p> <p>15 more attention was paid to them. I believe that, you</p> <p>16 know, Gina's work on that has been -- it's an intense</p> <p>17 period of time and she's done amazing work there.</p> <p>18 You know, likewise, getting our website up</p> <p>19 and ready with Dropbox information and voting</p> <p>20 information from all the counties is very work</p> <p>21 intensive, and Alec has taken leadership on that. And</p> <p>22 meanwhile, Avery has worked behind the scenes on all of</p> <p>23 those different projects as well, in addition to his</p> <p>24 outreach activities.</p> <p>25 So it's really -- you know, I think that -- I</p>
<p>1 don't think it's much -- too much to say that June of</p> <p>2 primaries for us is our crunch time perhaps more than</p> <p>3 for other folks in election world, but, you know, as</p> <p>4 usual, Gina and her team have come through very well.</p> <p>5 I want to mention, we did a -- we did a lot of outreach</p> <p>6 activities. I don't want to -- I don't mean to short</p> <p>7 them, but I think you can review them, and I do know we</p> <p>8 have another item we need to get to next.</p> <p>9 The other thing I wanted to mention, we have</p> <p>10 relocated. So if you ever wanted to go to the old</p> <p>11 office, it doesn't -- it's not our office anymore and</p> <p>12 there's virtually nobody there in the building and</p> <p>13 probably will be nobody there by the end of next week.</p> <p>14 We're now located at 1110 West Washington. We're on</p> <p>15 the second floor there. This is a building that some</p> <p>16 people and I certainly had thought of as the DEQ</p> <p>17 building. It's now more -- it's DEQ, it's Land, it's</p> <p>18 two or three different boards, regulatory boards. And,</p> <p>19 you know, we're -- so we started that. We opened up</p> <p>20 yesterday.</p> <p>21 And I want to thank Paula and Mike for</p> <p>22 staying after this -- this has actually been -- you</p> <p>23 know, if you've been following the reports here, it's</p> <p>24 been a several-month project of staying, you know,</p> <p>25 diligently on top of ADOA. ADOA has been very helpful</p>	<p>1 in the process, and so that -- we're moving towards</p> <p>2 completion.</p> <p>3 Our hope -- and I know that there's at least,</p> <p>4 you know, one of you and maybe more would like to have</p> <p>5 at least one in-person meeting here. I think that, you</p> <p>6 know, what we'd like to do is try to get that together</p> <p>7 for August in our new area. We have a new hearing</p> <p>8 room. It has its own anteroom for executive session</p> <p>9 and so -- which will be a nice change should we need to</p> <p>10 go into executive session. Obviously, we -- as they</p> <p>11 say, we never expect an executive session, but if there</p> <p>12 is one, please put your mask on first before you assist</p> <p>13 others. And so that's -- that's where we are.</p> <p>14 Just really quickly, I think -- I just want</p> <p>15 to note, you know, we have -- initiatives are being</p> <p>16 reviewed at the county level, I believe, now. I think</p> <p>17 they've gone to the secretary of the county. There's</p> <p>18 some litigation around them. There are two initiatives</p> <p>19 that relate to Clean Elections. One of them does a</p> <p>20 range of changes to voting laws and includes an</p> <p>21 increase in the public financing program, as well as</p> <p>22 adding some additional responsibilities as well as some</p> <p>23 different kinds of funding sources. And then there is</p> <p>24 one that's -- you know, there's another one that's more</p> <p>25 closely associated with Terry Goddard that would</p>

<p>1 enhance reporting for independent expenditures and the 2 sources of funding.</p> <p>3 So I think those -- those are really the 4 highlights, and I wanted to -- but I want to make sure, 5 you know, to thank everybody on staff. This has been 6 a -- since we last met has been a real push with the 7 move, the primary, the Voter Education Guide, and the 8 debates. And really, you know, I'm always -- I'm 9 always lucky to work with the folks I work with who 10 have made that seem -- made that as seamless as humanly 11 possible. So thank you, Mr. Chairman.</p> <p>12 CHAIRMAN MEYER: Thank you, Tom. And we -- 13 on behalf of the Commissioners, I just want to extend 14 our gratitude to you, staff, Gina, Avery, Mike, Alec 15 for doing a great job these last few months. You know, 16 as far as the debates, I was fortunate enough to attend 17 a couple of them. Had Gina talk me into making some 18 Instagram videos, for better or for worse, but -- and I 19 know one of the ones that I missed was the Republican 20 gubernatorial primary debate, and there were some clips 21 of that that had, I mean, north of 8 million views on 22 Twitter. So it was a lot of exposure for the 23 Commission, and that's all due to the hard work of Gina 24 and Tom. I really -- you know, Avery continues with 25 the exhaustive efforts of outreach, which we</p>	<p>1 appreciate. And Alec, thank you. The Google map with 2 all the locations, very great idea. So from all of us, 3 thank you for all of the voter education you do. It's 4 very much appreciated.</p> <p>5 I don't know if Amy or Mark have any 6 comments, but I know we need to move on to Mr. Jarrett 7 as well. So if you have a few comments, please, I 8 welcome them; but otherwise, we'll move on to the next 9 agenda item.</p> <p>10 COMMISSIONER KIMBLE: Mr. Chairman, this is 11 Commissioner Kimble. Can you hear me?</p> <p>12 CHAIRMAN MEYER: Please go ahead, 13 Commissioner Kimble.</p> <p>14 COMMISSIONER KIMBLE: Okay. A couple points, 15 Tom. First of all, I am the unnamed Commissioner who's 16 been agitating for in-person meetings again, and I hope 17 that we can do that in August and figure out a day that 18 works for a majority of the Commission.</p> <p>19 Second of all, is there anything you can say 20 about The Power of Fives? This is something that's 21 been pending since the last election cycle; now we're 22 deep into this election cycle. And it just seems like 23 we owe them, as well as other companies, some kind of 24 resolution to this.</p> <p>25 MR. COLLINS: Mr. Chairman.</p>
<p>1 CHAIRMAN MEYER: Go ahead.</p> <p>2 MR. COLLINS: You know, I think -- you know, 3 what we said in past meetings is that there's -- you 4 know, we've been making progress. I think, frankly, if 5 I were to say that now, that would be an exaggeration. 6 The matter is not, in my view, progressing as quickly 7 as we might should.</p> <p>8 I'm concerned that we need to have additional 9 resources. You know, I -- you know, we have both 10 litigation and an enforcement action, and my hope is 11 that we can get the additional resources we need to 12 ensure that we are moving with some alacrity at this 13 point.</p> <p>14 COMMISSIONER KIMBLE: Okay. I guess --</p> <p>15 MR. COLLINS: I think I can at least say 16 this. You know, we have -- I mean, because this is 17 available on the docket and, you know, we've had 18 some -- and it's on the -- so there's an 19 interrelationship, to some extent, between the lawsuit 20 and the enforcement action. And if you were to look at 21 the -- at the docket for the lawsuit, you would be able 22 to glean that there is a -- you know, that there has 23 been some discussion around, as we always do, according 24 to the rules, some way of bringing this case to a 25 resolution that doesn't necessarily involve a</p>	<p>1 full-blown finding, you know, going to the probable 2 cause to believe stage.</p> <p>3 You know, but I think that the issue that 4 we've kind of run into is that The Power of Fives and 5 its principal or its manager have bifurcated their 6 representation, and the bifurcated representation has 7 resulted in a kind of ping-ponging of our relationship 8 with them between those two attorneys in a way that has 9 -- I'm not sure -- I mean, I just -- I frankly just am 10 not sure quite how to resolve yet, but --</p> <p>11 CHAIRMAN MEYER: Hey, Tom. Tom, pardon me 12 for interrupting you. Can we put a pin in this and 13 then let's go to Agenda Item No. V for Mr. Jarrett. 14 And we can come back and revisit this, if that's okay 15 procedurally, because I know we wanted him on at 9:45. 16 Would that work?</p> <p>17 MS. KARLSON: Yes, there's no reason that 18 that should pose a procedural issue.</p> <p>19 CHAIRMAN MEYER: Okay. Again, I didn't mean 20 to interrupt you, Tom, but I do want to be --</p> <p>21 MR. COLLINS: No. No. No. No. I think 22 that's absolutely --</p> <p>23 CHAIRMAN MEYER: Okay. Great.</p> <p>24 MR. COLLINS: -- absolutely fine.</p> <p>25 CHAIRMAN MEYER: All right. So what I'm</p>

<p>1 going to do is, after I rudely cut Tom off, I'm going 2 to go to Item V on the agenda, which we're taking out 3 of order.</p> <p>4 And for Item V we are honored today to have 5 Scott Jarrett, the Election Director of Maricopa 6 County, join us to talk about election night reporting 7 and tabulation. As Commissioners know, Maricopa 8 County, with the leadership of the Board of 9 Supervisors, the Recorder, and Mr. Jarrett, have 10 weathered COVID, literally unprecedented attacks on the 11 election, threats to election workers, and the Senate 12 ballot review, and in spite of all that they still 13 delivered a very successful and historic 2020 election.</p> <p>14 Now Scott and his team are hard at work on 15 working to deliver a successful primary election on 16 August 2nd. As Election Director, Scott leads the 17 department of operations and sets strategic direction 18 for the Maricopa County election. Obviously, this is 19 no small task, as Maricopa County is the second largest 20 voting jurisdiction in the country and represents more 21 than 60 percent of the state of Arizona's registered 22 voters. Scott works with the Board, county leaders, 23 and the community to ensure the public has an election 24 system that we can rely on and that we are informed on 25 how to participate in the safeguards and ensure that</p>	<p>1 all of our votes count. So it's an honor to have him 2 here.</p> <p>3 And Scott, thank you so much. The floor is 4 yours. Thank you.</p> <p>5 MR. JARRETT: Thank you, Chairman Meyer. And 6 hello, Commissioners. I trust that you can hear me.</p> <p>7 CHAIRMAN MEYER: We can. Thank you.</p> <p>8 MR. JARRETT: Great. And I am presenting -- 9 or, sharing my screen, so I have my slide deck showing. 10 So can you see the slide deck?</p> <p>11 CHAIRMAN MEYER: Yes.</p> <p>12 MR. JARRETT: Fantastic. All right. Well, 13 thank you for those very kind words.</p> <p>14 We have been hard at work here in Maricopa 15 County, as with all the elections departments and 16 recorders' offices through the entire state. Early 17 voting in the state of Arizona for the August primary 18 started several weeks ago. We are now -- if you pay 19 attention to elections, you know elections, we usually 20 do a countdown using E dates. And so today we're at 21 E5, meaning we're five days before election day. I am 22 presenting this calendar here; it shows key dates for 23 the August primary, as well as the November general 24 election.</p> <p>25 Just one thing to point out. If you do have</p>
<p>1 your early ballot affidavit envelope in your hand, in 2 Maricopa County 78 percent of our voters are on that 3 active early voting list, it is past the recommended 4 mail back date. That occurred on Tuesday. But we have 5 lots of voting locations open right now that you can go 6 and drop off your ballot at any one of those in 7 Maricopa County. We will have emergency voting 8 locations open as well on Saturday and Monday, the day 9 before the election. And then we'll have over 200 10 voting locations open in Maricopa County on election 11 day, plus several drop boxes at City and Town Clerks' 12 offices. So you want to go to locations.maricopa.vote, 13 or I think the great Google map that I just heard 14 referenced, to find your closest or most convenient 15 location to drop off that ballot or vote in person.</p> <p>16 One other thing I want to point out on this 17 timeline, and this happened actually in August as well, 18 the voter registration deadline falls on a holiday, so 19 for the August primary it was 4th of July. So usually 20 voters have to register 29 days before the election to 21 be able to participate and actually cast a ballot that 22 would be counted. It moved to the day after, so that 23 was 28 days. That will also happen in October, because 24 the voter registration deadline falls on Columbus Day, 25 so it moved to that next date. And then when we get</p>	<p>1 to -- to talking about the canvass results, there is 2 Veterans Day in that holiday period, so that actually 3 extends curing deadlines for conditional provisionals 4 and if someone had a questionable signature, so -- but 5 here is just some key dates for everyone to monitor as 6 we move forward.</p> <p>7 So one thing, when we're talking about 8 results and canvassing and the timeline for reporting, 9 we go through and we make projections. And this isn't 10 just to support our tabulation efforts, our 11 early ballot processing efforts; it's how many voting 12 locations that we need, how many poll workers that 13 we'll be hiring. Again, these are specific to Maricopa 14 County numbers, not the state as a whole.</p> <p>15 But what voters can really expect for the 16 August primary, usually we're getting between 83 and 17 90 percent of the electorate participating with an 18 early ballot. Those early ballots are either mailed 19 back to us, they're voted during our early voting 20 period, or they're dropped off at any of our voting 21 location -- early voting locations or dropped off on 22 election day. That would leave, then, the remaining 10 23 to 17 percent that would be election day voters. And 24 so in a raw number standpoint, that's about 643,000 to 25 813,000 ballots in Maricopa County that we expect to be</p>

<p>1 early ballots, and then 108,000 to 180,000 to be 2 election day ballots.</p> <p>3 I'll focus mainly on the August primary; 4 those numbers are in the blue. The red numbers are 5 focused on the projections for November. Again, these 6 are estimates only. So as of end of day yesterday, 7 Maricopa County already had over 470,000 early ballots 8 back and through signature verification, receiving a 9 good signature. We have another about 80-plus-thousand 10 that are somewhere. We've received them back and 11 they're waiting to be signature verified or they're in 12 a curing process at this point in time.</p> <p>13 One thing that we've noticed is in-person 14 turnout is up about 150 percent over 2020. That could 15 be for a variety of reasons. Think back to 2020, as 16 the -- Commissioner Meyer said, we were right in the 17 middle of that very first large wave of COVID-19. Lots 18 of folks were not out vacationing during the month of 19 July. They were probably in their homes sheltering and 20 they were probably excited to actually get a piece of 21 mail from us and return that ballot. So I think that 22 resulted in a lot of people participating much earlier 23 on in the process.</p> <p>24 So we were lagging significantly 2020's 25 numbers, but in the last week we're starting to catch</p>	<p>1 up, the number of voters that are participating early 2 as well. But we are anticipating to have a higher 3 number of voters vote on election day in 2022 than we 4 had in 2020. So, again, these are all projections. 5 And this information that I'm providing in the 6 left-hand column here is just as of this morning or 7 really end of day yesterday.</p> <p>8 And the reason I highlight these is, for a 9 county, such as Maricopa County, that is both central 10 count and precinct-based count, that will affect our 11 election night reporting. And I'll talk about that 12 later on a future slide, but that does impact how 13 quickly and what results are reported on election 14 night.</p> <p>15 So just a real quick overview of tabulation 16 operations and specifically transparency and security. 17 And that's really important to any election 18 administrator: How are we being as transparent about 19 our tabulation process as possible while maintaining 20 security and integrity over the process. Should have 21 up here accuracy as well. I think that's just sort of 22 a no-brainer. Everything that we're doing as far as 23 integrity, the security, all those types of things 24 drive the accuracy of the process.</p> <p>25 I have a few highlighted; there's many, many</p>
<p>1 more. I tried to keep this to a 15-minute 2 presentation. I could spend probably a couple hours 3 talking about all of our security. But one thing 4 voters have a lot of questions about is, is our 5 equipment ever connected to the Internet. And the 6 answer to that is: No, it's never connected to the 7 Internet. And here in Maricopa County we're fortunate 8 and we were able to use HAVA grant funds.</p> <p>9 And this picture is showing exposed racking 10 and wiring. So anyone that can see enters -- we have 11 local party representatives can entirely -- through our 12 tabulation period they can trace every single wire from 13 every piece of equipment directly to our server, so -- 14 now, it's a closed network. That means only the 15 devices that are connected through those wires that you 16 can trace to that server are connected to each other. 17 There's absolutely no Internet connection.</p> <p>18 Also, everything that we do is on a 24/7 live 19 camera feed. We have lots of folks even right now 20 recording those camera feeds and monitoring everything 21 that we're doing as well, and we welcome that because 22 we want to be as transparent as possible. We 23 provide -- statutes requires that it's just during the 24 election process and when you're tabulating. We 25 actually have it 365 days a year. So every time --</p>	<p>1 every single minute of the day you can go in and log in 2 and see what's happening in our tabulation center. And 3 then we also require two people to be always in there 4 at the same time, so never just one person in our 5 tabulation center.</p> <p>6 We've made significant improvements even over 7 2020. 2020 was very secure. Department of Homeland 8 Security has published information that one thing that 9 elections departments need to be considered of is -- 10 or, considerate of is insider threats. So one thing 11 that we've done is we've installed external canisters 12 around all of our computer equipment, in addition to 13 the port blockers that we use, just to make sure 14 someone can't access those ports even when we have a 15 keyboard or a mouse that's plugged into our computer 16 system. So those types of improvements we've made just 17 to minimize the risk that an insider might present to 18 the process as well.</p> <p>19 Few things -- and I'll talk about some of 20 this on a later slide as well. Lots of integrity 21 measures. We -- the only equipment we use has to go 22 through the U.S. Elections Commission's certification 23 process. That's at the national level. The state 24 requires then it go through a state certification 25 process as well. Lots of robust testing.</p>

<p>1 From an accuracy standpoint, to get 2 certified, you can only have one inaccurate ballot 3 count out of 5 million different positions. And 4 sometimes the reason that might happen is, right, when 5 you're running paper ballots, that's what we do in 6 Arizona, there could be dust that builds up on the 7 tabulator. One thing that we do in Maricopa County to 8 minimize that is every shift we're cleaning those 9 tabulators to get that dust out of there. But still, 10 one out of 5 million is what has to go through the 11 federal certification process.</p> <p>12 And then we perform robust logic and accuracy 13 tests before and after every election. If there's a 14 federal contest, a statewide contest, the Secretary of 15 State also comes in and does their own logic and 16 accuracy tests. Those results are blind to us. They 17 run those ballots through our equipment and verify that 18 how they filled out those ballots, those results match 19 how they intended them to be reported.</p> <p>20 One thing that I've heard some misinformation 21 on about the logic and accuracy tests is there's only a 22 handful of ballots, maybe a hundred ballots or less, 23 that are included in that test. And that's just 24 absolutely not the case. So in Maricopa County, just 25 for this August primary, we had over 3,000 ballots that</p>	<p>1 we ran through as part of the test. And that verifies 2 every single ballot position, every contest on 3 the ballot, and every time a -- so candidates will 4 rotate. For an August primary, they have to have an 5 equal number of times that they're at the top of 6 the ballot in that contest. So we test all of that to 7 make sure that our ballots are being accurately 8 counted.</p> <p>9 So on to reporting results. So the very 10 first time that results will be run and reported is 11 8:00 p.m. on election night, and those will be 12 early ballots. And for Maricopa County, those are any 13 early ballots that we've received as of Sunday. So for 14 the August primary, that's July 31st; for the general 15 election, that would be November 6th. So people that 16 have dropped off their ballots or voted them and 17 returned those to us on Saturday, we will be closed 18 Sunday, those should be included in that 8:00 p.m. 19 post. Anything that -- if someone goes and votes in an 20 emergency voting Monday, the day before the election, 21 drops off their ballot on that Monday or drops off 22 their ballot on election day, all of those will be in 23 the subsequent days that follow that 8:00 p.m. results.</p> <p>24 Then, starting about 9:00 p.m., and it could 25 be -- go as late as 1:00 a.m., at least that was the</p>
<p>1 case for the August primary in 2020 -- I believe the 2 November general election, our last post was 2:00 a.m. 3 And if you think about we are the second largest voting 4 jurisdiction, but we're also larger than seven states, 5 so very large geographic area, so it can take a while 6 for those outlying voting precincts to be able to 7 deliver those memory cards that we need to upload and 8 report those results. Again, these are in-person 9 voters. We'll be having several posts throughout the 10 night from that 9:00 p.m. mark to that 1:00 a.m. mark.</p> <p>11 So once we get to that last -- well, when we 12 report at 8:00 p.m., that usually is accompanied by a 13 press release that says and describes exactly what is 14 included in these results and what to expect for the 15 rest of the night, so then -- and then those will be 16 all of our voting locations. So that's the goal is, by 17 1:00 a.m. every single one of those voting locations 18 we've been -- and those would be those in-person voters 19 on election day, get reported at 1:00 a.m. The only 20 thing that wouldn't be included from those election day 21 results, like if there were any misreads at the voting 22 location, those would have to come back to central 23 count to be tabulated. And then also any write-ins 24 from election day, we'll need to take those through -- 25 through the electronic adjudication process. And</p>	<p>1 usually that happens the Saturday after election day is 2 when we go and we tally all those results for 3 write-ins.</p> <p>4 So what voters can expect after election day. 5 So for the August primary, between August 3rd and 6 August 9th we will be still releasing and having 7 subsequent reports, usually once a day, and those will 8 also be accompanied by a press release that describes 9 exactly what's included in this and how many ballots 10 are still left outstanding. The reason why August 9th 11 is because there's a statutory cure deadline that 12 allows people to cure those questionable signatures, 13 those provisional ballots. That is August 9th. So we 14 will -- that will be the last time that we're 15 projecting to post for August as long as we're caught 16 up, right, everything is running smoothly, which I 17 anticipate it will.</p> <p>18 We've already been tabulating, thank you to 19 the Legislature. And they progressively moved this up. 20 Used to be you could only start tabulating 21 early ballots seven days before the election day. They 22 moved it up to two weeks in 2020. And now they've just 23 said, once you've received them, and as long as you've 24 done a logic and accuracy test, you can begin 25 tabulation.</p>

<p>1           So I am confident, definitely for the August 2 primary, by the 9th we should have 99.9 percent, if not 3 all ballots, to be able to release at that point in 4 time. In November it could be a little bit later just 5 because we have so much higher demand and turnout in 6 the November general election.</p> <p>7           And then I mentioned the conditional 8 provisionals, that cure deadline. So in my first 9 slide, remember, with the timeline, we will have 10 Veterans Day that occurs three days after the November 11 general election, so the 8th. I think the 11th is 12 Veterans Day. That does extend the cure deadline 13 actually for an extra day, so that will then cause one 14 more day for us to allow those questionable signatures 15 or anyone that was required to vote a conditional 16 provisional, and they didn't show a right ID, they can 17 bring that in and then have that ballot count.</p> <p>18           So after we get through in our final 19 reporting, then we go through a whole bunch of quality 20 control audits, right, provisional ballot verification. 21 All of our voter registration team is verifying that 22 they're -- that if someone was asked to vote a 23 provisional ballot, were they truly registered to vote 24 in this election, did they fill out a paper form and 25 somehow that was missed in that early cutoff that we</p>	<p>1 did. So they're doing those types of audits and then 2 verifying should those -- should those 3 provisional ballots be counted.</p> <p>4           We do a post-election logic and accuracy 5 test, so very similar to the one that's done initially 6 before we start tabulating. We'll do another one. 7 That verifies that the program that we're using has not 8 been changed or modified in any way.</p> <p>9           The political parties do a hand count audit, 10 right, so entire -- during the entire time we're doing 11 central count, they're selecting batches that could be 12 randomly drawn for their hand count audit. Three days 13 after election day -- well, the day after, then the 14 county chairs come in to do a random draw of all those 15 different batches, they also do a random draw of all 16 the different vote centers that would be selected, and 17 then they appoint hand count appointees. Again, not 18 our staff. We oversee the process, we provide the 19 facility, but it's the political parties that come in 20 and do a hand count.</p> <p>21           For the November 2020 general election it was 22 over 47,000 different contests that were hand counted, 23 and they found our equipment to be a hundred percent 24 accurate. So that would -- that's going to occur -- 25 usually it's that Saturday and Sunday after election</p>
<p>1 day when the hand count occurs.</p> <p>2           And then we also do election day vote center 3 audit and compare the number of check-ins at all of our 4 voting locations, we compare that to the 5 number of ballots that are tabulated, make sure that 6 those reconcile. So that will also be done post 7 election day.</p> <p>8           And all of that's in prep -- done to prepare 9 for the canvass itself. So what will happen is, 10 there's a Board presentation. State law requires that 11 the August primary canvass occur 14 days after election 12 day; for the general election it is 20, 20 days. So 13 that's August 16th or November 28th, because November 14 is so late. It's actually the latest the election can 15 be is November 8th. So that does allow all the way 16 until November 28th for that Board presentation and 17 canvass to be done.</p> <p>18           The canvass will include summary reports and 19 detailed reports, and those reconcile perfectly. So 20 our summary reports will be anywhere from a few hundred 21 pages to low thousands to our detailed precinct 22 reports. So we have to report -- even though we use a 23 vote center model, we still have to report the results 24 by precinct. In 2020, when we had 740 precincts, we 25 had -- that detailed summary report was over 10,000</p>	<p>1 pages. Now we have over 900 and -- over 900 precincts, 2 so now that's probably going to be anywhere from 10 to 3 14,000 different pages for that very detailed report.</p> <p>4           We also post our cast vote record. What is a 5 cast vote record? That's a record of how every 6 single ballot was voted and every single contest was 7 voted. It even gets down to the level of detail of how 8 much of each oval was filled in and completed for every 9 single contest.</p> <p>10           Lots of text files. For any of those data 11 analysts out there, they can import that, put it into 12 any of their SQL or their servers or any of their 13 systems that they're using to analyze those results. 14 All that's available on our website.</p> <p>15           And then we're also required to produce other 16 types of reports: Accessible voting reports, so how we 17 complied with ADA requirements at all of our voting 18 locations; training reports for poll workers, who got 19 -- who received training, were they successful in their 20 training; voter education/voter outreach, all those 21 different events that we do to inform voters on how 22 they can successfully participate in the election. 23 Also, there's early ballot rejection reports, 24 provisional reports, all of those by precinct. So a 25 lot of information that we have to go through to</p>

<p>1 prepare that canvass and present it to the Board.  2 And then -- then the Secretary of State --  3 after we've canvassed, we transmit all those results to  4 the Secretary of State, and then the Secretary of State  5 will then canvass. For the November general election  6 it is the fourth Monday after election day, so that's  7 early December, when they'll be canvassing that general  8 election.  9 So with that, I'll open it up to the Chairman  10 or any of the Commissioners if you have any questions  11 for me.  12 CHAIRMAN MEYER: Thank you, Scott. I  13 appreciate it. One question I had relates to signature  14 verification on the ballots. You know, I've seen  15 comments about that. Can you explain that process?  16 MR. JARRETT: Yeah, absolutely. So --  17 CHAIRMAN MEYER: That's in the mail-in  18 ballots, obviously. Sorry.  19 MR. JARRETT: Yeah, that's right. So --  20 well, early ballots, right. So even a ballot that  21 is -- goes through early voting in person or one that's  22 dropped off needs to go through signature verification.  23 So a hundred percent of those ballots do get signature  24 verified by a human.  25 Now, this is a statutory responsibility of</p>	<p>1 the Recorders within the state of Arizona, not the  2 elections department. In Maricopa County we do have a  3 unique structure. It's -- we have two co-directors.  4 So it's me and then my fellow co-director Ray  5 Valenzuela. He oversees all the early voting piece and  6 that signature verification.  7 But it is 100 percent done by humans. They  8 go through a forensic affiliated partner, we bring them  9 in. They provide training to the FBI on signature --  10 or, signature and handwriting analysis. So they  11 provide all of our permanent staff with that type of  12 training. And then we provide very robust training to  13 any temporary staff that would do that. Again,  14 100 percent reviewed by humans.  15 We do have, in Maricopa County, the  16 technology where what we do is we scan in images of  17 those ballots and those signatures. We have then  18 reference signatures for every time someone has  19 submitted a form to us, so whether that was a voter  20 registration form, whether that was an early ballot  21 affidavit that was turned in a prior election. Some  22 voters have 10, 20, 30 different reference signatures  23 that we can use.  24 So we have a user queue. They perform that  25 initial analysis, what we train them, after their</p>
<p>1 training. If they don't feel a hundred percent  2 confident that that signature matches, then they refer  3 that up to a manager queue. That manager will then go  4 and do their own reviews and they determine whether  5 we're going to question it, send it back to the voter  6 for them to have to cure that, that signature.  7 And then even that first queue we do a  8 2 percent audit of every single good signature, right,  9 just to make sure. Another integrity measure that  10 we're taking to make sure that someone isn't just  11 making signatures good, right. And we hold back that  12 entire batch of signatures until we get through that  13 2 percent audit, just to make sure that our staff  14 members are doing the -- taking their job, taking the  15 oath of office that they took seriously and performing  16 their role accurately.  17 CHAIRMAN MEYER: Thank you. And so just -- I  18 mean, how confident are you, as the Election Director  19 of Maricopa County, that this signature verification  20 process is as accurate as possible -- is accurate?  21 MR. JARRETT: I think it's every bit as  22 accurate and valid of a process as someone showing an  23 ID, right. If you ask me what does my signature look  24 like, you'd have no idea, right. And that's the way  25 that most people would. You would have no idea what</p>	<p>1 that other person's signature looks like. We train  2 them on the slants and the slopes and what to look for.  3 Now, there are times where a person's signature can  4 mature slightly, right, and then that's when we end up  5 questioning that signature, but we also train our lead  6 staff to recognize those mature points. But that's  7 actually what -- a very, very important thing for --  8 not only do voters sign that ballot, they -- we ask  9 them to put a phone number on that ballot, and that's  10 how we contact them if we do have a questionable  11 signature.  12 But, sorry, I can never answer in brief,  13 brief answers. But to answer your true question, I'm  14 very, very confident in our signature review.  15 CHAIRMAN MEYER: No worries. Have you met my  16 good friend Tom Collins? He's also verbose in his --  17 in his answers, which we love him for.  18 MR. JARRETT: Well, if I can be compared to  19 Tom, I take that as a very, very good compliment.  20 CHAIRMAN MEYER: That was how it was  21 intended, so thank you.  22 And I guess one other question I had, before  23 I turn it over to my other Commissioners, is: I have  24 read things on social media about what pen you should  25 be using to fill in the ballot. And I see -- I see you</p>

<p>1 sort of smiling and maybe reluctantly shaking your head  2 over this question. But can you just kind of explain  3 this to us and how this doesn't impact the process and  4 just explain that issue and let people know there's  5 nothing to be concerned about, if you could.  6 MR. JARRETT: Yeah. So especially on  7 election day, right, we're very concerned about the ink  8 that voters would use when they're voting their ballot  9 and that it dries quickly. So we've done a lot of  10 testing of the different types of ink that would be  11 successful and the voters would be successful in using  12 when on election day, right. And so what we've found  13 is a felt tip pen, because that ink dries much faster  14 than a ballpoint pen.  15 And if you think about -- you use a ballpoint  16 pen on any document, not just a ballot, and that starts  17 to smudge on your hand because that ink stays wet for a  18 lot longer. And so in a ballot situation, right,  19 people are voting in a booth, they're filling out  20 their ballot, that could result in them having to spoil  21 their ballot because their hand ran over those ovals,  22 it caused the ink to go into additional ovals that they  23 didn't intend. But for our tabulators, when that ink  24 is still wet, it can really gum up or gunk up the  25 tabulators, and then that would require us to send out</p>	<p>1 technicians to either replace or repair or clean those  2 tabulators.  3 So if that happens widespread on election  4 day, it could be -- create long lines. So that's why  5 we're advising just use that felt tip pen in the voting  6 booth. We know it. We've done -- put it through logic  7 and accuracy tests. We've done significant testing to  8 make sure that that pen is reliable and voters can  9 trust the use of that pen.  10 But -- oh, one other thing. Again, I have to  11 be verbose in my response. Don't use red ink, right,  12 or -- our tabulators are purposely programmed not to  13 read red ink because we use red pens in our  14 early ballot processing and in tabulation. We don't  15 allow any other color. So that's why red ink is -- or  16 any variation, orange, highlighters, yellow  17 highlighters, those type of things. So as long as --  18 recommended blue or black ink and, if it's election  19 day, that felt tip pen.  20 CHAIRMAN MEYER: Thank you. I think the very  21 first line on my ballot said blue or -- use blue or  22 black ink, so thank you.  23 I'm going to turn it over to Commissioner  24 Chan and Commissioner Kimble, if they have any  25 questions for Mr. Jarrett.</p>
<p>1 COMMISSIONER CHAN: Mr. Chairman.  2 CHAIRMAN MEYER: Go ahead, Commissioner Chan.  3 COMMISSIONER CHAN: More of a comment. First  4 of all, thanks, Scott, for being here with us today,  5 because I know that you're in the middle of some -- in  6 addition to being in the middle of an election, you're  7 in the middle of challenges. So really appreciate the  8 time to come and publicly present about all of the  9 security features that you have in place.  10 I have been involved in election law and  11 legislation since 2001, and I -- I have been proud of  12 our state for all that time because I think we've  13 always had a fantastic leadership, both at the state  14 and county levels, with regard to security. And I -- I  15 have been dismayed over the past several years seeing  16 what -- people who don't know anything about elections  17 making -- putting out disinformation purposefully, is  18 my feeling. Initially I thought, well, maybe they're  19 mistaken and it's an innocent mistake. It's not  20 innocent anymore, and I -- all we can do is speak out  21 about it, and I think presentations like yours -- and  22 thank you to Tom for facilitating all of these  23 wonderful presentations we've been having over the past  24 several meetings. That's the best thing we can do to  25 put the real information out there.</p>	<p>1 And I think the fact that -- you know, the  2 red pens, that's a security measure, that you  3 specifically program the tabulation machines not to  4 read those because you don't want your staff to  5 accidentally mark something that could be counted and  6 discount a voter's mark.  7 So that's really all I had. Thank you very  8 much. And I'll turn it back to the Chairman and  9 Commissioner Kimble.  10 CHAIRMAN MEYER: Thank you, Ms. Chan.  11 Commissioner Kimble, anything to add?  12 COMMISSIONER KIMBLE: Well, yes, one  13 question. Scott, I'm from Pima County, and this year  14 we're finally catching up with the rest of the state  15 and doing vote centers. And I've been a poll worker  16 for a number of years, and we went to training last  17 week. And I guess I could say I'm very apprehensive,  18 after the training, that -- there seemed to be a huge  19 amount of confusion among people who will be working in  20 the polls, many of whom have never used an iPad, and so  21 it's going to be a whole new experience for a lot of  22 people here.  23 Other than that, are there any changes in the  24 processes that you or your colleagues are going through  25 from two years ago because of legislative bills or for</p>

<p>1 any other reason, or is this pretty much the same 2 process as two years ago? 3 MR. JARRETT: Well, Chairman, Commissioner 4 Kimble, very, very similar process to 2020. There's 5 been a few changes. There was a law passed about 6 moving from PEVL, permanent early voting list, to 7 active early voting list. One thing that we use in 8 Maricopa County is a personalized dashboard, 9 beballotready.vote. People can log in and we show all 10 the recent elections they've participated in and what 11 would be eligible for them to maintain their active 12 early voting status. So that's one change that we've 13 implemented. 14 Another law change was to add additional 15 signage explaining to voters that are voting in person 16 what is an overvote and whether it would be counted if 17 they leave their ballot in an overvoted status. Every 18 one of our precinct-based tabulators notify the voter 19 when that would occur. We've also put signage right 20 around our ballot box that also alerts voters to those 21 types of things. 22 But one of the things that you mentioned was 23 going to a vote center model in Pima County. And we 24 did that in 2020 very successfully. I will say that 25 our poll workers were the biggest advocates for it.</p>	<p>1 Well, voters really like it too. I think that's the 2 number one complaint that a voter has is going to a 3 voting location and being at the wrong voting location. 4 Well, with vote centers, that is eliminated, right, 5 because they're eligible -- we can give them their 6 correct ballot. We have 19,000 different ballot styles 7 in Maricopa County. We can give them their correct 8 ballot on demand using ballot-on-demand printers. And 9 our poll workers, though, came back with rave reviews 10 afterwards. They were so excited not to have to turn a 11 voter away, issue a provisional ballot. 12 Yeah, I was concerned going into 2022, would 13 this truly work for us, right. Would we be able to set 14 up all of our technology. And I think with good 15 training for those poll workers, getting them used to 16 that, that in-person training is very important -- we 17 do, in Maricopa County, also hire some technical 18 assistance during setup that goes out to all those 19 locations, makes sure our check-in stations, so we call 20 them site books, other counties call them e-poll books, 21 and that all of our ballot-on-demand printers are set 22 up and working properly, but -- 23 So I wish you well in Pima County, and 24 especially as your experience as a poll worker, and 25 hopefully you have as positive an experience as our</p>
<p>1 poll workers did in 2020. 2 COMMISSIONER KIMBLE: Thanks. One other 3 question, Scott. Is there a change in people who bring 4 in early ballots to polling places, do they have to 5 show ID? 6 MR. JARRETT: So if they're dropping off 7 their early ballot, they skip the line and they can go 8 right to that early ballot drop box and drop it right 9 in there. They do not have to show ID. 10 Now, if they're voting early and we're 11 issuing them a new ballot, and even though that's going 12 into an affidavit envelope that has to be signature 13 verified, yes, state law -- and this was prior to 2020, 14 actually, a voter would have to show ID to get that 15 early ballot issued to them. And that would occur 16 during early voting or emergency voting. 17 COMMISSIONER KIMBLE: Okay. Thanks, Scott. 18 CHAIRMAN MEYER: Thank you, Commissioner 19 Kimble. 20 One other question that I had that 21 Commissioner Kimble reminded me of. Poll workers, you 22 know, I've read where there's issues with people not 23 wanting to be poll workers or be involved because of 24 all the unfortunate things, harassment and what else 25 happened. How is Maricopa County doing as far as the</p>	<p>1 number of poll workers? Do you have enough? Are you 2 comfortable with where you are, et cetera? 3 MR. JARRETT: Yeah. So from our -- well, I 4 think recruiting as a whole has significantly improved 5 even in the last few weeks. Our poll workers are 6 looking very, very good, right. We're upwards of over 7 90 percent staffed at all of our different voting 8 locations. 9 And as any election official, we build in 10 contingencies. So 90 percent staff, well, we always 11 had a little bit of fluff in those numbers, right. So 12 statute requires five. Because we have -- we'll have, 13 some of our voting locations, eight check-in stations, 14 up to -- we'll hire up to 11, 12 poll workers for those 15 locations. So if we have eight, nine, 10 poll workers, 16 not the 11 or 12 that we were -- we'll be fine. We'll 17 be able to serve those voters. So from a poll worker 18 standpoint, really, really good. 19 What we've had lots of challenges with is 20 recruiting enough central count boards, so commuting 21 down here to our facility in downtown Phoenix. But we 22 used some federal grant funds. The Board approved us 23 to hire bonuses. So if a poll worker -- or, a central 24 count board worked 240 hours, four straight weeks, they 25 got a thousand dollars bonus. So that was -- really</p>

<p>1 helped us get over that hump and be able to hire all  2 the truck drivers that we need, all of our warehouse  3 workers, all of those early ballot processors, right.  4 All of them we need Republicans and Democrats working  5 side by side through that entire process. So now we're  6 really approaching the numbers that we will be  7 successful in this election.</p> <p>8 CHAIRMAN MEYER: Thank you. I promise this  9 is my last question. And that is: You know, we had  10 the opportunity to meet you today, ask questions, and  11 we all know there's a lot of disinformation out there  12 about the election procedures. What do you tell people  13 or what is your advice to people and what we can tell  14 people? If someone has a question about election  15 procedures, concerns about election integrity, how does  16 all this really work? Where can we send them so they  17 can get the information that would answer their  18 question and show that Arizona elections, Maricopa  19 County elections are safe, secure, and accurate?</p> <p>20 MR. JARRETT: Well, there's several different  21 trusted sources out there, your organization being one  22 of them, right. Lots of materials out there on how  23 election processes actually work. I'd say go to your  24 local county jurisdiction, go to the Secretary of  25 State, all of those organizations have websites. I</p>	<p>1 know that Maricopa County has been the epicenter of a  2 lot of mis, mal, and disinformation occurring,  3 especially since 2020. We've created -- and so some of  4 that information, it may be targeted at Maricopa  5 County, and then, because we represent over 60 percent  6 of the voters, then people take that and apply that to  7 other different counties.</p> <p>8 So I would recommend go to justthefacts.vote.  9 That's a Maricopa County-specific website. We have  10 myth busters on there. Every really conspiracy theory  11 out there, or at least the ones we've heard of so far,  12 we have information out there debunking and providing  13 accurate information.</p> <p>14 And I will say, right, there might be some  15 bad actors out there purposefully spreading this type  16 of information. But any voter, right -- I have people  17 on both sides of the spectrum, the political spectrum,  18 in my family, right, and they surround themselves by  19 people that are like minded, right. They go to those  20 social media accounts, right, and they end up getting  21 fed this information over and over again. So I can see  22 why they might have a question, right, or have a little  23 bit of distrust. I'd encourage them to go to those  24 trusted sources, Arizona Clean Elections, Secretary of  25 State, their county election or recorder's office. And</p>
<p>1 if you're in Maricopa County, go to justthefacts.vote,  2 sign up for our monthly newsletter we send out.</p> <p>3 And then we also have a new video series,  4 Election Connection, where my co-director Ray  5 Valenzuela and I will answer voters' questions. No  6 matter what or how difficult the question is, you  7 submit it to us, we do a monthly video, we answer those  8 questions. We get accurate information out there for  9 those voters.</p> <p>10 CHAIRMAN MEYER: Okay. Thank you so much.  11 Scott, I can't thank you enough. This has been  12 wonderful.</p> <p>13 Tom, any other information? We can let Scott  14 get back to work here, unless there's something else.</p> <p>15 MR. COLLINS: No, Mr. -- Mr. Chairman, no. I  16 think that was great. And thank you, Scott and Cara,  17 for helping set this up. But really important  18 information. And we have had a great opportunity, and  19 I think Gina can attest to this as well, you know, that  20 we've really been able to work with Maricopa County  21 over the past several election cycles and we're really  22 both pleased and honored to have the ability to support  23 the County Election Directors both here and around the  24 state.</p> <p>25 CHAIRMAN MEYER: Okay. So thank you. That</p>	<p>1 will bring an end to Agenda V. Mr. Jarrett, your  2 screen share is still on. I assume you're probably  3 going to leave the meeting anyway, but I just wanted to  4 let you know that.</p> <p>5 So then we'll move back to our discussion,  6 Item III, and The Power of Fives. I know, Tom, you  7 were -- you were providing an update on that and  8 perhaps expressing an opinion that the case wasn't  9 moving like you'd prefer it to. So I'd like to just  10 pick back up on that discussion and move forward with  11 the meeting. So, Tom, over to you.</p> <p>12 MR. COLLINS: Okay. Thank you, Mr. Chairman.  13 You know, I'm trying to, you know, give just a little  14 bit more detail than perhaps we've been able to give in  15 prior meetings. I think that, you know, in effect, as  16 I was saying, I think we have a situation where we  17 have -- we have the attorneys on the other side, you  18 know, one of whom we work with on a regular basis, so I  19 don't want to, you know, be overly critical, but I  20 think getting a handle on the way that The Power of  21 Fives has bifurcated their representation in a manner  22 that allows us to move forward effectively is not  23 something that we've done as effectively as I would --  24 as I would like. And so my hope is, within the next  25 few weeks, to improve that.</p>

<p>1 COMMISSIONER CHAN: Mr. Chairman.  2 CHAIRMAN MEYER: Yes. Go ahead, Commissioner  3 Chan.  4 COMMISSIONER CHAN: I just wanted to weigh in  5 and just -- if I understand Mr. Kimble's concern -- and  6 Mr. Kimble, you can correct me if I'm wrong -- I feel  7 like the main concern is that we want clarity for  8 people participating as Clean Elections candidates.  9 Would that be correct? Is that the main concern?  10 COMMISSIONER KIMBLE: That's correct. Yes.  11 COMMISSIONER CHAN: Okay. And I think,  12 unfortunately, the way the process plays out is beyond  13 our control to a great degree just because of the  14 nature of the process. And I think, to me at least,  15 it's clear where we stand as a Commission, I would  16 hope, for folks who want to participate. I know that  17 doesn't solve the issue, but I just wanted to throw  18 that out there. That's how I have to see things  19 because of the fact that we have so little control  20 over, you know, the timeline of the way things play  21 out.  22 CHAIRMAN MEYER: Thank you, Commissioner  23 Chan.  24 Any further discussion on The Power of Fives  25 issue, Commissioner Kimble, or can we move on?</p>	<p>1 COMMISSIONER KIMBLE: I think we can move on.  2 Thank you.  3 CHAIRMAN MEYER: Okay. So any further  4 discussion on Item III regarding the Executive  5 Director's Report, enforcement and regulatory updates,  6 and legislative updates? Tom, anything further to add  7 on that?  8 MR. COLLINS: Mr. Chairman, the only thing I  9 would add is, you know, Julian and Mike have wrapped up  10 the legislative session, and so there is a report on  11 both bills that have passed, which I think is worth  12 bearing in mind as we go into next month, and then  13 most -- the County successfully -- the County  14 Association successfully, I think, lobbied against some  15 of the more significant and disruptive changes. And  16 then there's an update on candidate funding for the  17 primary there that I would -- is worth taking a look at  18 as well, but that's all.  19 COMMISSIONER CHAN: Mr. Chairman.  20 CHAIRMAN MEYER: Yes, Commissioner Chan.  21 COMMISSIONER CHAN: I just wanted to say that  22 I'm so sorry to hear Julian is leaving us and sorry he  23 can't be here so we can express our appreciation for  24 his work that he's done for us over the past few years.  25 So I'm sure -- hopefully he'll hear about that. And</p>
<p>1 wish him the best in whatever his next step is.  2 The other issue I wanted to just comment on  3 is, I love TikTok. It's so embarrassing that I love  4 TikTok, but I think it's a great way to share  5 information. And I have really been enjoying the Clean  6 Elections TikToks. I mean, I'm sure a lot of it is  7 personal, because I know the staff that's in the  8 TikToks, but I think they're really informative and  9 engaging and I just wanted to compliment everybody. I  10 think I've seen Gina, Avery, and if I'm not mistaken I  11 do think I saw Julian in one, but -- did I? Okay,  12 yeah. So those are the only ones I've seen so far, but  13 really, really enjoying those. And if it were up to  14 me, I'd encourage you to keep that up. Maybe that's  15 the plan anyway, but I just think it's a fantastic way  16 to communicate. So nice work, everybody.  17 CHAIRMAN MEYER: Thank you, Commissioner  18 Chan.  19 Okay. With that, we'll move on to Agenda  20 Item No. IV, which is discussion and possible action on  21 Article 3 of the Citizens Clean Elections Commission  22 rules, standards of conduct for Commissioners and  23 Employees, and Title 38, Arizona Revised Statutes,  24 related to public officers.  25 With the election season approaching in high</p>	<p>1 swing, we wanted to take an opportunity to go over our  2 ethics rules to make sure that the Commissioners had a  3 chance to ask any questions they may have and ensure  4 everyone has a chance to touch base about these  5 important issues. Part of what makes our Commission  6 successful -- a successful institution is our  7 commitment to the integrity of our election system.  8 As part of the review of our existing  9 policies, Tom and outside counsel have identified some  10 improvements that will help ensure that we continue to  11 be able to handle the day-to-day challenges that goes  12 along with our government service. So, Tom, can you  13 kick things off for us here?  14 MR. COLLINS: Sure. Yes, Mr. Chairman,  15 Commissioners. So, you know, in the -- in the spring  16 the Chairman and I talked about, you know, there would  17 be some value to having some outside input on how we  18 look at some of these -- some of these issues broadly,  19 and that kind of broadened out with the work we did  20 with the attorneys. One of the attorneys is here, I  21 believe just one, Bill Richards from Richards &amp;  22 Moskowitz in Phoenix. Those of you who -- I mean, some  23 of you who worked -- certainly if you worked at the  24 AG's Office or worked with the AG's Office in the last  25 20 years, you probably know Bill. And if you've</p>

<p>1 litigated an issue of state constitutional law or 2 anything along those lines, you probably met Bill. 3 So, you know, one of the things that we 4 talked through and identified was, you know, not just 5 sort of like, you know, looking at what we might should 6 bear in mind -- and I think that, you know, our rules 7 are pretty -- I think people have a general sense of 8 them, and then this background state law, but also how 9 we might improve the processes around them. So, for 10 example, you know, I -- the rules don't -- and this is 11 true probably for other rules in the campaign finance 12 arena. I'm not sure, for example, that 16-938 does a 13 very good job of articulating how to go about dealing 14 with the conflict. It just says, if there's a 15 conflict, do something. And the EPM basically just 16 says, if there's a conflict, do something. 17 So we wanted to get kind of in the process of 18 identifying a process -- in the process of identifying 19 a process -- I really like process; I think everybody 20 knows that. So, you know, we wanted to get there, and 21 so we've laid out some principles in the memo that's 22 attached to this to talk about the steps we might take 23 to sort of integrate a way of addressing issues should 24 they come up. 25 That said, you know, Bill is here in large</p>	<p>1 part to try to lead a discussion or talk through 2 questions you all may have around these issues. I'll 3 be honest, I feel that, in part because of the 4 intensity around elections as a political issue -- and 5 I understand that we may not be election administrators 6 in the sense of counting ballots, but the voter 7 education program and the campaign finance program both 8 are part of elections. And so it seemed to me, with 9 the level of heat around elections, it was as good a 10 time as any to sort of prospectively talk through some 11 stuff, make sure everybody has an opportunity, if they 12 can, if they have questions -- if they've had a 13 question you've always wanted to ask but didn't know 14 the answer to, those kinds of things. Because, you 15 know, even if the issue today is, you know, stuff like 16 people spreading misinformation about the appropriate 17 type of pen to use, that's not -- it's not to me likely 18 that any of those issues would stay contained within 19 that, right. This is -- this is a political issue that 20 will expand and change. 21 And so from my perspective, to complete this 22 now verbose thought, you know, I think it's incumbent 23 on me as an administrator to sort of talk -- to put the 24 Board in a position where, you know, we have an 25 opportunity to be ahead of those kind of issues and</p>
<p>1 make them salient. Because we don't have a real good 2 capacity to deal with politic -- I mean, that's what -- 3 I mean, what we've seen in the election world is that 4 election administrators, broadly speaking, that -- 5 perhaps those who are elected, right, that's a little 6 different, but election administrators themselves are 7 not well equipped to deal with purely political issues 8 because that's not the structure within we work -- 9 within which we work. And so what that means is that 10 we have to find ways to make sure that we're, you know, 11 sort of working within our structure to build up the 12 kind of prophylactic attitude, for lack of a better way 13 of putting it, that I think will ensure that we 14 continue to have the confidence of -- you know, of the 15 voters and our colleagues in election world. 16 So that's a very long introduction. I 17 apologize, Mr. Chairman, and -- but, you know, unless 18 you have questions for me, Commissioners, I guess it 19 would be helpful to -- Mr. Chairman, if you want to 20 consider giving the floor to Bill, I think that would 21 be good. 22 CHAIRMAN MEYER: Thank you, Tom. No need to 23 apologize. 24 And yes, I'll turn it over to Bill Richards. 25 Thank you for joining us, and the floor is yours.</p>	<p>1 MR. RICHARDS: Great. Thank you, 2 Commissioner Meyer. I am not alone, by the way. I 3 actually have a colleague of mine. We're going to tag 4 team you a little bit on this. She is, you know, far 5 less verbose than I am. She's much more succinct than 6 I am. And I'm hoping that that means that, you know, 7 we cut down the amount of time and attention you have 8 to give to us. But Natalya Ter-Grigoryan is with me. 9 You'll see her in more detail in a moment. We're going 10 to, again, kind of shift back and forth a little bit on 11 these things. 12 But I want to, first of all, thank you all 13 for the opportunity. I'm going to -- we're in public 14 session here, and I'm going to treat this as -- I'm 15 going to put my instructor's hat on, my teaching hat on 16 for a moment. So what I'm going to tell you is going 17 to be more of an overview of some of the issues, and 18 it's just to facilitate a conversation about some 19 things that are really important. 20 As Tom alluded to, you know, I've been 21 representing government officials, agencies, you know, 22 commissions, et cetera for a long time, since I started 23 practice over 30 years ago. And throughout that time, 24 these sorts of issues of what I want to call, you know, 25 government integrity, public confidence, neutrality,</p>

<p>1 fairness, all of those sorts of things, they're ever  2 present, right. They are baked into our laws in this  3 country and in this state. They are certainly baked  4 into the rules that you have adopted as a Commission.  5 And they're important, and we all recognize why they're  6 important, but in your role they're perhaps  7 particularly important not only because of what you do  8 and what your mission is and what the statutory mission  9 is for your organization, but it's especially  10 important, as Tom alluded to, at this particular time  11 because these sorts of issues now can become, for lack  12 of a better term, you know, weaponized as a political  13 issue and a political football and tool.</p> <p>14 This conversation for me is especially  15 welcome because we are normally called into these  16 things when there is a crisis afoot. We -- you know,  17 the house is usually on fire, there's litigation  18 pending or it's about to be pending, and that's when we  19 get to come in and we get to assist folks like you in  20 advising or representing you. I think it's especially  21 important, though, to have conversations like this  22 where you can preplan for these sorts of issues,  23 especially where I see on the horizon, in my own  24 experience, that, at least for the time being, we're  25 going to face -- we collectively as a state, and you in</p>	<p>1 particular as a Commission involved in the election  2 process, are going to face more and more accusations,  3 allegations about conflicts of interest, biases, lack  4 of impartiality. It's going to happen.</p> <p>5 I've been involved in those situations with  6 other agencies and other officials; certainly I've seen  7 how they play out. I certainly understand, I think,  8 the legal and the practical side of those things. But  9 you have a unique dynamic here where, no matter what  10 the -- you know, the legal issues are -- and they're  11 very important and they implicate due process and  12 everything else. But no matter what those are, there's  13 an extra element of politicizing these issues that is  14 going to come into play and can come into play very  15 easily in your world. So I think it's very, very -- I  16 think it's very valuable that Tom has the foresight to  17 think about these issues and that you all have the  18 interest to give us some time to talk to you about  19 these a little bit.</p> <p>20 So what we intend to do this morning is,  21 number one, sensitize the Commission Members to the  22 issue. And that includes, you know, talking about the  23 law that currently exists, both statutorily and in your  24 own regulations, that control these issues to the  25 extent that they can be controlled. You have a</p>
<p>1 significant amount of regulatory guidance on this.</p> <p>2 Number two, we want to briefly discuss with  3 you procedures for handling these sorts of issues when  4 they come up in the context of, you know, your work  5 particularly in deciding contested disputed complaints,  6 which you will be doing, you know, now and forever  7 more, and processing. Again, as Tom alluded to, it's  8 incredibly important.</p> <p>9 And there is a problem here, and this is not  10 a problem that's unique to your organization. This is  11 a problem that exists throughout Arizona government,  12 and that is that when we establish these rules to guide  13 our conduct, right, and to sensitize us as members of a  14 commission, for example, to conflicts of interest and  15 how to deal with them, the expectation is always that  16 they're going to be self-regulating, right, that we're  17 going to set a very clear standard, we're going to set  18 a clear expectation, and that as responsible government  19 officials we're going to abide by that. And when we  20 have a question about what we should do, we'll get the  21 proper advice from folks and we'll do the right thing.  22 That is the hope. That's the aspiration.</p> <p>23 Unfortunately, what often happens is there is  24 either disagreement amongst the members of the  25 commission -- I'm not suggesting you have that, but</p>	<p>1 there can be -- as to what those rules mean, how they  2 apply, what they require, or, more likely, there will  3 be disagreement between the commission and some member  4 of the public, a stakeholder, a complainant, a  5 respondent before you who will have a particular  6 opinion about disqualifying interests, lack of  7 impartiality, conflicts, et cetera, and will try and  8 push that. And they can push it in a lot of different  9 directions.</p> <p>10 And the big problem is, as you can all  11 imagine, it creates -- and I've seen it, seen this  12 happen -- it can create substantial disruption in your  13 work. You know, you don't have enough time and staff  14 doesn't have enough time to deal with all the real  15 issues that are out there. And I'm not suggesting that  16 these aren't real issues. They can be very real  17 issues, but it creates a lot of time and resource  18 burden to work through these issues. And ultimately,  19 they could become a sideshow that basically, you know,  20 interrupts everything and becomes the show. It becomes  21 what is publicly discussed. As opposed to the merits  22 of a particular issue that's pending before you, it  23 becomes an issues that is salacious about, you know,  24 the alleged corruption of some member of the commission  25 or members of the commission who refuse to, you know,</p>

<p>1 recuse themselves despite the fact that they have these 2 glaring conflicts of interest.</p> <p>3 And that becomes, again, a fundamental 4 obstruction of your mission. And as you all know, you 5 know, your mission statutorily even is to assist -- at 6 least part of your mission is to assist in creating 7 greater certainty, greater confidence, greater public 8 trust in the election system itself, and all of these 9 things can really impede and impair that mission.</p> <p>10 So we're also going to offer you some 11 hypothetical examples, and I'm going to start with 12 that. Because I think to put these in concrete terms, 13 right, you need to think about real issues that can 14 come up. I'm not -- well, I want you to all 15 understand. I've not created -- we've not created our 16 hypotheticals from any real world examples that we're 17 trying to emulate. These are really legitimately made 18 up. But they come from, you know, an amalgamation of 19 experiences that I've had and I've seen and things that 20 could really happen.</p> <p>21 So here is my hypothetical for you. Let's 22 assume for the moment that Commissioner Jones has a 23 father-in-law who owns a printing company that provides 24 campaign signs for most of the major X party candidates 25 for state legislative office. The more that those</p>	<p>1 candidates spend with that printing company, the more 2 that the Commissioner's father-in-law makes. And the 3 Commission is going to hear a complaint that the 4 chairperson of the X party encouraged multiple 5 legislative candidates of their party to falsify their 6 campaign accounting to hide their acceptance of large 7 dollars in excess of the early contribution limits, 8 okay, something that you could be asked to hear.</p> <p>9 Now, an officer of the Y party has complained 10 that Commissioner Jones must be disqualified because, 11 number one, she has an improper financial interest 12 associated with these particular complaints, and 13 number two, she may be reasonably perceived to lack 14 impartiality, which undermines the integrity and public 15 trust and confidence in the process, okay. Now, that's 16 the hypothetical.</p> <p>17 Let's take that a little bit further and, you 18 know, talk about what would happen in the real world 19 once that allegation was made in your process. You 20 know, what happens next? How do you deal with that? 21 And obviously, there's two questions. One is: How do 22 you deal with it procedurally, right, what do we do 23 now? The second is: How do we deal with it 24 substantively? What are the standards that we apply to 25 decide whether or not this really is a problem and we</p>
<p>1 need to do something about it?</p> <p>2 Well, on the procedural front, and we'll talk 3 to you about this in more detail, the answer is: You 4 don't have a procedure right now specifically. You 5 have mandatory rules requiring disqualification under 6 certain circumstances, and so the procedural 7 expectation would be there that, you know, the 8 particular Commissioner would certainly undertake a 9 review and a very, you know, self-conscious review of 10 those issues. And if they determine that they were in 11 violation of the standards, the rules set by the 12 Commission, then they would recuse themselves.</p> <p>13 But there are a whole lot of other examples, 14 including some of the hypothetical I gave you, where 15 there's not necessarily a mandatory disqualification 16 required. That's implied, it's suggested, it may be 17 the right thing to do, it may be legally required for 18 due process reasons, but there's not necessarily a 19 procedural rule that tells you what needs to happen or 20 how that needs to be decided. The procedural rules do 21 not even explain how the issue would need to be 22 investigated or could be investigated or what powers 23 individual Commissioners have to investigate or to even 24 decide the issue.</p> <p>25 If a particular Commissioner believes, for</p>	<p>1 example, that, you know, I am not disqualified, this is 2 not a disqualifying issue, I've not done anything that, 3 you know, hits the threshold that violates either the 4 state statutes or the Commission rules, but other 5 Commissioners disagree, you know, how do we get there 6 from here? There's not a specific rule or procedure 7 that you have in place yet to do that.</p> <p>8 There is a procedure that you have in your 9 rules if the allegation is made against an employee of 10 the Commission, but that puts all the onus on Tom, as 11 the Director, to investigate and make decisions. And 12 that makes some sense. In his role, you know, his 13 responsibility is overseeing employees. But the 14 Commission rules do not give the Executive Director a 15 decision to make -- you know, make any determinations 16 about qualifications of the Commissioners, and, again, 17 rightfully so. That isn't the role of an Executive 18 Director normally. That's the role of you all as the 19 Commissioners.</p> <p>20 Now, substantively let me throw in a couple 21 of new facts to my hypothetical, right. So you're 22 thinking through this hopefully in your own minds 23 going, well, what would I do? What would I think about 24 this Commissioner's disqualification? Well, what if 25 you knew, in addition, that the Commissioner is</p>

<p>1 actually estranged from her in-laws, that they've 2 written her out of their will, her entire family, 3 there's no communication that passes between them, 4 there's no gifts of any kind that are ever given to 5 this Commissioner or her family in any way, and that, 6 you know, there's no hope of any sort of resolution of 7 that any time soon? Would that make a difference? 8           What if you learn, on the other hand, that, 9 you know, Commissioner Jones' in-laws provide 10 significant money to her family, that, in fact, they 11 fund her children's college educations or expensive 12 private school tuition, that they, you know, help 13 provide a second home for the Commissioner where they 14 can vacation? You know, would that make a difference 15 as to whether or not there was a -- you know, a 16 disqualifying conflict here? 17           What if you learned that, in fact -- let's 18 see. Oh, we talked about -- 19           So Commissioner Chan, I'm also a big fan of 20 TikTok. I was introduced to it by -- I've got three 21 adult daughters. And, you know, I fought the 22 temptation. I don't have TikTok myself, but they show 23 me things all the time on TikTok that I am amazed by, 24 just the creativity and whatnot that Americans can 25 bring to that.</p>	<p>1           Let's assume for the moment that you found 2 out that, gee, this Commissioner has been posting 3 TikTok videos, you know, incessantly attacking members 4 of the X party, you know, in particular. Would that 5 make a difference, added to the other facts we have 6 here in the hypothetical about whether they should or 7 should not be disqualified? You know, I could go on 8 and on and we could layer more and more facts either 9 direction on top of that. 10           I think the point is well made, though, that 11 these here are complicated issues sometimes. And when 12 you have all of those facts that make a difference, 13 there needs to be a way to find those facts, right. 14 There needs -- you can't make a decision in a vacuum, 15 and you would each need the opportunity potentially to 16 investigate or to have someone investigate to bring 17 these facts forward. Perhaps it's simply a 18 self-reporting requirement that you impose on the 19 Commissioner, that they actually have to, you know, 20 provide all relevant facts to the Commission. Again, 21 though, there's not currently any sort of rules that 22 you have that address that. 23           So with that, we're going to now just jump 24 into the standards for a moment that do apply, that we 25 know exist in statute and in regulation. This is not</p>
<p>1 going to be a deep dive. You don't have time for that 2 and we don't have time for that, and we're going to try 3 and hit kind of the highlights of these things. But 4 I'm going to flip things to Natalya for a moment, who 5 is going to talk to you at first about the statutory 6 conflict issues that are out there, have been out there 7 for a long time, but have -- you know, like everything 8 else in the law, have some ambiguities themselves. 9           MS. TER-GRIGORYAN: Good morning, everyone. 10 Let me adjust this. 11           So what types of circumstances, actions would 12 subject or could subject a Commissioner to these types 13 of accusations relating to a conflict of interest? So 14 it's really any type of an affiliation, a relationship, 15 or an activity that leads somebody to believe that the 16 Commissioner, either directly or indirectly, tangibly 17 or intangibly, would derive some sort of a benefit 18 based on the outcome of a decision that's pending 19 before the Commission. So if the Commissioner's 20 decision in a pending action will have some impact, 21 either a benefit or a detriment, those are the types of 22 situations that could breed perceptions of a conflict 23 or suspected conflict essentially that could then cause 24 someone to believe that perhaps the Commission -- the 25 specific Commissioner or the Commission as a whole is</p>	<p>1 not capable of carrying out its duties to impartially 2 decide the matters that are presented before the 3 Commission. 4           So as a result, that could lead to the 5 public's confidence in the Commission's business being 6 undermined, and that is contrary to, as Bill explained, 7 the mission and objective of the Commission because you 8 have this -- the mission statement really talks about 9 just fairly, impartially, fully administering the Clean 10 Elections Act. But more broader than that is: The 11 objective to restore citizen participation and 12 confidence in the political system, improve integrity 13 of the Arizona state government, promote freedom of 14 speech under both the state and federal constitutions, 15 improve the integrity of the Arizona government, 16 promote public confidence in the Arizona political 17 process, and also administer the Clean Elections Act. 18           So we have examples of the relationships or 19 activities that could prompt accusations, and these 20 could be frivolous accusations, these could be 21 accusations that ultimately don't have any merit. But 22 any sort of a direct participation in political effort, 23 so anything involving the election of candidates, an 24 effort to promote a candidate, an effort to not promote 25 or to promote that a candidate -- certain specific</p>

<p>1 candidate not be elected, anything like that.  2 Financial contributions, fundraising, volunteering,  3 publicating -- or, publishing supporting documents,  4 anything like that, calls to action, opinions that are  5 disseminated either formally through media sources,  6 informally through social media, or even basically  7 through any sort of messages or communication that are  8 not necessarily subject to public -- public scrutiny or  9 public -- publicly available communications. And those  10 are addressed in your rule that is R2-20-310.  11 And I'm going to refer to them by the last  12 three numbers, just to make it a little bit easier on  13 me.  14 So Rule 307 also talks about any sort of a  15 familial or a close relationship with a candidate or a  16 party leader. Also, I think that extends to any party  17 or any individual that is subject to the Commission's  18 regulation.  19 You have -- outside employment is addressed  20 in Rule 308, and that also encompasses any business  21 pursuits and any investments that could lead a member  22 of the public or a party before a proceeding to believe  23 that there is a conflict or some impact on  24 impartiality.  25 And then you have accepting favors,</p>	<p>1 gratuities, gifts, or any other benefits from anyone  2 within the Commission's regulation or a party affiliate  3 or candidate. So in each -- and that's Rule 307 as  4 well.  5 In each of those cases, someone might  6 challenge a Commissioner's participation on the basis  7 that the Commissioner is biased toward or against a  8 specific party pending -- that is participating in a  9 pending proceeding. So in those cases we need to look  10 at whether or not the actual statutes and rules mandate  11 that Commissioner to refrain from participating in that  12 proceeding.  13 And so the first place that we could look to  14 would be a statute, and it's A.R.S. 38-503, and that is  15 the conflict of interest statute that governs all  16 public officers. And Commissioners are public officers  17 as defined in 38-502, I believe. So starting from that  18 premise that you are now a public officer subject to  19 this statute, if you have -- if you or a relative has a  20 pecuniary or financial or proprietary property interest  21 in the decision, that triggers the statutory obligation  22 to do two things.  23 First, you have to disclose the interest. So  24 you have to, on the record, explain that there is a  25 conflict that either you or a relative has pecuniary or</p>
<p>1 proprietary interests in the outcome of the decision.  2 And as a result, you have to, on the record, explain  3 that you cannot participate in this decision for  4 purposes of -- you know, because you have a conflict  5 and you cannot fairly and impartially participate. And  6 so those are kind of the easy -- the easy conflicts.  7 And let me see if I can share -- I don't know  8 if I am set up to share a screen. Do you know if I am?  9 MS. HERRING: Yes, I think you are able to  10 share the screen.  11 MS. TER-GRIGORYAN: Yes. Can you guys see me  12 or the screen? Yes?  13 CHAIRMAN MEYER: Yes, we can see it. Thank  14 you.  15 MS. TER-GRIGORYAN: Okay. Perfect. So this  16 is the statute -- and I only have A through C on here,  17 but this is the statute that essentially requires a  18 public officer to disclose the interest, you know, in  19 the official records, whether it's on the record or  20 some other manner, and also to refrain from voting or  21 participating in a proceeding that involves a conflict.  22 And like I said, those tend to be the simpler ones.  23 The less -- oh, and I should also note  24 that -- so the obligations in this statute are  25 enforceable. Depending on the level of knowledge, it</p>	<p>1 could be a felony, it could be a misdemeanor, and in  2 all cases it would require a Commissioner to not --  3 essentially cease participating altogether if there's a  4 violation of this, not if there's compliance. But if  5 there's a violation, it is enforceable. It's also  6 enforceable through the Uniform Declaratory Judgment  7 Act. And so there are ways to ensure that someone who  8 is appearing before the Commission and believes that  9 there needs to be, you know, a disclosure and a  10 recusal, and that's not happening, there's a way for  11 that person to enforce any due process considerations  12 if the statute is involved.  13 COMMISSIONER CHAN: Mr. Chairman and Natalya,  14 could I ask a quick question?  15 MS. TER-GRIGORYAN: Of course.  16 COMMISSIONER CHAN: I just want to make sure  17 I understand this statute. It just seems like it's  18 purely based on financial interests, so -- as opposed  19 to -- okay. So you're nodding your head?  20 MS. TER-GRIGORYAN: Yes.  21 COMMISSIONER CHAN: Okay.  22 MS. TER-GRIGORYAN: I am. And Amy, it's  23 actually -- we have some helpful case law that has  24 interpreted this statute. And it's essentially -- so  25 because the statute talks about a substantial interest,</p>

<p>1 right. And I will talk about the definitions in just a  2 second, but they appear in 35-502. And you'll see a  3 really long definition of what is a remote interest,  4 and then you'll see a substantial interest is just a  5 nonspeculative pecuniary or a proprietary interest,  6 either direct or indirect, other than a remote  7 interest. And we have had, you know, cases essentially  8 interpret this to mean that, yes, usually it's going to  9 be a financial -- a direct financial interest or  10 detriment.</p> <p>11 And there's also a 1972 opinion, and it is in  12 the materials, in the memorandum that was disseminated,  13 that talks about the interest -- the substantial  14 interest that is implicated in the statute being  15 something that requires a person to gain or lose  16 something as contrasted to a general sympathy feeling  17 or bias.</p> <p>18 So you're absolutely correct in intuiting  19 that the statute is really geared toward a conspicuous  20 or a pretty obvious financial interest. And that is, I  21 think, kind of an egregious example of a conflict that  22 would automatically trigger the duty to disclose and  23 recuse.</p> <p>24 Oh, one second.</p> <p>25 MR. RICHARDS: So, Commissioner Chan, just to</p>	<p>1 follow up on that a little bit, yeah, the courts have  2 defined -- helped define this, because the legislative  3 definition has some wonkiness to it, that essentially,  4 you know, it's got to be something that is real. It's  5 not -- it's not speculative, right. It has to be  6 something that looks like, yeah, gee, you do stand to  7 gain or lose something of value.</p> <p>8 Now, what is something of value? How much  9 monetary value does it have to have? The courts have  10 not said, you know, that a di minimus benefit is not  11 disqualifying, right. I mean, it could be a very small  12 benefit of some kind, but there has to be a real  13 potential for that sort of gain or loss for the statute  14 to be implicated.</p> <p>15 Now, we're going to jump into, to kind of  16 make sure that we try and cover the waterfront, the  17 Commission's own rules. Natalya already talked to you  18 about some of them that are kind of the higher level  19 rules and some of the rules that parallel 38-503. Now,  20 you have a bunch of those.</p> <p>21 By the way, I will tell you, I'm not sure --  22 I haven't surveyed it, but I'm not sure that there is a  23 commission or agency out there or board that has more  24 specific robust conduct rules and conflict rules than  25 this organization. So kudos to you or whoever</p>
<p>1 generated those originally, because you cover  2 everything. So we're not going to go into the detail  3 of each one of those.</p> <p>4 Suffice it to say, though, it covers things  5 like, you know, political activity. It covers outside  6 employment activities, right. And it covers  7 especially, you know, catchalls of any other interest  8 or activities that could lead a member of the public to  9 reasonably even suspect that the Commissioner is  10 incapable of, you know, complete partiality,  11 neutrality, and fairness.</p> <p>12 Now, some of them are easier to apply than  13 others. So, for example, you know, outside employment  14 issues, the rules are a little bit easier to apply  15 because you're talking about a very concrete situation.  16 You're also talking about a situation where there is  17 usually pecuniary interest involved there. And you can  18 kind of tell, well, is the outcome -- is there a  19 potential or an appearance that my participation in  20 this particular vote will or could have an impact on,  21 you know, my outside employment, positive or negative,  22 you know, either way.</p> <p>23 There are other rules, like participation in  24 political activities, that are also fairly specific.  25 For example, you know, there's a prohibition on</p>	<p>1 Commissioners providing, you know, direct support of or  2 taking actions or making statements directly against  3 particular candidates that are subject to your  4 jurisdiction, okay. And that seems to be somewhat  5 black and white in terms of its prescriptions.  6 Although, the question then becomes: Well, what is  7 making a statement in support of somebody or what is  8 taking an action, you know, to challenge somebody's  9 election? What does that really mean? That's not  10 absolutely clear, but there are -- you know, those  11 standards, again, are a little bit easier to apply.</p> <p>12 When we get, though, to the -- you know, the  13 more aspirational standards of, you know, don't do  14 anything that might make you look impartial, right,  15 don't do anything that might let your neutrality be  16 reasonably questioned, those are admittedly much more  17 difficult to apply. They are -- from a personal  18 perspective, I think given your statutory mission and  19 your regulatory mission that you've given yourself,  20 those rules and those standards are perfectly  21 appropriate and, in fact, you know, necessary to  22 fulfill what you want to do. That doesn't mean that  23 they're easy to apply and it doesn't mean that you  24 haven't created rules that are going to be open to  25 interpretation and open to potentially even abuse by</p>

<p>1 people who want to use them to try and disrupt the 2 process, make accusations, use it as a political, you 3 know, football to say that, you know, they're not 4 getting a fair shake. Those exist. Those 5 possibilities all exist.</p> <p>6 I will tell you that there's one kind of 7 legal nuance here that we would like to kind of hammer 8 home. We've got attorneys on the Commission, right. 9 And all attorneys or anyone who's been involved in our 10 justice system understands the concept of the 11 appearance of impropriety, which, you know, governs our 12 conduct as lawyers, governs judicial conduct as well.</p> <p>13 In that space, though, the courts have 14 basically said -- I'm generalizing here, but they've 15 basically said, that's an aspirational standard, right. 16 That is not really a standard except in certain really 17 unique situations that we can enforce judicially. It's 18 important to have it as an aspiration, everyone should 19 be trying to abide by that, let's have no appearances 20 of potential bias or lack of neutrality, but we can't 21 really enforce it.</p> <p>22 There are some circumstances, though, where 23 it can be enforced, and one is where due process 24 implications come into play, meaning, you know, 25 somebody who's appearing in a judicial or a quasi</p>	<p>1 judicial forum, which can be people appearing before 2 you, you know, their rights are being decided by 3 someone else. And Arizona law is pretty clear on this, 4 from my perspective, that a commission hearing a 5 disputed matter and making findings on it is acting as 6 a quasi judicial body, and you have the same 7 obligations that a court does, same due process, same 8 neutrality obligations that a court does, and you may 9 be subject to mandatory disqualification as a matter of 10 law for lack of neutrality. Those are going to be in a 11 fairly narrow range of circumstances.</p> <p>12 But what that means is, you know, crafty 13 politicians, lawyers, et cetera are going to say, hey, 14 I'm fitting you into that narrow range because you set 15 a rule that I don't think you're abiding by. And 16 therefore, you set the standard for what due process is 17 in this particular circumstance, and you're not abiding 18 by it; therefore, you know, you have to disqualify 19 yourself, and I can sue to have you disqualified if you 20 do not.</p> <p>21 Also, you have one rule in particular under 22 309 that specifically invokes an objective standard. 23 It basically says that -- and this is 309(B), which 24 provides -- hold on. Let me find the language. We've 25 now pulled that up for you here. I'm sorry.</p>
<p>1 Apologize. (C). This is that a Commissioner shall 2 disqualify themselves from a proceeding in which the 3 Commissioner's impartiality might reasonably be 4 questioned, such as in a situation where the 5 Commissioner knows that he or she or his or her family 6 member has an interest in the subject matter in 7 controversy or is a party to the proceeding or has any 8 other interest that could be substantially affected by 9 the outcome of the proceeding.</p> <p>10 That's a very broad rule. But because it 11 adopts what looks like to the law, to the judges as an 12 objective standard, it's a reasonable person test, you 13 might reasonably be questioned, that one may not be 14 aspirational. That may be something that a court would 15 say, no, we can enforce this. Because in Arizona, 16 again, as a general matter, your rules have the same 17 force of law as a statute does. So that's one in 18 particular to be aware of.</p> <p>19 Let me hit one of the last issues. And I'm 20 going to have Natalya kind of jump back in here a 21 little bit to talk about some of the procedural issues 22 and probably start with what happens if you have an 23 issue involving an employee, because there is a process 24 there, and then we can talk about, you know, what may 25 or may not happen and how you all can handle these</p>	<p>1 issues when they come up before you.</p> <p>2 MS. TER-GRIGORYAN: Yes. So the rules do 3 have a process for addressing conflicts of interest 4 that involve an employee. And that process, very 5 generally speaking, is one pursuant to which there is a 6 complaint or a report submitted to the Executive 7 Director outlining what the perceived conflict is. 8 Because one of the issues is that the rules that -- the 9 Commission rules are significantly broader than the 10 statute, the conflict of interest statute, and not only 11 because they are not limited to financial interests -- 12 I mean, 309 focuses on financial interest, but the 13 remaining rules, like 307, 308, they go far beyond just 14 financial interest and go to anything that could, you 15 know, cause someone to perceive that there is a bias or 16 some impartiality or some benefit to be gained. And so 17 that's one issue.</p> <p>18 But if there's a concern regarding an 19 employee's conflict, then that process is simple. 20 Somebody submits the reported concern. The employee 21 has an opportunity to respond in writing. And then the 22 Executive Director gets to kind of assess, you know, 23 all of the materials and determine whether or not 24 there's actually a conflict. And in terms of 25 employees, that would apply, you know, particularly</p>

<p>1 with other employment or something like that where the  2 Executive Director can assess whether or not there's an  3 incompatible outside employment or whether there are  4 activities that are incompatible with the employee's  5 duties as an employee of the Commission -- or, the --  6 yeah, the Clean Elections Commission. So that is the  7 process.</p> <p>8 With regard to public officers, which  9 includes Commissioners, we don't have anything like  10 that. We don't have a process. And so that creates an  11 issue for a couple of reasons. And Bill already talked  12 about kind of the main ones, about how it can be  13 weaponized, but also it prevents the possibility of  14 disposing of these issues and essentially weeding out  15 any meritless concerns so that there is some confidence  16 in the public that, hey, there was a concern that was  17 brought to our attention. This is the process we  18 followed to investigate it and look at it. And, you  19 know, a lot of other regulatory bodies and boards have  20 a process for essentially summarily dismissing  21 complaints or alleged misconduct that has no -- you  22 know, no factual basis, is essentially meritless. So  23 the Commission currently does not have a process like  24 that that applies to Commissioners. And that's  25 somewhat problematic.</p>	<p>1 And the other -- the other issue -- so we  2 have a definition of conflicts of interest in your Rule  3 302 that is, again, broader than the statutory  4 definition, and it's any private interest that is or  5 appears to be inconsistent with the efficient impartial  6 conduct of a Commissioner's official duties and  7 responsibilities. But private interest isn't defined  8 anywhere in the rules, in the statutes, so it becomes  9 somewhat ambiguous.</p> <p>10 And so given all of the ambiguity -- and it's  11 funny, because the rules are also very specific in  12 terms of the conduct that's prohibited, but then  13 there's also this ambiguity in terms of how expansive  14 are these rules going to be construed and whether or  15 not they are enforceable or aspirational.</p> <p>16 And so even under an objective or a  17 reasonable person's standard, given all these  18 ambiguities, it may make sense to implement some sort  19 of a process that allows the Commissioners and the  20 Commission to address these issues when they arise.</p> <p>21 MR. RICHARDS: And so let me -- let me go  22 ahead and pick up there with kind of the final piece of  23 this, which is: What process could you apply right now  24 if someone were to make an accusation tomorrow? Well,  25 I have a suggestion for that, which is, you know, not</p>
<p>1 mandatory. There's a whole bunch of ways to handle  2 these issues. But an appropriate way would be to,  3 number one, you know, require that your Executive  4 Director do exactly what he does with everything else  5 and the staff does, right, get the facts for us,  6 provide us the information about what the allegation  7 is, get as much specificity as possible, and present it  8 for consideration by the Commission.</p> <p>9 Also, as part of that, you're probably going  10 to want to get some legal advice on the -- you know,  11 whether or not this allegation has legs, whether it,  12 you know, really does implicate something, or whether  13 it's, you know, kind of a throw away that really  14 doesn't stand the test, the legal test of actually  15 proving the violation of anything.</p> <p>16 And then have a discussion about it. You  17 know, it is perfectly appropriate for the moment for  18 you to handle these issues as you handle a lot of other  19 matters that come before you, which is to have a public  20 discussion and vet these issues with the opinions of  21 the Commissioners shared in an open proceeding.</p> <p>22 And I think that is consistent with the way  23 your rules are structured already, that the expectation  24 would be that either a Commissioner -- upon, you know,  25 someone raising the issue, a Commissioner may</p>	<p>1 individually take the wrong action and say, oh, wait a  2 minute. Yeah, I didn't think about that. I didn't  3 even realize we had this complaint, but I realize I  4 should probably bow out. You know, I'm setting my own  5 standard here and I'm going to go ahead and recuse  6 myself. In which case, no one needs to discuss  7 anything. You simply need to put on the record that  8 that particular Commissioner has decided to recuse  9 himself.</p> <p>10 If they decided not to, however, I think the  11 expectation of the rules at this point is that you'll  12 have a discussion about that. Each Commissioner will  13 be able to, you know, weigh in with their opinion. And  14 the affected Commissioner or Commissioners will, at  15 that point, be able to make an informed decision based  16 upon all of this input, including, you know, the legal  17 input that may be provided, the staff input that will  18 be provided, and the other Commissioners' opinions and  19 input that will be provided. And I think the  20 expectation is that that system will work pretty well  21 and that there probably, in most cases, will be some  22 sort of a consensus, an agreement on, you know, what  23 the appropriate response is, do -- does the  24 Commissioner disqualify themselves or don't they. At  25 which point, then, the individual Commissioner still</p>

<p>1 makes the decision, but they make it with that sort of  2 input. And again, I think the expectation generally is  3 that, you know, most Commissioners are going to go  4 along with the group, go along with the consensus after  5 this has been, you know, responsibility vetted.  6 That's the best approach that I think you  7 have available to you today; however, you know, you can  8 take each one of those pieces that I just talked about  9 and you can formalize those as well. You can formalize  10 requirements for the complaint, that the complaint has  11 to be provided in writing, with specificity, with  12 facts, with backup evidence, all of those sorts of  13 things, so that folks cannot simply take advantage of  14 the fact that you have these rules and try and disrupt  15 things with just vague, ambiguous, unfounded  16 allegations.  17 You can also formalize the -- what I'm going  18 to call the investigatory or discovery process where,  19 you know, you have rules that assign responsibilities  20 to the staff, for example, to gather certain  21 information or perhaps set expectations that the  22 Commissioner affected will provide a response or at  23 least be allowed to provide a response in writing that,  24 you know, provides their own evidence on the subject.  25 And then, you know, you can set different sorts of</p>	<p>1 procedures for consideration, for formal consideration,  2 informal consideration, evidentiary, taking of  3 evidence. You may not want to do any of those things.  4 You can set it up as formal or as informal as you'd  5 like.  6 And at the end of the day, I believe that,  7 you know, you could certainly argue that it would be  8 consistent with the delegation of authority you have  9 from the legislature to allow the Commissioners  10 themselves to vote on qualification, disqualification  11 with lots of legal parameters put on that. There's  12 some question, though, about whether or not, you know,  13 your delegation of authority from the legislature would  14 allow you to go that far or whether ultimately, if the  15 Commissioner makes the individual decision that they're  16 not going recuse or -- that that becomes a judicial  17 issue. It certainly can always become a judicial  18 issue, and you may not want the rest of the  19 Commissioners voting on those sorts of things. Those  20 are all the different options, though, that you have to  21 consider, and worthy of -- worthy of consideration  22 probably.  23 So with that, that's kind of our  24 presentation. But I suspect that there may be  25 questions that you have, and I want to make sure that</p>
<p>1 we answer whatever we can.  2 And I see -- now, if you don't mind,  3 Mr. Chairman, I see, for example, that Commissioner  4 Kimble has raised his hand. And if you don't mind me  5 calling on people and recognizing them for their  6 question, I'd be happy to do that.  7 CHAIRMAN MEYER: Commissioner -- yeah, go  8 ahead.  9 MR. RICHARDS: Okay. Yes, Commissioner  10 Kimble.  11 COMMISSIONER KIMBLE: Thank you,  12 Mr. Richards. I think Commissioner Chan touched on  13 this, but you point out in your report that the rules  14 require a Commissioner to avoid actions that cause or  15 create the appearance of losing or compromising the  16 Commission's impartiality and the public's perception.  17 That seems to me so sweeping as to be not helpful at  18 all in terms of guidance to us.  19 The rules also talk about that we need to  20 prohibit -- that we are prohibited from activities that  21 affect candidates subject to the jurisdiction of the  22 Commission, in other words, state candidates. But if  23 I, for instance, want to get involved in a campaign for  24 a local office, not run, but support someone, or for a  25 federal office, that is not an office subject to our</p>	<p>1 jurisdiction, but it could also be argued that my  2 activity might create the appearance of compromising my  3 impartiality. So do you have any guidance on this that  4 would be practically helpful to me, for instance?  5 MR. RICHARDS: Maybe. Let me suggest  6 something, which is that, you know, traditionally our  7 law says that, in construing statutes and regulations,  8 the specific governs over the general. And I think  9 that you could consider -- one position that I think is  10 reasonable is to consider that more specific  11 limitation, the one that says, you know, the political  12 activity issues are really concerned with your support  13 or opposition to a candidacy that's within your  14 jurisdiction, right, that that helps define what is a  15 disqualifying action creating the appearance of  16 impartial -- or, a lack of impartiality.  17 So in other words, you could say, well, look,  18 we've defined that, you know, we're only -- on the  19 political side, the political activities side, we're  20 really only concerned about your activity or support of  21 or opposition to a candidacy within our jurisdiction;  22 therefore, you know, that means that specifically me  23 supporting a local candidate or me supporting a federal  24 candidate does not run afoul of the more general rules  25 that say don't do something that, you know, creates</p>

<p>1 some sort of appearance of bias or impartiality.  2 I mean, I think that's a reasonable  3 interpretation. I can't guarantee the courts would  4 agree with that, but I think that's certainly  5 consistent with the law.  6 COMMISSIONER KIMBLE: Okay. And I'm also  7 thinking of some issues. What if we, as the  8 Commission, speak out and say, there's been a lot of  9 talk that the last election was stolen. That talk is  10 untrue. Are we then -- are we then saying that because  11 a number of candidates under our jurisdiction, that's  12 one of their main running points, so we should not say  13 that?  14 CHAIRMAN MEYER: I just want to interject  15 here. I mean, we're not -- the point of this is to get  16 very general, broad, sweeping legal advice. So if this  17 is -- we get into specifics, if we're actually going to  18 ask for legal advice, I don't know that that should be  19 in this forum.  20 COMMISSIONER KIMBLE: Well, I understand you,  21 Mr. Chairman, but I'm just trying to --  22 CHAIRMAN MEYER: I'm just throwing that out  23 there to hear what -- to get Bill's response to that.  24 I'm just throwing that out there, so...  25 COMMISSIONER KIMBLE: Okay. Thank you. Good</p>	<p>1 point.  2 CHAIRMAN MEYER: But, Bill, I mean, what is  3 your response to that issue? Because I know exactly  4 what Mark is asking, Commissioner Kimble is asking.  5 And, in fact, it's something that we wanted to raise.  6 But go ahead, Bill. Can you respond to that?  7 MR. RICHARDS: Yeah. I think -- so first of  8 all, any lawyer -- this is my personal opinion. Any  9 lawyer's advice is always better when the question is  10 more specific, right. So the more general the  11 question, the less likely the legal advice is to be  12 very helpful. So I think that discussing these issues  13 is often -- you know, it's often better to have a very  14 frank discussion about much more specific examples of  15 things, and I think that Commissioner Kimble is kind of  16 heading that direction.  17 To provide you legal advice, which we -- you  18 know, we are providing legal advice to the Commission  19 as well. But in that role, it would be better to  20 answer those in executive session, I think. And that  21 allows for, again, what executive session is intended  22 for, which is to get you, you know, full and frank  23 legal advice on specific issues. And so I would  24 propose that you -- if you want to get that kind of --  25 get down to that kind of granular detail that we move</p>
<p>1 to executive session. And Tom --  2 CHAIRMAN MEYER: I don't -- I don't think we  3 put in the agenda that we may go to executive session,  4 so I'm not sure we --  5 COMMISSIONER CHAN: I see it at the top,  6 Mr. Chairman. It's not on this specific --  7 CHAIRMAN MEYER: Oh, okay.  8 COMMISSIONER CHAN: -- piece, but I believe  9 it --  10 COMMISSIONER KIMBLE: Let me just say, I'm  11 just using that as an example as -- if we get into  12 issues identified with any candidate or group of  13 candidates, do we have to be careful?  14 MR. RICHARDS: And I'm happy to answer that  15 more generally because --  16 Tom, did you have an objection to me  17 answering that more generally or...  18 MR. COLLINS: No. Mr. Chairman, I thought  19 I -- I didn't mean to -- I don't mean to interrupt.  20 I'm sort of lagging a little bit. Mr. Chairman, I  21 thought I might have a way to reframe that question in  22 a way that gets at the issue from a different  23 perspective but might be a little bit more optimized  24 for this context. And then if you want to go into  25 another context for that...</p>	<p>1 CHAIRMAN MEYER: Well, go ahead. And if we  2 want to go into executive session, we can go into  3 executive session, so --  4 MR. COLLINS: Right. Right. Okay.  5 CHAIRMAN MEYER: Go ahead, Tom.  6 MR. COLLINS: Okay. So, Mr. Chairman and  7 Commissioner Kimble, thank you for allowing me to  8 interrupt you.  9 Bill, I think -- I mean, I think one way to  10 look at this is more broadly, but I think has a legal  11 answer -- or, I hope -- of some type is, look, the  12 statute says that the Commission promotes participation  13 in elections, right. That's one of our goals. You  14 bring people into the election; that's part of how you  15 push corruption out of the election. So, for example,  16 in our voter education program, which is subject to the  17 same rules, we deal with the question of how to engage  18 with candidates there, or in our voter education  19 pamphlet where candidates who -- you know, so there's a  20 constant engagement with candidates that's not  21 necessarily regulatory, but -- you know, our voter  22 education program, as you've now seen, right, in this  23 meeting itself, is not neutral on the question of  24 voting. It's not.  25 So with that in mind, Bill, maybe that might</p>

<p>1 help give you some contours within which to sort of  2 talk about this more generally. And then if,  3 obviously -- Mr. Chairman, I have no opinion -- if you  4 want to go into executive session, that's obviously  5 your discretion.</p> <p>6 MR. RICHARDS: Yeah. So I would start that  7 response, then, Tom and Commissioner Kimble, with a  8 couple of legal thoughts. Number one, you know, as a  9 statutorily created and empowered agency, the courts  10 recognize that you have significant discretion, okay.  11 You have significant discretion in kind of defining  12 your principles and mission under the statutes, and  13 then you have significantly more discretion in defining  14 and applying your own regulations, your own rules,  15 okay.</p> <p>16 Given that, I think Tom's point is well taken  17 that, you know, it would be within the discretion of  18 the Commission to recognize all of these competing  19 objectives, right, or seemingly competing objectives,  20 I'm not going to say they're actually competing, but  21 seemingly completing objectives that, hey, you know,  22 part of our principal purpose is to instill confidence  23 in the election process; therefore, we could interpret  24 our impartiality and neutrality conflict issues  25 consistent with that, that the -- you know, that is an</p>	<p>1 overriding purpose. And if, in fact, you know, it  2 legitimately, whatever the Commissioner has done,  3 legitimately serves one of those purposes, then it may  4 not qualify as something that, you know, falls within  5 our neutrality, impartiality, or conflict concerns. I  6 think that the Commission has significant discretion  7 there.</p> <p>8 That discretion legally, to get it -- you  9 know, to have the courts back up your use of that  10 discretion, it's always going to be best to have a  11 public discussion of that and a consensus reached,  12 right. You know, once you've acted responsibility to  13 gather the information, have a public discussion about  14 it, and you've reached a discretionary decision like  15 that saying, no, that doesn't trip the -- trip the wire  16 on impartiality because it is consistent with our  17 fundamental core purpose and the statutory obligations  18 that we have to talk about X issue, right, I think that  19 it would be very unlikely that a court would step in  20 and say you decided that wrong, right. You had created  21 this standard, and I'm going to step in as the court  22 and say somehow that, no, your general rules about  23 impartiality and neutrality somehow govern here. I  24 think it's very unlikely that they could or would do  25 that. Certainly would not be consistent with the law</p>
<p>1 as I -- as I have read it for, you know, many years  2 now.</p> <p>3 So I hope that helps clarify things. I know  4 it doesn't clarify things on any, again, specific  5 granular level. I'm more -- I'm more than happy to  6 talk about any, you know, specific issues in an  7 executive session and provide specific legal advice.</p> <p>8 COMMISSIONER KIMBLE: Well, Mr. Chairman and  9 Mr. Richards, thanks. That -- that answers my  10 question. I was not trying to get a specific legal  11 answer to a specific question. And I would rather have  12 this discussion in public, because I think it's a  13 valuable discussion, so I'll try to keep it as general  14 as I can. But that was my major question.</p> <p>15 I feel out of place here. I'm looking at my  16 Zoom screen; I'm surrounded by lawyers. I'm the only  17 one here who's not, I think, with the possible  18 exception of Avery, so --</p> <p>19 MR. RICHARDS: By the way, that's a good  20 thing for you.</p> <p>21 COMMISSIONER KIMBLE: Well, I would agree,  22 but I wouldn't have said that. But thank you. I think  23 you've given me some good guidance without getting into  24 anything too specific.</p> <p>25 Thank you, Mr. Chairman.</p>	<p>1 COMMISSIONER CHAN: Mr. Chairman and Bill, if  2 I could just -- I want to say, first of all, I  3 appreciate Mark bringing that up, because I think -- I  4 think we've seen over the past several years that there  5 are some issues that seem to have become partisan, even  6 though I haven't thought of them as partisan  7 traditionally.</p> <p>8 And what I was going to bring up for the  9 Commission is whether -- and I don't mean to shortcut.  10 We can continue discussing. I have really enjoyed the  11 presentation from Bill and Natalya. I think it's been  12 very helpful, very informative. I, frankly, find it  13 easier to absorb things when we do something like this,  14 rather than me just reading something. It's just a  15 peculiarity of my brain. So this is super, super  16 helpful. I really appreciate it.</p> <p>17 What I was going to ask is whether we, as a  18 Commission, should direct Tom to draft some specific  19 rules about -- I don't know if we want to call it a  20 complaint, but some sort of procedure like this. I  21 know, you know, for campaign finance complaints there  22 are procedures in place at my day job that I'm very  23 familiar with now. And, you know, so we receive  24 something, we turn it around in five days to the person  25 who's complained about, we ask them for a response</p>

<p>1 within 30 days, something like that that perhaps Tom 2 could put together that would be appropriate in the 3 context of conflicts or accusations of conflicts, if 4 that would be the direction to go from this point 5 forward, unless there is other discussion or questions. 6 CHAIRMAN MEYER: Well, thank you, 7 Commissioner Chan. 8 And Tom, I'll let you answer that, I guess. 9 But, you know, the memo in the packet, you know, does 10 reference like a seven-step process or a -- and 11 developing a process. So is that what you're 12 recommending or what are your thoughts on that? 13 MR. COLLINS: Mr. Chairman, you're asking me? 14 CHAIRMAN MEYER: Yes. 15 MR. COLLINS: Yes. So, Mr. Chairman, 16 Commissioner Chan, yes. So that's the direction we'd 17 like to head in. The steps are outlined there because 18 it's sort of like if you look at -- I can't remember 19 which specific number it was, but the rules for how to 20 deal with complaints -- or, maybe complaint isn't right 21 word; we can work on the right word for that -- but 22 issues with employees, those steps -- the steps in that 23 memo are basically the same or reflective of those 24 steps. So the idea would be to take those steps and 25 codify them into some rule language, you know, open a</p>	<p>1 docket and go through that -- go through that process. 2 Yeah. 3 I think -- and I think I've understood Bill 4 to kind of say for the interim period if -- and again, 5 this is like -- you know, this is -- I think I made a 6 joke earlier about, you know, if you were being told 7 how to prepare for a plane emergency. This is in the 8 same kind of nature, right. I think Bill has outlined 9 and I think that memo outlines essentially what steps 10 we would follow informally if we had something come up. 11 The main -- so yeah. So that's really where we're 12 headed. 13 So the next meeting we would like to have 14 some -- you know, why do the -- why start a regulatory 15 agenda in the middle of the election cycle even though 16 it won't be effective until after the election cycle? 17 The reality is that with the process that we now have 18 to go through, which has a few extra steps in it 19 timewise, I've found that we -- that I end up 20 underestimating the calendar in the wrong direction, so 21 stuff comes on a little later than I would like. 22 So given that I don't anticipate this being a 23 particularly difficult discussion in terms of -- I 24 mean, the language nuance, right, obviously that -- but 25 the principles are going to be pretty easy to work</p>
<p>1 through. So the idea was, why not -- you know, 2 assuming the agenda is not otherwise overwhelming, you 3 know, start it sooner rather than later, and then with 4 the idea that, you know -- you know, and we've sort of 5 said publicly here today, you know, if we get something 6 going in the next -- you know, in the next quarter, you 7 know, I mean, we kind of have a sense, I think, of what 8 the way -- what the steps would be. So that's kind of 9 my thinking on that, Mr. Chairman. 10 CHAIRMAN MEYER: So, Tom, you don't need a 11 motion on that, right? We can just give you a -- 12 MR. COLLINS: No. 13 CHAIRMAN MEYER: -- request that you go 14 forward with that process? 15 MR. COLLINS: It is -- it is -- no, I don't 16 need -- I mean, I guess I would need a denial if you 17 don't want me to do it. That was my plan, so... 18 CHAIRMAN MEYER: Well, Commissioner Chan, 19 Commissioner Kimble, I mean, correct me if I'm wrong, 20 but I think we would like you to move forward with 21 that -- 22 COMMISSIONER CHAN: Yes. 23 CHAIRMAN MEYER: -- for the next meeting. 24 COMMISSIONER CHAN: Yes, I am in agreement 25 with that.</p>	<p>1 COMMISSIONER KIMBLE: As am I. 2 CHAIRMAN MEYER: Okay. Thank you. 3 Bill, Natalya, thank you. 4 Are there any more questions for Bill and 5 Natalya or any more discussion points on Agenda Item 6 No. IV? 7 (No response.) 8 CHAIRMAN MEYER: Okay. Thank you again, Bill 9 and Natalya, so much. It was very informative and well 10 done. Really appreciate it. 11 MR. RICHARDS: Our pleasure, obviously. And, 12 you know, Tom knows how to get ahold of us if other 13 questions come up. So thank you. 14 CHAIRMAN MEYER: Thank you so much. 15 Okay. So now let's move on to Agenda Item 16 No. VI, which is public comment. This is the time for 17 consideration of comments and suggestions from the 18 public. Action taken as a result of public comment 19 will be limited to directing staff to study the matter 20 or rescheduling the matter for further reconsideration 21 and decision at a later date or responding to 22 criticism. 23 Does any member of the public wish to make 24 comments at this time? You may also send comments to 25 the Commission by mail or e-mail at</p>

<p>1 ccec@azcleelections.gov. Anyone in the public? I  2 don't see anyone there.  3 (No response.)  4 CHAIRMAN MEYER: Okay. No public comment.  5 So then we'll move on to Agenda Item No. VII,  6 which is adjournment. Can I get a motion to adjourn,  7 please?  8 COMMISSIONER CHAN: Mr. Chairman, I move that  9 we adjourn.  10 CHAIRMAN MEYER: Thank you, Commissioner  11 Chan.  12 Is there a second?  13 COMMISSIONER KIMBLE: I second.  14 CHAIRMAN MEYER: All right. We have a motion  15 to adjourn. Let's go ahead and vote, call the roll.  16 Commissioner Chan.  17 COMMISSIONER CHAN: I vote aye.  18 CHAIRMAN MEYER: Commissioner Kimble.  19 COMMISSIONER KIMBLE: Aye.  20 CHAIRMAN MEYER: And this is Commissioner  21 Meyer. I vote aye as well. The motion carries  22 unanimously to adjourn. Great seeing you all. We will  23 see you next month, perhaps in person. Who knows. But  24 take care, everybody.  25 (The proceedings concluded at 11:39 a.m.)</p>	<p>1 STATE OF ARIZONA )  ) ss.  2 COUNTY OF MARICOPA )  3  BE IT KNOWN that the foregoing deposition was  4 taken by me pursuant to stipulation of counsel; that I  was then and there a Certified Reporter of the State of  5 Arizona, and by virtue thereof authorized to administer  an oath; that the witness before testifying was duly  6 sworn by me to testify to the whole truth; that the  transcript was submitted for review and signature; that  7 the questions propounded by counsel and the answers of  the witness thereto were taken down by me in shorthand  8 and thereafter transcribed into typewriting under my  direction; that the foregoing pages are a full, true,  9 and accurate transcript of all proceedings and  testimony had and adduced upon the taking of said  10 deposition, all to the best of my skill and ability.  11  I FURTHER CERTIFY that I am in no way related  12 to nor employed by any of the parties hereto nor am I  in any way interested in the outcome hereof.  13  14  15 DATED at Tempe, Arizona, this 1st day of  16 August, 2022. <u>KABE</u>  17 Kathryn A. Blackwelder, RPR  Certified Reporter #50666  18  19  20  21  22  23  24  25</p>

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**CITIZENS CLEAN ELECTIONS COMMISSION  
EXECUTIVE DIRECTOR REPORT  
August 25, 2022**

**Announcements:**

The Primary Election was canvassed on August 22<sup>nd</sup>:

- Total Voter Registration: 4,173,748
- Total Ballots Cast: 1,457,635
- Turnout: 34.92%

General Election Key Dates:

- Voter Registration Deadline: Tuesday, October 11<sup>th</sup>
- Early Voting Begins: Wednesday, October 12<sup>th</sup>
- Election Day: Tuesday, November 8<sup>th</sup>

**Voter Education:**

- Legislative debates kicked off this week and statewide debates will begin in September. Voters can find the schedule and submit questions at: <https://www.azcleelections.gov/arizona-elections/debate-information>
- Staff is finalizing the general election voter education guide for print. There are 15 statewide candidates and 137 legislative candidates that qualified to have their name printed on the ballot.

**Outreach:**

- Avery was interviewed on The Alvin Galloway Show to discuss Clean Elections and civic engagement in Arizona.
- Avery met with Rosario Espinoza of the Cartwright School District to discuss potential collaborations.
- In a partnership with the Arizona Commission of the Deaf and Hard of Hearing, Avery participated in Community Conversations and answered voters questions via Facebook live.
- Gina interviewed with SkyView networks about the general election debate cycle.
- Tom was interviewed by Channel 3 regarding independent voter participation in the primary.
- Tom and Gina have been communicating with national and state media about the statewide general election debates.
- Avery continues his participation with Mesa Community College's Civic Action Council, African American Legislative Council, and the Secretary of State's Voter Outreach Advisory Council, as well as attending Arizona Commission of African American Affairs meetings.

- Gina and Avery meet bi-monthly with The Inter-Tribal Council of Arizona (ITCA) for Native Vote Communications.
- Tom attended Chicanos Por La Causa and CPLC Action's Light Rail Wrap Reveal at Valley Metro.
- Avery attended the Maryvale Youth Provider Network meeting to hear the students present their project.

## **Administration and Enforcement**

- **New Office Remaining Tenant Improvements**  
Mike and Paula continue to work with the GSD Project Manager, various contractors and state contracted vendors to wrap up completion of the new office layout, shared conference room A/V installation and a few other areas that need to be completed. There are still areas within our suite requiring tenant improvements due to pending back ordered components, furnishings, contractor back log, supply and demand issues. Tentative completion dates for all remaining office areas is December possibly longer depending on delayed materials and services.
- **Candidates**
  - The following participating candidates moved on to the General Election:
    - Legislative
      - Aguilar, Cesar
      - Bliss, Selina
      - Brannies, Maryn
      - Caine, Stan
      - Clark, Sanda
      - Fogel, Mike
      - Oscar De Los Santos
      - Mendez, Juan
      - Nickerson, Mike
      - Nitschke, Kyle
      - Pena, Tatiana
      - Ransom, Cathy
      - Salman, Athena
      - Sandoval, Mariana
      - Sinclair, Neil
      - Sun, Leezah
    - Statewide
      - Thompson, Kevin
      - Kennedy, Sandra
      - Kuby, Lauren
      - Myers, Nick
      - Hoffman, Kathy

## **Total Participating Candidates for 2022 Election Cycle**

- Total Number of Clean Elections Primary Candidates: 28
- Legislative Clean Elections Primary Candidates: 21
- Statewide Clean Elections Primary Candidates: 7
  
- Total Number of Clean Elections General Candidates: 21
- Legislative Clean Elections General Candidates: 16
- Statewide Clean Elections General Candidates: 5

## **Audits**

Audits have begun for the legislative Clean Elections candidates that did not move on to the general election as well as all statewide Clean Elections candidates.

## **Legal**

- Legacy Foundation Action Fund v. Clean Elections
  - The Arizona Supreme Court was set to consider this case on Aug. 23 at its conference. Awaiting results of the conference. .
- The Power of Fives, LLC v. Clean Elections, CV2021-015826, Superior Court for Maricopa County
  - Pending.
- Election related lawsuits involving Arizona
  - Additional challenges to HB2492, along with a challenge to HB2243 were filed.
  - A challenge to SB1260 was also filed.

## **Appointments**

- No additional information at this time
- The Arizona Republic recently featured the Commissioners terms in a story on the appointment process. Please let us know if you need a copy.

## **Secretary of State**

- Ballot language and ballot arguments for the 2022 general election initiatives and referendums are available on the Secretary of State's website: <https://azsos.gov/2022-ballot-measure-information>.
- Court challenges to three citizen initiatives are ongoing. These relate to:
  - I-05-2022 Predatory Debt Collection Protection Act
  - I-16-2022 Arizonans for Free and Fair Elections
  - I-04-2022 Voters' Right to Know
- The latter two initiatives propose to make changes to the Clean Elections Act.

## Enforcement

- MUR 21-01, TPOF, pending.
- MUR 22-01, Freedom's Future Fund, pending.
- MUR 22-02, Orth, closed, no violation
- MUR 22-03, Young, closed, no violation
- MUR 22-04, Van Steenwyk, closed, no violation
- MUR 22-05, Sun, pending
- MUR 22-06, Andrade, pending

## Regulatory Agenda

The Commission may conduct a rulemaking even if the rulemaking is not included on the annual regulatory agenda.

The following information is provided as required by A.R.S. § 41-1021.02:

- Notice of Docket Opening: **TBD**
- Notice of Proposed Rulemaking: **TBD**
- Federal funds for proposed rulemaking: **None**
- Review of existing rules: **None pending**
- Notice of Final Rulemaking: **TBD**
- Rulemakings terminated in 2021: **None**
- Privatization option or nontraditional regulatory approach considered: **None**

Future rulemakings

R2-20-305 and R2-20-306 – ensure process for commission to review issues related to commissioner conflicts and related matters.

R2-20-211. R2-20-220, R2-20-223- clarify roles of executive director and other representatives of the commission in enforcement proceedings.

## Exhibit 1

### **ITEM IV - EXHIBITS**

*Timothy A. La Sota, PLLC*  
2198 East Camelback Road, Suite 305  
Phoenix, Arizona 85016  
602-515-2649  
[tim@timlasota.com](mailto:tim@timlasota.com)

February 16, 2022

**Via email/mail to:**

Thomas M. Collins  
Executive Director  
Arizona Citizens Clean Elections Commission  
1616 W. Adams, Suite 110  
Phoenix, Arizona 85007

**Re: Illegal campaign ads funded by “Freedom’s Future Fund”**

Dear Mr. Collins:

This firm represents the Kari Lake for Arizona campaign committee and Kari Lake (“Kari Lake”). I write today to file a formal request for an investigation of “Freedom’s Future Fund”, an east coast dark money group. Freedom’s Future Fund has not registered as a political committee with the Secretary of State’s Office and under Arizona law, Freedom’s Future Fund is now presumed to have acted illegally by failing to register. I explain this in detail below. The ad may be viewed here:

<https://mms.tveyes.com/PlaybackPortal.aspx?SavedEditID=a4972e34-7ab8-416c-90b4-8df1bd567b75>

Arizona law requires that “An entity shall register as a political action committee if both of the following apply:

1. The entity is organized for the primary purpose of influencing the result of an election.
2. The entity knowingly receives contributions or makes expenditures, in any combination, of at least one thousand dollars in connection with any election during a calendar year.”

Arizona Revised Statutes § 16-905(C).

Freedom’s Future Fund, whoever they are, meets these two prongs.

Mr. Collins  
February 16, 2022

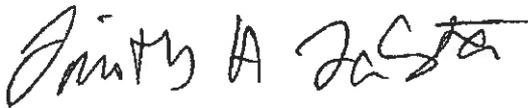
**Conclusion**

I urge you to take action with regard to these ads. Unless Freedom's Future Fund can make the requisite demonstration under Arizona law, it is in violation of Arizona law. And simply pointing to irrelevant provisions of federal law in a manner that displays an obvious lack of knowledge of Arizona law is not sufficient.

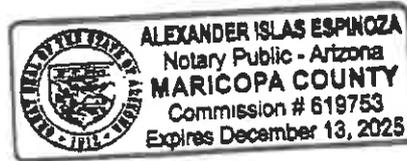
Given the strong position that Ms. Lake enjoys as the front runner in the Governor's race, it is no wonder she is under attack. But those who engage in such activity must comply with the law.

Very truly yours,

**TIMOTHY A. LA SOTA PLC**

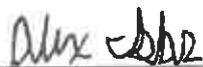


Timothy A. La Sota



STATE OF ARIZONA        )  
  ) ss.:  
County of Maricopa        )

Subscribed and sworn (or affirmed) before me this 16<sup>th</sup> day of February, 2022 by  
Timothy A. La Sota.

  
\_\_\_\_\_  
Notary Public



INTERNATIONAL SQUARE  
1825 EYE STREET, NW, SUITE 900  
WASHINGTON, DC 20006-5468  
TELEPHONE: 202-457-0160  
FACSIMILE: 844-670-6009  
<http://www.dickinsonwright.com>

CHARLES R. SPIES  
CSpies@dickinsonwright.com  
202-466-5964

Re: Timothy A. La Sota's Letter

To Whom It May Concern,

We are counsel to Freedom's Future Fund, Inc. a non-profit corporation exempt from taxation under Section 501(c)(4) of the Internal Revenue Code of 1986, as amended (the "Code"). Freedom's Future Fund is a national non-profit corporation dedicated to promoting conservative values and policies.

We are writing in response to an at times incoherent screed you received from Timothy A. La Sota regarding our client's ad, which fully complies with all laws. In his letter, Mr. La Sota first argues that our client should be registered as a political action committee ("PAC") under Arizona law. He correctly states the legal standard for triggering PAC status: "An entity shall register as a political action committee if *both* of the of the following apply: 1. The entity is organized for the primary purpose of influencing the result of an election. 2. The entity knowingly receives contributions or makes expenditures, in any combination of at least one thousand dollars in connection with any election during a calendar year." Ariz. Rev. Stat. § 16-905(C). [emphasis added].

As previously mentioned, Freedom's Future Fund is operated as a Section 501(c)(4) non-profit corporation. To qualify for tax exemption under Section 501(c)(4) of the Code, an organization's *primary purpose* must be social welfare.<sup>1</sup> Mr. La Sota's assumption fails because Freedom's Future Fund is organized for the primary purpose of promoting social welfare and *not* for the primary purpose of influencing an election. This is evidenced in article 3 of the corporation's certificate of incorporation, attached hereto.

Mr. La Sota's letter goes on to correctly identify an exception to the PAC trigger, which allows bona fide groups organized under Section 501(a) (includes 501(c)(4) organizations) in good standing with the Internal Revenue Service (the "IRS") to not register as a PAC. We can assure you that Freedom's Future Fund is both a qualified 501(c)(4) organization and that it is in good standing with the IRS. But don't take our word for it, attached you will find a copy of the corporation's certificate of incorporation and a notice from the IRS showing it has accepted the corporation's Form 8976 – Notice of Intent to Operate under Section 501(c)(4) of the Code. This is clear evidence that Freedom's Future Fund is a non-profit corporation operating under Section 501(c)(4) of the Code and in good standing with the IRS.

Mr. La Sota clearly drafted his letter in haste (misspellings, omitted words and grammatical errors) and likewise failed to investigate even basic facts about Freedom's Future Fund. His false claims that Freedom's Future Fund is the "darkest of dark money groups," "meets these two prongs," (triggering PAC

<sup>1</sup> "To be tax-exempt as a social welfare organization described in Internal Revenue Code (IRC) section 501(c)(4), an organization must not be organized for profit and must be operated exclusively to promote social welfare." Social Welfare Organizations, Internal Revenue Service, <https://www.irs.gov/charities-non-profits/other-non-profits/social-welfare-organizations>.

# Delaware

The First State

Page 1

I, JEFFREY W. BULLOCK, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY THE ATTACHED IS A TRUE AND CORRECT COPY OF THE CERTIFICATE OF INCORPORATION OF "FREEDOM'S FUTURE FUND, INC.", FILED IN THIS OFFICE ON THE NINETEENTH DAY OF JANUARY, A.D. 2022, AT 3:46 O'CLOCK P.M.



  
Jeffrey W. Bullock, Secretary of State

6555017 8100  
SR# 20220177157

You may verify this certificate online at [corp.delaware.gov/authver.shtml](http://corp.delaware.gov/authver.shtml)

Authentication: 202440575  
Date: 01-20-22



Department of the Treasury  
Internal Revenue Service  
Tax Exempt and Government Entities  
P.O. Box 2508, Room 4024  
Cincinnati, OH 45021

**Date:** February 01, 2022  
**Person to Contact:** Customer Services  
**Contact telephone number:** 877-829-5500

Freedoms Future Fund, Inc.  
C/O Bulldog Compliance  
138 Conant Street  
2nd Floor  
Beverly, Massachusetts 01915

We received your Form 8976, *Notice of Intent to Operate Under 501(c)(4)*, you filed on January 26, 2022. This acknowledgement is not a determination by the IRS that you qualify as tax-exempt under Internal Revenue Code (Code) Section 501(a) as an organization described in Code Section 501(c)(4).

For important information about your responsibilities, including recordkeeping, reporting, and disclosure requirements, go to [www.irs.gov/charities](http://www.irs.gov/charities).

If you have questions, you can call Customer Services at 1-877-829-5500.

Letter 5822 (11-2016)  
Catalog Number 68839V

## Exhibit 2



INTERNATIONAL SQUARE  
1825 EYE STREET, NW, SUITE 900  
WASHINGTON, DC 20006-5468  
TELEPHONE: 202-457-0160  
FACSIMILE: 844-670-6009  
<http://www.dickinsonwright.com>

CHARLES R. SPIES  
[CSpies@dickinsonwright.com](mailto:CSpies@dickinsonwright.com)  
202-466-5964

Thomas M. Collins  
Executive Director  
Arizona Citizens Clean Elections Commission  
1616 W. Adams, Suite 110  
Phoenix, AZ 85007

VIA EMAIL: [thomas.collins@azcleelections.gov](mailto:thomas.collins@azcleelections.gov)

Re: CCEC MUR No. 22-01

March 16, 2022

Mr. Collins,

We are counsel to Freedom's Future Fund, Inc., the respondent in CCEC MUR No. 22-01. Freedom's Future Fund, Inc. is a non-profit corporation incorporated in Delaware. It is operated consistent with section 501(c)(4) of the Internal Revenue Code of 1986, as amended. We are writing in response to the complaint filed by Mr. Timothy La Sota alleging our client violated provisions of the Arizona Revised Statutes for failure to register as a political committee and failure to include a proper disclaimer on its advertisements. Mr. La Sota sent a similar complaint to several TV stations running our client's ads. We similarly responded to those complaints and the station managers agreed that our client has not violated an provisions of Arizona law and continues to run the ads. We believe you will find our arguments compelling as well.

**I. Freedom's Future Fund, Inc. is not PAC under Arizona law.**

In his complaint, Mr. La Sota first asserts that our client should be registered as a political action committee ("PAC") under Arizona law. He correctly states the legal standard for triggering PAC status: "An entity shall register as a political action committee if *both* of the of the following apply: 1. The entity is organized for the primary purpose of influencing the result of an election. 2. The entity knowingly receives contributions or makes expenditures, in any combination of at least one thousand dollars in connection with any election during a calendar year." Ariz. Rev. Stat. § 16-905(C). [emphasis added]. Mr. La Sota then concludes—without *any* evidence, that our client "meets these two prongs."

Mr. La Sota argues that our client is not a 501(c)(4) organization because it has not filed a form 1024 with the Internal Revenue Service. He argues we must now rebut the presumption (which he created) that our client is not organized for the primary purpose of influencing elections. But he has overlooked a very crucial part of the statute he cites, Ariz. Rev. Stat. § 16-

The ad does feature Ms. Lake, who is not only a candidate, but also a prominent former television news journalist in the state—who Arizonans trust to deliver non-biased information regarding issues that affect their daily lives. It is widely known that public figures like Ms. Lake have the ability to influence policy outcomes by using their platforms to discuss public policy issues.

The ads in question are clearly issue advertisements. The subject of the ads in question is the current border crisis and gun control—issues especially relevant in Arizona, a border state. The purpose of the ads is to urge viewers to contact Kari Lake regarding the border crisis and gun control and help encourage Ms. Lake to stop supporting open border policies that exacerbate the border crisis in an effort to influence public policy outcomes. The ad even provides a means for viewers to contact Lake: “Contact Kari Lake At KariLakeFacts.com.” Upon visiting KariLakeFacts.com, users can directly email Lake to express their concerns about the border. As previously mentioned, Freedom’s Future Fund is dedicated to promoting conservative values and policies like border security and 2<sup>nd</sup> Amendment rights—these ads further that purpose by urging the public to take action on the issue.

We expect the information provided herein will clarify any concerns you may have regarding our client’s ad. Should you have any questions, please do not hesitate to reach out to me directly at [cspies@dickinsonwright.com](mailto:cspies@dickinsonwright.com) or 202-466-5964.

Sincerely,



Charlie Spies  
*Counsel to Freedom's Future Fund, Inc.*

## Exhibit 3



Thomas Collins <thomas.collins@azcleelections.gov>

**complaint**

1 message

tim timlasota.com <tim@timlasota.com>

Fri, Jun 24, 2022 at 9:31 AM

To: Thomas Collins <thomas.collins@azcleelections.gov>

Tom, I sent in the attached complaint months ago and never heard back. Now these people are running ads urging people to "contact" Kari Lake on policy issues, which is interesting because Ms. Lake does not hold public office. Screen shot attached. Can you update me on where this is?

**2 attachments**



Screenshot (72).png  
2964K

CCECtr.2.16.22.pdf  
1465K

## Exhibit 4

Doug Ducey  
Governor

Thomas M. Collins  
Executive Director



Damien R. Meyer  
Chair

Steve M. Tittle  
Mark S. Kimble  
Galen D. Paton  
Amy B. Chan  
Commissioners

State of Arizona  
Citizens Clean Elections Commission

1616 W. Adams - Suite 110 - Phoenix, Arizona 85007 - Tel (602) 364-3477 - Fax (602) 364-3487 - www.azcleanelections.gov

June 24, 2022

Via E- Mail

Charles Spies  
Jessica G. Brouckaert  
Dickenson Wright  
cspies@dickinsonwright.com  
International Square  
1825 Eye Street N.W.  
Suite 900  
Washington, D.C. 20006

Re: MUR 22-01

Dear Mr. Spies:

This letter is in reference to the Complaint filed by Tim La Sota and seeks a further response based on additional facts provided by Mr. La Sota today.

According to Mr. La Sota's supplemental correspondence, Freedom's Future Fund has continued to spend money on advertisements, which are the same or substantially the same, as the advertisements at issue in the Complaint in terms of their messaging and format.

These advertisements are currently running in Arizona. FCC filings with local television stations I have reviewed indicate that Freedom's Future Fund has made considerable expenditures on advertising. *E.g.*, <https://publicfiles.fcc.gov/tv-profile/kpho-tv/political-files/2022/non-candidate-issue-ads/freedoms-future-fund/47491d03-7380-b954-d092-3408925f5af5>, <https://publicfiles.fcc.gov/tv-profile/kpnx/political-files/2022/non-candidate-issue-ads/freedoms-future-fund-2022/554f7e30-62cd-7284-ac7d-67f2ded06f1c>, <https://publicfiles.fcc.gov/am-profile/kfyi/political-files/2022/non-candidate-issue-ads/e7bd0bde-ef42-3a4d-5670-71ae6c6c3df8>.

Specifically, the Fund's response states:

The enactment of Code section 506 placed a notification requirement upon 501(c)(4) organizations. Following the enactment of Section 506, 501(c)(4) organizations are no longer required to file IRS form 1024 to be considered tax-exempt under Section 501(c)(4). Form 8976 was created to alleviate the large workloads the IRS exempt determinations department experienced. A form 8976 is now the commonly used IRS form for demonstrating tax-exempt status under Section 506.

Response at 2.

The IRS guidance, however, indicates that:

In addition to submitting Form 8976, organizations operating as 501(c)(4) organizations may also choose to file Form 1024-A, Application for Recognition of Exemption Under Section 501(c)(4) of the Internal Revenue Code, to request recognition of tax-exempt status. *Submission of a Form 1024-A does not relieve an organization of the requirement to submit Form 8976.* (emphasis added).

See, e.g., Electronically Submit Your Form 8976, Notice of Intent to Operate Under Section 501(c)(4), available at <https://www.irs.gov/charities-non-profits/electronically-submit-your-form-8976-notice-of-intent-to-operate-under-section-501c4>

Section 16-905(D)(1) states that: "Except for a religious organization, assembly or institution, claims tax exempt status but had not filed form 1023 or form 1024 with the internal revenue service, or the equivalent successor form designated by the internal revenue service, before making a contribution or expenditure."

**Please explain why Form 8976 is a successor form to form 1023 or 1024.**

**Is the Freedom Future's Fund an organization in good standing as a 501(c) entity with the IRS? If so, please provide documents supporting this statement.**

A response to this supplemental request is required by close of business Mountain Standard Time July 1, 2022.

Please contact us if you have any other questions at (602) 364-3477 or (602) 397-6362 or by e-mail at [thomas.collins@azcleanelections.gov](mailto:thomas.collins@azcleanelections.gov).

Sincerely,  
S/Thomas M. Collins  
Executive Director  
Attachments

## Exhibit 5



INTERNATIONAL SQUARE  
1825 EYE STREET, NW, SUITE 900  
WASHINGTON, DC 20006-5468  
TELEPHONE: 202-457-0160  
FACSIMILE: 844-670-6009  
<http://www.dickinsonwright.com>

CHARLES R. SPIES  
[CSpies@dickinsonwright.com](mailto:CSpies@dickinsonwright.com)  
202-466-5964

Thomas M. Collins  
Executive Director  
Arizona Citizens Clean Elections Commission  
1616 W. Adams, Suite 110  
Phoenix, AZ 85007

VIA EMAIL: [thomas.collins@azcleelections.gov](mailto:thomas.collins@azcleelections.gov)

Re: CCEC MUR No. 22-01

July 1, 2022

Mr. Collins,

We are counsel to Freedom's Future Fund, Inc., the respondent in CCEC MUR No. 22-01. We are writing in response to your letter dated June 24, 2022 requesting additional information related to the matter under review. We have responded to each of the three inquiries contained in your letter below.

- I. Please provide a response explaining why, in your client's view, Freedom's Future Fund should or should not have to report spending related to candidate Kari Lake pursuant to these statutes.**

As we have described in previous correspondence to you, the ad in question is an *issue* ad and does not constitute express advocacy because it can be reasonably interpreted to have a purpose other than advocating for the election or defeat of a candidate. Response at 2-3.

In your correspondence you reference the case *Committee for Justice in Fairness v. Arizona Secretary of State's Office*, 235 Ariz. 347 (App. 2014) which we believe is entirely distinguished from Freedom's Future Fund's ad because of material differences. In contrast to that ad:

1. Kari Lake is not a public official. She is a well-known television news journalist.

In *Committee for Justice in Fairness*, the candidate targeted was a superintendent of Public Instruction running for Attorney General. Here, while Lake is a candidate, she is not a public official, rather she is a prominent television news journalist who viewers trust to present non-biased information regarding issues that affect their daily lives. Public figures like Ms. Lake have the ability to influence policy outcomes by using their platforms to discuss policy issues.

Our client's ads are best interpreted as encouraging viewers to contact a prominent news reporter and advocate for a more conservative view on border security and gun control. Of course, some may disagree with this policy approach but what is not open for interpretation is that the call to action clearly is *not* an exhortation to vote for or against a candidate.

**II. Please explain why Form 8976 is a successor form to form 1023 or 1024. Is the Freedom Future's Fund an organization in good standing as a 501(c) entity with the IRS? If so, please provide documents supporting this statement.**

Form 8976 is not a successor to form 1023. Form 1023 is used by organizations who apply for tax-exempt status under Section 501(c)(3) of the Internal Revenue Code. 501(c)(3) organizations do not have the option of filing form 8976.

Form 8976 is a successor to form 1024. Section 405(a) of the Protecting Americans Against Tax Hikes Act of 2015 (PATH Act), enacted by Congress on December 18, 2015 created a new filing requirement for organizations which are tax-exempt under Section 501(c)(4) of the Code by adding section 506 to the Code. The enactment of Code section 506 placed a notification requirement upon 501(c)(4) organizations. Following the enactment of Section 506, 501(c)(4) organizations are no longer required to file IRS form 1024 to be considered tax-exempt under Section 501(c)(4). Form 8976 replaces form 1024 in order to alleviate the large workloads the IRS exempt determinations department experienced. A form 8976 is now the commonly used IRS form for demonstrating tax-exempt status under Section 506.

The IRS provides 501(c)(4)s the option to request an official determination via form 1024A, however 501(c)(4) organizations are not required to file this form to be considered in "good standing." The form 8976 is the only form required to be filed to be in "good standing" with the IRS until the annual form 990 is due.

Freedom's Future Fund is a 501(c) entity in good standing with the IRS. It is incorporated as an exempt corporation in the state of Delaware, a copy of its certificate of incorporation has been provided to this Commission. It applied for and received a federal employer identification number from the IRS and timely filed IRS form 8976 (the 8976 notice was also provided to this Commission). These are the steps required to establish a 501(c)(4) organization. Freedom's Future Fund has not filed a tax return because it was formed in 2022. Freedom's Future Fund's first tax return will be due May 15, 2023 and it intends to fully comply with its filing obligations.

Sincerely,



Charlie Spies  
Counsel to Freedom's Future Fund, Inc.

## Exhibit 6



Thomas Collins <thomas.collins@azcleaselections.gov>

**Fwd: EXTERNAL: MUR 22-01 Request for additional response**

1 message

Thomas Collins <thomas.collins@azcleaselections.gov> Thu, Jul 7, 2022 at 10:29 AM  
To: "Jessica G. Brouckaert" <JBrouckaert@dickinson-wright.com>, "Charles R. Spies" <CSpies@dickinson-wright.com>

Ms. Brouckaert & Mr. Spies:

We received the email below yesterday.

Thank you  
Tom Collins

----- Forwarded message -----

From: tim [timlasota.com](mailto:tim@timlasota.com) <tim@timlasota.com>  
Date: Wednesday, July 6, 2022  
Subject: RE: EXTERNAL: MUR 22-01 Request for additional response  
To: Thomas Collins <thomas.collins@azcleaselections.gov>

Thanks Tom. For one thing he's wrong about Kari Lake's candidacy. It started, officially, June 1, 2021 or thereabouts. The Secretary of State would have the date the statement of interest was filed, but that's not online anymore. There are some other things that are simply wrong in that letter, I will provide some information from the IRS.

Sent from my iPhone

On Jul 1, 2022, at 12:59 PM, Thomas Collins <thomas.collins@azcleaselections.gov> wrote:

Per your request

----- Forwarded message -----

From: Jessica G. Brouckaert <JBrouckaert@dickinson-wright.com>  
Date: Friday, July 1, 2022  
Subject: RE: EXTERNAL: MUR 22-01 Request for additional response  
To: Thomas Collins <thomas.collins@azcleaselections.gov>, "Charles R. Spies" <CSpies@dickinson-wright.com>

Mr. Collins,

Attached is a response to your request for additional information on behalf of our client, Freedom's Future Fund. Kindly confirm receipt and happy 4<sup>th</sup>!

-Jessica

From: Thomas Collins <thomas.collins@azcleaselections.gov>  
Sent: Friday, June 24, 2022 4:57 PM  
To: Charles R. Spies <CSpies@dickinson-wright.com>; Jessica G. Brouckaert

8/14/22, 4:09 PM

State of Arizona Mail - Fwd: EXTERNAL: MUR 22-01 Request for additional response

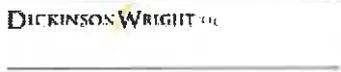
Thomas M. Collins  
Executive Director  
Arizona Citizens Clean Elections Commission  
[www.azcleelections.gov](http://www.azcleelections.gov)  
602-364-3477  
--> 602-397-6362 <--

--  
Thomas M. Collins  
Executive Director  
Arizona Citizens Clean Elections Commission  
[www.azcleelections.gov](http://www.azcleelections.gov)  
602-364-3477  
--> 602-397-6362 <--

7 attachments

 **image74285d.JPG**  
6K

 **image78c6dd.JPG**  
6K

 **imagefd9692.JPG**  
15K

 **image74285d.JPG**  
6K

 **image78c6dd.JPG**  
6K

 **imagefd9692.JPG**  
15K

 **CCEC MUR 22-01 Response 07.01.2022.pdf**  
352K

## Exhibit 7

8/14/22, 4:10 PM

State of Arizona Mail - RE: EXTERNAL: MUR 22-01 Request for additional response



Thomas Collins <thomas.collins@azcleelections.gov>

---

**RE: EXTERNAL: MUR 22-01 Request for additional response**

1 message

---

Jessica Brouckaert Bartlett <JBartlett@dickinson-wright.com>

Wed, Jul 13, 2022 at 2:47 PM

To: Thomas Collins <thomas.collins@azcleelections.gov>, "Charles R. Spies" <CSpies@dickinson-wright.com>

Good Afternoon Mr. Collins,

Attached is Ms. Lake's nomination paper, dated March 7, 2022. Please don't hesitate to reach out to us with any additional questions. We are happy to fact check information.

-Jessica

**From:** Thomas Collins <thomas.collins@azcleelections.gov>

**Sent:** Thursday, July 7, 2022 1:30 PM

**To:** Jessica G. Brouckaert <JBrouckaert@dickinson-wright.com>; Charles R. Spies <CSpies@dickinson-wright.com>

**Subject:** Fwd: EXTERNAL: MUR 22-01 Request for additional response

Ms. Brouckaert & Mr. Spies:

We received the email below yesterday.

Thank you

Tom Collins

**Jessica Brouckaert Bartlett Attorney**

International Square      Phone 202-659-6932  
1825 Eye St. N.W.      Fax 844-670-6009  
Suite 900      Email [JBartlett@dickinsonwright.com](mailto:JBartlett@dickinsonwright.com)  
Washington, D.C. 20006  
[Profile](#) | [V-Card](#)

---

**DICKINSON WRIGHT PLLC**

ARIZONA CALIFORNIA FLORIDA ILLINOIS KENTUCKY MICHIGAN NEVADA  
OHIO TENNESSEE TEXAS WASHINGTON D.C. TORONTO

8/14/22, 4:10 PM

State of Arizona Mail - RE: EXTERNAL: MUR 22-01 Request for additional response

--

Thomas M. Collins  
Executive Director  
Arizona Citizens Clean Elections Commission  
[www.azcleelections.gov](http://www.azcleelections.gov)  
602-364-3477  
--> 602-397-6362 <--

**Jessica G. Brouckaert Attorney**

International Square  
1825 Eye St. N.W.  
Suite 900  
Washington, D.C. 20006

Phone 202-659-6932

Fax 844-670-6009

Email [JBrouckaert@dickinsonwright.com](mailto:JBrouckaert@dickinsonwright.com)

The information contained in this e-mail, including any attachments, is confidential, intended only for the named recipient(s), and may be legally privileged. If you are not the intended recipient, please delete the e-mail and any attachments, destroy any printouts that you may have made and notify us immediately by return e-mail.

Neither this transmission nor any attachment shall be deemed for any purpose to be a "signature" or "signed" under any electronic transmission acts, unless otherwise specifically stated herein. Thank you.

--

Thomas M. Collins  
Executive Director  
Arizona Citizens Clean Elections Commission  
[www.azcleelections.gov](http://www.azcleelections.gov)  
602-364-3477  
--> 602-397-6362 <--

**STATE OF ARIZONA  
Statewide Candidate  
NOMINATION PAPER  
DECLARATION OF QUALIFICATION  
A.R.S. § 16-311**

You are hereby notified that I, the undersigned, a qualified elector, am a candidate for the office of **Governor** seeking the nomination of the **Republican Party**, at the **2022 Primary Election** to be held on **Tuesday, August 2, 2022**, and at the **2022 General Election** to be held on **Tuesday, November 8, 2022**, should I be nominated.

I will have been a citizen of the United States for **52** years before my election and will have been a citizen of Arizona for **27** years before my election, and I will meet the Constitutional and/or statutory age requirement for taking said office. I have resided in **Maricopa** County for **27** years before my election.

Residential Address:  
**5225 N. 31st Place Phoenix AZ 85016**

Post Office Address:  
**None supplied.**

Name in the exact manner you wish it to appear on the ballot:

**Lake**  
\_\_\_\_\_  
LAST NAME

**Kari**  
\_\_\_\_\_  
FIRST NAME

I declare, under penalty of perjury, that the information in this Nomination Paper and Declaration of Qualification is true and correct, and that at the time of filing I am a resident of the State of Arizona, that I have no final, outstanding judgments against me of an aggregate of \$1,000 or more that arose from failure to comply with or enforcement of campaign finance law, and as to all other qualifications, I will be qualified at the time of election to hold the office that I seek.

**Monday, March 7, 2022  
/S/ Kari Lake**

**STATE OF ARIZONA**  
**CITIZENS CLEAN ELECTIONS COMMISSION**  
MUR 22-01  
Freedom’s Future Fund  
**STATEMENT OF REASONS OF THE EXECUTIVE DIRECTOR**

---

On behalf of the Citizens Clean Elections Commission (“Commission”), the Executive Director hereby provides the following Statement of Reasons why there may be reason to believe that a violation of the Citizens Clean Elections Act and Commission rules (collectively, the “Act”) may have occurred.

**Summary of Recommendation**

Arizona law requires entities to report their political spending when the spending reaches certain threshold amounts. Freedom’s Future Fund is a Delaware entity formed in January 2022. In February, it commenced a spending campaign aimed at Kari Lake, then a candidate for the Republican gubernatorial nomination. The advertisements constitute “express advocacy” because, when objectively evaluated as a whole, they have no reasonable meaning other than to advocate for the defeat of Lake at the polls. Because Freedom’s Future Fund filed no reports at all related to its spending, there is reason to believe a violation of the Citizens Clean Elections act may have occurred.

State law provides entities that engage in political spending may be exempt from some reports of expenditures and donations. If an entity has taken steps to earn recognition from the Internal Revenue Service as a tax-exempt organization it generally will not have to file these more extensive reports. Freedom’s Future Fund

did not complete the steps necessary to obtain this status, nor does it offer sufficient evidence to suggest it should not have filed these reports at this stage. As a consequence, there is reason to believe a violation of the Citizens Clean Elections Act may have occurred.

## **I. Procedural Background**

Tim La Sota, a lawyer for Kari Lake’s campaign for governor, filed a complaint against an entity called Freedom’s Future Fund (Respondent) in February 2022. The Complaint alleged, among other things, that Respondent made expenditures expressly advocating for the defeat of Kari Lake, then seeking the nomination to represent the Republican Party as its candidate for Governor. Exhibit 1.

The Complaint alleged that because the advertisement included “express advocacy” against Lake’s nomination, Respondent was required to file reports with the State, specifically reports required of political action committees. Exhibit 1, Complaint at 1-2, *see* A.R.S. § 16-926 (detailing contents of reports), *see also* A.R.S. § 16-942(B) (authorizing penalties “[i]n addition to any other penalties imposed by law, the civil penalty for a violation by or on behalf of any candidate *of any reporting requirement imposed by this chapter* [of]. . . [\$490] per day for candidates for statewide office.”). Because the Complaint substantially complied with the Commission’s rules, a Response was requested.

Respondent filed a response in March. Exhibit 2. The Response argued principally that the communications related to Kari Lake were not express advocacy and that Respondent itself was a social welfare organization and thus not required to file reports pursuant to the chapter as a political committee making expenditures in a candidate election. *Id.*

In June 2022, Complainant filed an additional letter claiming that the advertisements had continued. Exhibit 3. Indeed, filings required by the FCC indicated that substantially the same advertisements had continued to run during the spring. The Executive Director requested an additional response. Exhibit 4. The request explained that the Clean Elections Act requires additional reports of express advocacy communications and requested an explanation as to why the advertisements were not required under Arizona law. *Id.* The request also asked Respondent to explain basis for its view that it was permitted to avoid other reporting requirements under Chapter 6 of Title 16, Arizona Revised Statutes, pursuant to the Internal Revenue Code and IRS procedures related to social welfare organizations. *Id.*

Respondent answered the request. Exhibit 5. It argued that Ninth Circuit case law, in its view, did not make its expenditures express advocacy. It also argued that a notice filed with the IRS was sufficient to trigger the exemption for social welfare agencies under Arizona law. *See* A.R.S. § 16-905. Complainant filed one additional communication, which Respondent filed a response to. Exhibits 6-7.

## **II. Alleged Violations**

### **A. Express Advocacy**

#### **i. The Clean Elections Act**

The Complaint turns on whether Respondent's advertisements are express advocacy under Arizona law. If the advertisements expressly advocate for the election or defeat of a candidate, then reporting requirements attach. If not, then the reporting requirements do not arise. At this preliminary stage in Commission proceedings, the Commission need only determine that there may be reason to believe that the Respondent has committed a violation of the Act or Rules. Ariz. Admin. Code R2-20-208(A).

The Clean Elections Act defines "expressly advocates," in relevant part, as an advertisement:

- [1.] Making a general public communication, such as in a broadcast medium, newspaper, magazine, billboard or direct mailer
- [2.] referring to one or more clearly identified candidates and
- [3.] targeted to the electorate of that candidate(s)
- [4.] 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.

A.R.S. § 16-901.01(A)(2). Such a communication “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.” *Id.* § 16-901.01(B).

The controlling case for reporting under this standard in Arizona is *Committee for Justice in Fairness v. Arizona Secretary of State’s Office (CJF)*, 235 Ariz. 347 (App. 2014). There, the Court held that an advertisement during the campaign, targeted at the general electorate of a candidate, criticizing the candidate’s past actions, while not explicitly identifying the candidacy itself, was express advocacy. *Id.* at 354-55.

## **ii. The Advertising Campaign**

Lake registered a political committee with the Arizona Secretary of State seeking the office of governor on June 2, 2021. A.R.S. § 16-901(7) (“‘Candidate’ means an individual who receives contributions or makes expenditures or who gives consent to another person to receive contributions or make expenditures on behalf of that individual in connection with the candidate's nomination, election or retention for any public office.”).

Respondent corporation was created on January 19, 2022 and began running advertisements featuring Lake in Arizona in February 2022. Complaint at 1-2, 7-8 (Respondent's articles of incorporation). For example, on February 9, Respondent placed a \$12,000 order with KPNX Channel 12. Order Receipt KPNX Television, available at <https://publicfiles.fcc.gov/api/manager/download/e6bd282b-ff2c-9728-e98e-b7b378c283a1/a7a98d63-9ba9-4f3e-a732-1bb94bbfc60a.pdf>

Over the course of the next few months Freedom's Future Fund spent money on Lake-related advertisements throughout Arizona, the target electorate for the Republican Primary. *See* Appendix 1.

An advertisement launched on youtube.com on February 2, 2022 [https://www.youtube.com/watch?v=2ZJ2O\\_0Klgo](https://www.youtube.com/watch?v=2ZJ2O_0Klgo) demonstrates the format Respondent followed:

Text on screen	Narrator
<p>Our border is in crisis</p> <p>[Image of people, presumably immigrants, walking in the desert near vehicles and barricades]</p>	<p>Our border is in crisis</p>
<p>Rolled back Obama and Biden's disastrous open border policies</p> <p>[Image of Trump in front of border wall with construction workers.</p> <p>[Image of Biden and Obama at a political event]</p>	<p>President Trump fought to build a wall rolled back Obama and Biden's disastrous open border policies</p>
<p>But where was Kari Lake [No image, just text]</p>	<p>But where was Kari Lake?</p>
<p>Kari Lake donated to Obama - Opensecrets.org, 6/28/08</p> <p>[Image of Lake and Obama together, Obama campaign FEC forms]</p>	<p>Donating to Obama.</p> <p>She helped elect the Obama Biden administration</p>
<p>Kari Lake enabled open border policies</p> <p>[Image of border patrol officer watching immigrants at wall]</p>	<p>and enabled their open border policies</p>
<p>[Financial numbers scroll down to zero] But doing nothing to help President Trump</p> <p>[Image of Trump alone gazing out window]</p>	<p>but gave nothing to President Trump.</p>
<p>Arizona mayor says city is "Overwhelmed" with border crisis. - Fox News 1/4/22 [Image of two apparent immigrants attempting to scale a wall]</p>	<p>Arizona is under attack.</p>

When she supported open border politicians?  [Image split screen of black and white photos of Lake with Obama and Biden]	How can we trust Kari Lake when she supported open border politicians?
Contact Kari Lake at karilakefacts.com tell her we must secure the border.  Paid for by Freedom's Future Fund.  [Image same black and white photo of Lake]	Contact Lake tell her it's time to secure our border.  Paid for by Freedom's Future Fund.

Other advertisements are similar. For example, a political file supplement filed June 2, 2022 and available for public inspection in KPNX Channel 12 files indicates advertisements ran regarding:

- “Secure borders Candidate mentioned: Kari Lake, AZ Governor,”
- “Candidate AZ Governor Kari Lake – favors amnesty for illegals ISS [sic] is in favor of border security,”
- “Ad attacks candidate Kari Lake for AZ Governor on border security and Constitutional rights.”

KPNX Political File Copy Supplement for National Issue Advertisements: Freedom’s Future Fund, available at <https://publicfiles.fcc.gov/tv-profile/kpnx/political-files/2022/non-candidate-issue-ads/freedoms-future-fund-2022/copy-supplement/8f3801da-1f6a-ff64-4e4c-a241a407b71f>.

Similarly, Respondent disclosed that it purchased advertisements in June that stated “Radical Liberals want to open borders, taking away 2nd Amendment right[s], supporting amnesty for illegals. Call to action to tell Kari Lake to secure Arizona border and protect the constitution.” Fox Television Stations National Issue and/or Federal Candidate Reference Advertisement Public File Disclosure Form June 2,

2022, available at <https://publicfiles.fcc.gov/tv-profile/ksaz-tv/political-files/2022/non-candidate-issue-ads/freedoms-future-fund-pac/coversheets/7b62ded0-c4d0-64a8-28c0-b8677d21f1c4><sup>1</sup> See also Fox Television Stations National Issue and/or Federal Candidate Reference Advertisement Public File Disclosure Form February 23, 2022, available at <https://publicfiles.fcc.gov/api/manager/download/7b62ded0-c4d0-64a8-28c0-b8677d21f1c4/8136984d-2b2b-43e7-bdff-a175837102ed.pdf> (“Amnesty for illegal immigrants. Call to action to tell Kari Lake no amnesty for illegals.”); Fox Television Stations National Issue and/or Federal Candidate Reference Advertisement Public File Disclosure Form February 4, 2022, available at <https://publicfiles.fcc.gov/api/manager/download/7b62ded0-c4d0-64a8-28c0-b8677d21f1c4/74f6a02d-4378-43e2-9cbc-0d357d6d9486.pdf> (Securing open borders).

### **iii. Analysis**

Section 16-901.01(A)(2) asks whether advertisements can have other reasonable meanings, “in context.” The objective context here is that the advertisements began after Lake announced her candidacy for governor, just as the 2022 election year began, and ran throughout the spring. The advertisement also discussed Lake’s donation history for specific politicians, which would weigh

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<sup>1</sup> Advertisements have run on television and radio. While there may be some differences in the script, text, and images (where applicable) of the advertisements are, Respondent’s argument regarding express advocacy does not turn on these incidental differences.

toward presenting Lake in a specific light to Republican voters, as would the images Respondent included to illustrate its claim Lake supported Democrats and not President Trump. In short, the advertisements' timing and citation to Lake's donation history create a context in which the only reasonable interpretation of the advertisement is that it was intended to encourage voting against Lake.

The controlling case for the reporting standard for express advocacy under Arizona law is *Committee for Justice and Fairness v. Arizona Secretary of State's Office*, 235 Ariz. 347 (App. 2014) (“*CJF*”). There, the Court held that an advertisement, targeted at the general electorate of a candidate and criticizing that candidate's prior actions, was express advocacy for the defeat of that candidate. *Id.* at 354-55. This was true even though the advertisement did not identify the office being sought by the targeted candidate. The Court explained that multiple factors confirmed “reasonable minds could not differ as to whether [the] advertisement encouraged a vote against [the candidate].” *Id.* at 355.

While *CJF* remains controlling in Arizona, § 16-901.01(A) uses language from *Federal Election Commission v. Furgatch*, 807 F.2d 857 (9th Cir. 1987), which was the controlling precedent in Arizona when the citizens enacted § 16-901.01(A) in 1998. In that case, the Ninth Circuit held that to be considered express advocacy speech “must, when read as a whole, and with limited reference to external events, be susceptible of no other reasonable interpretation but as an exhortation to vote for or against a specific candidate.” 807 F.2d at 864. The Ninth Circuit explained,

however, that no “magic words” are required to trigger disclosure, noting that. “[a] test requiring the magic words “elect,” “support,” etc., or their nearly perfect synonyms for a finding of express advocacy would preserve the First Amendment right of unfettered expression only at the expense of eviscerating [disclosure].” *Id.* at 863. Indeed, the advertisement in *Furgatch* included an exhortation that did not include a reference to any election whatever, but rather a call to action that was vague, but unambiguous. *Id.* at 864-65 (“There is vagueness in Furgatch's message, but no ambiguity.”). The test is objective, not subjective. *Id.* at 863. The text of the *Furgatch* ad is in the second appendix.

The analysis from *CJF* and *Furgatch* supports the conclusion the advertisements here are express advocacy. As in those cases, based on a review of the text, video, voice-over, and timing of the YouTube advertisement, as well as, the indicia from other advertisements disclosed by Respondent for FCC purposes, there is reason to believe the advertisements are express advocacy, that is that the ads had no reasonable meaning other than to advocate for the defeat of Lake in her campaign for governor.

For example, in the YouTube advertisement, the plain language (text, video, and voice over) states that Lake is closely associated with the Democratic President and the former Democratic President, and that Lake supports “open border” policies that many Republican primary voters object to. The advertisement presents Lake in a series images interspersed with Biden, Obama, and illustrations of the

advertisement claims is illegal immigration, as well as images and text stating President Trump was unsupported. Before the call to action the advertisement implores viewers “How can we trust Kari Lake when she supported open border politicians?” *See Furgatch*, 807 P.2d at 858-59 (advertisement stating candidate record with phrase “Don’t let him do it” was express advocacy). Although it does not use specific words such as “Vote against Lake,” it objectively urges viewers to vote against Lake for governor by criticizing Lake’s past conduct and associations.

In context, the advertisement has no other reasonable meaning other than to advocate for Lake’s defeat. Lake announced her candidacy for Governor in 2021 and filed paper work with the Secretary of State’s Office creating a campaign committee in June 2021. The advertisements commenced in February 2022, as candidates were seeking signatures for access to the ballot and continued until at least June 9, 2022.

#### **iv. Respondent’s arguments**

Respondent raises several arguments to support its view these advertisements are not express advocacy. None are availing at this stage of the proceedings.

First, Respondent argues that *CJF* is distinguishable because while the candidate in *CJF* was a public official, Lake is not. However, the issue is whether Lake is a candidate, not a public official, and whether there is express advocacy for her election or defeat, not whether she is currently in office. Respondent argues that Lake was not a candidate until she filed her nomination petitions. This is not so. Lake was a candidate since at least June 2021, having created a campaign committee

and announced her candidacy around that time. Moreover, as in *CJF*, Lake is identified by name and likeness and had been “clearly identified to the general populace as” a candidate for governor.” *CJF*, 235 Ariz. at 354 (“It was unnecessary for the advertisement to further identify the position [s]he sought.”).

Next, Respondent argues that there was no controversial issue in the underlying ad in *CJF*, while “our client’s ad educates the public on the very hot button issues of gun control and border security.” It is not clear why an ad about a controversial issue would be subject to a different set of disclosure requirements than one about a non-controversial issue. But as noted above, the ads do not by their very terms educate the public about those issues. The gravamen of the ads is to inform the public that Lake has donated money to the former Democratic president’s campaign and expressed support for other issues, while failing to support President Trump. The donations occurred in 2008, according to the ad. *See id.* at 354-55. (Noting that where advertisement focused on candidate’s prior role that they would soon vacate, message supported conclusion of express advocacy.).

Respondent has also argued that the light in which the candidate is portrayed is subjective and therefore cannot be determined to have a single meaning. This misunderstands the nature of the test. The test is whether, taken in context, an advertisement could reasonably be interpreted as having another meaning other than advocating for the election or defeat of a candidate. The message of this advertisement unequivocally focuses on Lake, and her actions or statements, while

making claims about her support for President Trump. The advertisements ask “How can we trust Kari Lake when she supported open border politicians?” The only reasonable interpretation of this rhetorical proposition is that the speaker asks the viewer not to trust Lake to be the GOP nominee. Thus the only reasonable interpretation of such a message is to portray Lake in a specific light, using the issue of borders to influence how she is viewed, which in turn impacts whether people vote for her.

Respondent argues that *Furgatch* compels the conclusion the advertisement is not express advocacy. It is not clear what Respondent means. *Furgatch* interpreted a provision of the Federal Election Campaign Act in light of U.S. Supreme Court precedent. This case is about state law. Second, the test Respondent highlights from *Furgatch* is in fact the same test under A.R.S. § 16-901.01 and *CJF*. Finally, *Furgatch*, as explained above, compels the very analysis used in *CJF*.

Respondent explains that “The ad does feature Ms. Lake, who is not only a candidate, but also a prominent former television news journalist in the state—who Arizonans trust to deliver non-biased information regarding issues that affect their daily lives. It is widely known that public figures like Ms. Lake have the ability to influence policy outcomes by using their platforms to discuss public policy issues.”. Lake has not been a television anchor while the ads were running and is a candidate campaigning for governor. The call to action doesn’t even suggest that viewers contact Lake directly. Instead it directs viewers and listeners to Respondent’s own

website, karilakefacts.com, not facts about issues. The website, in turn, provides viewers with similar information to the advertisement provided by Respondent and encourages viewers to contact Lake's gubernatorial campaign, [contact@karilake.com](mailto:contact@karilake.com).

Finally, Respondent argued when the complaint was initially filed that the ads in question were too far away from the primary to be express advocacy. First, the advertisements were timed to coming during the period Lake was collecting signatures to appear on the ballot and their message was directed at the electorate that was then contemplating support for, including voting for Lake—the Republican primary voter. Moreover, as the ads have continued closer and closer to primary voting, however, this proximity further demonstrates that the purposes of the advertisements was to urge a vote against Lake.

For the forgoing reasons there is reason to believe that the advertisements are express advocacy under Arizona law.

## **B. Reporting**

### **i. A.R.S. §§ 16-941(D), -958.**

If an advertisement is express advocacy, A.R.S. §§ 16-941(D) and -958 require periodic reports of the spending once the amount in question reaches \$800. The Act lays out a schedule beginning prior to the primary and running through the entire remaining election period. A.R.S. § 16-958(B):

B. Any person who must file an original report pursuant to section 16-941, subsection D or who must file a supplemental report for previously unreported amounts pursuant to subsection A of this section shall file as follows:

1. Before the beginning of the primary election period, the person shall file a report on the first of each month, unless the person has not reached the dollar amount for filing an original or supplemental report on that date.
2. Thereafter, except as stated in paragraph 3 of this subsection, the person shall file a report on any Tuesday by which the person has reached the dollar amount for filing an original or supplemental report.
3. During the last two weeks before the primary election and the last two weeks before the general election, the person shall file a report within one business day of reaching the dollar amount for filing an original or supplemental report.

Because there is reason to believe that Respondent engaged in express advocacy and no reports have been filed, there is reason to believe that reports were due in March, April, May, June 1, June 7 and June 14, at a minimum that were not filed.

**ii. A.R.S. § 16-926**

Entities that have a primary purpose of influencing the results of Arizona elections must file periodic reports of contributions and expenditures once those contributions or expenditures reach \$1,300 in a calendar year and its primary. A.R.S. § 16-905(C). Respondent made more than \$1,300 in expenditures.

Arizona follows a paperwork test in determining whether or not an entity is required to make the filings required A.R.S. §§ 16-905 and 16-926. Thus, the statute exempts “an entity that claims tax exempt status under section 501(a) of the internal revenue code and that remains in good standing with the [IRS]” from registering as a political action committee or disclosing information about donors, among other things. A.R.S. § 16-905(E). A filing officer or enforcement officer, “shall make a rebuttable presumption that an entity is organized for the primary purpose of influencing the result of an election if the entity . . . tax exempt status but had not filed form 1023 or form 1024 with the internal revenue service, or the equivalent successor form designated by the internal revenue service, before making a contribution or expenditure.” The presumption, unrebutted, would mean the entity was a political action committee and required to file more extensive reports. There is no dispute here that entity did not file a Form 1023 or Form 1024. So, the issue is whether the form it did file is a successor form.

Respondent argues that by filing a notice to operate under section 501(c)(4) of the Internal Revenue Code it is entitled to the exemption. Respondent argues

that Form 8976, which it filed, is a successor to Form 1024. However, “[s]ubmission of the Form 8976 does not constitute a request for a Determination Letter that recognizes the organization as a section 501(c)(4) organization.” Internal Revenue Service, Rev. Proc. 2016-41, available at <https://www.irs.gov/pub/irs-drop/rp-16-41.pdf>. Form 8976 is merely a notice, not as extensive as Form 1024. Moreover, the federal law which gave the IRS the necessary authority to promulgate Form 8976 existed at the time the test in A.R.S. § 16-905 was created. It is not, therefore, a successor to Form 1024. Respondent does not claim to have filed a 1024, nor any other form that might exempt it from reporting under state law before making expenditures.

Attempting to rebut the presumption that filing officers and enforcement officers are required to make that an entity’s primary purpose is something other than to influence the result of Arizona elections, Respondent claims its primary purpose is social welfare. It makes this claim based on its articles of incorporation that state that social welfare is its purpose and its claim that it engages in other activity. However, under Arizona law primary purpose is determined by an entity’s predominant purpose, that is, its main purpose. A.R.S. § 16-901(43) Here, no evidence publicly available contradicts that there is at least reason to believe *at this juncture* that Respondent’s predominant purpose is purchasing these advertisements.

Chapter 6 of Title 16 requires entities that have a primary purpose of influencing Arizona elections to file reports periodic reports of expenses and contributions. Respondent has not made such filings. Filings were due for the first and second quarter in April and July respectively. There is reason to believe these filings should have been made and were not. A.R.S. § 16-942(B) (providing for fines for failure to file reports required by Chapter 6).

## **Recommendation**

If the Commission determines there is a reason to believe that a violation of a statute or rule over which the Commission has jurisdiction may have occurred, the Commission shall then conduct an investigation. Ariz. Admin. Code R2-20-209(A). The Commission may authorize the Executive Director to subpoena all of the Respondent's records documenting disbursements, debts, or obligations to the present, and may authorize an audit.

Upon expiration of fourteen (14) days, if the Commission finds that the alleged violator remains out of compliance, the Commission shall make a public finding to that effect and issue an order assessing a civil penalty in accordance with A.R.S. § 16-942, unless the Commission publishes findings of fact and conclusions of law expressing good cause for reducing or excusing the penalty. A.R.S. § 16-957(B).

After fourteen (14) days and upon completion of the investigation, the Executive Director will recommend 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. Ariz. Admin. Code R2-20-214(A). Upon a finding of probable cause that the alleged violator remains out of compliance, by an affirmative vote of at least three (3) of its members, the Commission may issue an

order and assess civil penalties pursuant to A.R.S. § 16-957(B). Ariz. Admin. Code  
R2-20-217.

Dated this 15th day of August 2022.

S/Thomas M. Collins  
Thomas M. Collins, Executive Director

1 Appendix of FCC Public Files for Freedom's Future Fund

KPNX	<a href="https://publicfiles.fcc.gov/tv-profile/kpnx/political-files/2022/non-candidate-issue-ads/freedoms-future-fund-2022/orders/e6bd282b-ff2c-9728-e98e-b7b378c283a1">https://publicfiles.fcc.gov/tv-profile/kpnx/political-files/2022/non-candidate-issue-ads/freedoms-future-fund-2022/orders/e6bd282b-ff2c-9728-e98e-b7b378c283a1</a>
KPHO	<a href="https://publicfiles.fcc.gov/tv-profile/kpho-tv/political-files/2022/non-candidate-issue-ads/freedoms-future-fund/47491d03-7380-b954-d092-3408925f5af5">https://publicfiles.fcc.gov/tv-profile/kpho-tv/political-files/2022/non-candidate-issue-ads/freedoms-future-fund/47491d03-7380-b954-d092-3408925f5af5</a>
KTVK	<a href="https://publicfiles.fcc.gov/tv-profile/KTVK/political-files/2022/non-candidate-issue-ads/freedoms-future-fund/d166a3de-1800-fe51-39de-a5d32a386e28">https://publicfiles.fcc.gov/tv-profile/KTVK/political-files/2022/non-candidate-issue-ads/freedoms-future-fund/d166a3de-1800-fe51-39de-a5d32a386e28</a>
KSAZ	<a href="https://publicfiles.fcc.gov/tv-profile/ksaz-tv/political-files/2022/non-">https://publicfiles.fcc.gov/tv-profile/ksaz-tv/political-files/2022/non-</a>

	<a href="https://publicfiles.fcc.gov/tv-profile/1eb3bfb30dfc">candidate-issue-ads/freedoms-future-fund-pac/d5a62f4e-61f7-5d8b-58ed-1eb3bfb30dfc</a>
KNXV	<a href="https://publicfiles.fcc.gov/tv-profile/knxv-tv/political-files/2022/non-candidate-issue-ads/freedoms-future-fund/89084fd3-9118-9cd0-5243-271bec27704a">https://publicfiles.fcc.gov/tv-profile/knxv-tv/political-files/2022/non-candidate-issue-ads/freedoms-future-fund/89084fd3-9118-9cd0-5243-271bec27704a</a>
KASW	<a href="https://publicfiles.fcc.gov/tv-profile/kasw/political-files/2022/non-candidate-issue-ads/freedoms-future-fund/f3ecb40e-e666-d21b-0e66-f25be8ec757e">https://publicfiles.fcc.gov/tv-profile/kasw/political-files/2022/non-candidate-issue-ads/freedoms-future-fund/f3ecb40e-e666-d21b-0e66-f25be8ec757e</a>
KAZT	<a href="https://publicfiles.fcc.gov/tv-profile/kazt-tv/political-files/2022/non-candidate-issue-ads/freedom-future-">https://publicfiles.fcc.gov/tv-profile/kazt-tv/political-files/2022/non-candidate-issue-ads/freedom-future-</a>

	<a href="https://publicfiles.fcc.gov/tv-profile/kutp/political-files/2022/non-candidate-issue-ads/freedom-future-fund-pac/coversheets/e66459a8-f46d-cdbb-bb9e-7225ce6e4b74">fund/b3da35d9-74be-47bd-cfb7-92d106c294af</a>
KUTP	<a href="https://publicfiles.fcc.gov/tv-profile/kutp/political-files/2022/non-candidate-issue-ads/freedom-future-fund-pac/coversheets/e66459a8-f46d-cdbb-bb9e-7225ce6e4b74">https://publicfiles.fcc.gov/tv-profile/kutp/political-files/2022/non-candidate-issue-ads/freedom-future-fund-pac/coversheets/e66459a8-f46d-cdbb-bb9e-7225ce6e4b74</a>
KVOA	<a href="https://publicfiles.fcc.gov/tv-profile/kvoa/political-files/2022/non-candidate-issue-ads/freedoms-future-fund-7660/aecb35ce-8549-0fc8-5083-737b32c94510">https://publicfiles.fcc.gov/tv-profile/kvoa/political-files/2022/non-candidate-issue-ads/freedoms-future-fund-7660/aecb35ce-8549-0fc8-5083-737b32c94510</a>
KOLD	<a href="https://publicfiles.fcc.gov/tv-profile/kold-tv/political-files/2022/non-candidate-issue-ads/freedoms-future-fund/fb852c41-2c64-7b7d-c506-bc9d3fc499eb">https://publicfiles.fcc.gov/tv-profile/kold-tv/political-files/2022/non-candidate-issue-ads/freedoms-future-fund/fb852c41-2c64-7b7d-c506-bc9d3fc499eb</a>

KGUN	<a href="https://publicfiles.fcc.gov/tv-profile/kgun-tv/political-files/2022/non-candidate-issue-ads/freedom-future-fund/1518d1eb-90b8-8c56-cdf0-5326762a5c61">https://publicfiles.fcc.gov/tv-profile/kgun-tv/political-files/2022/non-candidate-issue-ads/freedom-future-fund/1518d1eb-90b8-8c56-cdf0-5326762a5c61</a>
KFYI	<a href="https://publicfiles.fcc.gov/am-profile/kfyi/political-files/2022/non-candidate-issue-ads/e7bd0bde-ef42-3a4d-5670-71ae6c6c3df8">https://publicfiles.fcc.gov/am-profile/kfyi/political-files/2022/non-candidate-issue-ads/e7bd0bde-ef42-3a4d-5670-71ae6c6c3df8</a>

## 2 Appendix of Furgatch Advertisement Text

From the Ninth Circuit Opinion:

On October 28, 1980, one week prior to the 1980 presidential election, the *New York Times* published a full page advertisement captioned "Don't let him do it," placed and paid for by Harvey Furgatch. The advertisement read:

DON'T LET HIM DO IT.

The President of the United States continues degrading the electoral process and lessening the prestige of the office.

It was evident months ago when his running mate outrageously suggested Ted Kennedy was unpatriotic. The President remained silent.

*And we let him.*

It continued when the President himself accused Ronald Reagan of being unpatriotic.

*And we let him do it again.*

In recent weeks, Carter has tried to buy entire cities, the steel industry, the auto industry, and others with public funds.

*We are letting him do it.*

He continues to cultivate the fears, not the hopes, of the voting public by suggesting the choice is between "peace and war," "black or white," "north or south," and "Jew vs. Christian." His meanness of spirit is divisive and reckless McCarthyism at its worst. And from a man who once asked, "Why Not the Best?"

It is an attempt to hide his own record, or lack of it. If he succeeds the country will be burdened with four more years of incoherencies, ineptness and illusion, as he leaves a legacy of low-level campaigning.

DON'T LET HIM DO IT.

## **R2-20-305. Reporting Suspected Violations**

A. ~~Commissioners and employees~~ Persons who have information, ~~which that~~ which causes them to believe that there has been a violation of a statute or a rule set forth in this Article or that a Commissioner should not participate in a Commission decision, shall report promptly, in writing, such ~~incident information~~ information to the Commission's Chair or Executive Director.

B. When information made available to the Commission under subsection A 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 notice of the conflict issue and an opportunity to explain the conflict or appearance of conflict in writing. In the case of a Commissioner, the response shall be due five days from the issuance of the notice. The Chair or Executive Director may decline to require a response if the claim is clearly meritless and in such event no response is required. In such cases, the Chair or Executive Director shall state in writing why the claim is clearly meritless and provide the writing to the person who provided the information and the Commissioner.

**ITEM V**

## **R2-20-306. Disciplinary and Other Remedial Action**

A. A violation of this Article by an employee or Commissioner may be cause for remedial action or, if the matter involves a Commission employee, disciplinary action, which may be in addition to any penalty or enforcement mechanism provided by law.

B. When the Commission's Executive Director determines that an employee may have or appears to have a conflict of interest, the Commission's Executive Director may question the employee in the matter and gather other information. The Commission's Executive Director and the employee's supervisor shall discuss with the employee possible ways of eliminating the conflict or appearance of conflict. If the Commission's Executive Director, after consultation with the employee's supervisor, concludes that remedial action should be taken, he or she shall refer a statement to the Commission containing his or her recommendation for such action. The Commission, after consideration of the employee's explanation and the results of any investigation, may direct appropriate remedial action as it deems necessary.

C. Remedial action pursuant to subsection (B) of this Section may include, but is not limited to:

1. Changes in assigned duties;
2. Divestment by the employee of his or her conflicting interest;
3. Disqualification for particular action;
- or 4. Disciplinary action.

D. When the matter involves a Commissioner, the Chair and Executive Director may conduct an appropriate investigation or gather relevant information for consideration by the Commission. after review of relevant information and the response of the Commissioner, the Chair and Executive Director shall ensure that the matter is made part of the agenda for a Commission meeting for discussion and possible action no later than the next regular Commission meeting, unless there is less than one week before that meeting, in which case the matters shall be scheduled at the next subsequent meeting. The Chair may call for an interim meeting regarding the matter in the Chair's discretion.

E. After consideration of the relevant information and Commissioner's response at an open meeting the Commission may vote on an action for proper remedial action. Remedial action may include, but is not limited to:

1. An expression of the majority opinion of the Commissioners about voluntary remedial action the Commissioner at issue should take to resolve the conflict issues and ensure the appropriate level of impartiality in Commission proceedings; or
2. Disqualification of the Commissioner from participation in discussion or votes on any matter for which the Commissioner has, in the determination of a majority of the other non-disqualified Commissioners, a disqualifying conflict.

**Doug Ducey**  
Governor

**Thomas M. Collins**  
Executive Director



**Damien R. Meyer**  
Chair

**Steve M. Titla**  
**Mark S. Kimble**  
**Galen D. Paton**  
**Amy B. Chan**  
Commissioners

**State of Arizona**  
**Citizens Clean Elections Commission**

**1110 W. Washington St. - Suite 250 - Phoenix, Arizona 85007 - Tel (602) 364-3477**  
**Fax (602) 364-3487 - [www.azcleelections.gov](http://www.azcleelections.gov)**

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***MEMORANDUM***

**To: Commissioners**

**From: Tom Collins**

**Date: 7/28/2022**

**Subject: Discussion points for processing conflict/ethics-related filings**

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Over the past months, I have been working with outside counsel to evaluate the state of our rules regarding Commissioner and Employee conduct, as well as conflict of interest issues.

The administrative rules relating to Commissioners' conduct rules appear in Article 3 of the Commission Rules. *See* Exhibit.

In our review, one of the potential shortcomings of the rules is the lack of a clear process to address commissioner conflicts of interest and other ethical considerations covered by Article 3 and the background principles in the Arizona Revised Statutes.

While the Commission has been able to handle such issues without difficulty in the past, a formalized process is important to ensure the Commission's credibility and the fairness of the Commission's course of action.

In the coming months, we will be proposing rule amendments to Article 3 that seek to ensure such a process.

The discussion points included here seek to outline the contours of the process we seek to develop:

- 1) Initiation of conflict or ethics inquiry
  - a. Provide for a process for a Commissioner or interested party to report, in writing, concerns relating to a Commissioner's participation in a particular substantive decision.
  - b. Provide for a process to raise other issues, in writing, relating to a Commissioner's ability to perform Commissioner's duties.
- 2) Provide an opportunity for a Commissioner to respond, in writing, to any reported concern(s).
- 3) Provide an opportunity for a Commissioner to withdraw, abstain, or recuse from participating in a substantive decision.
- 4) Facilitate Commission engagement and decision where necessary.
- 5) Bind a Commissioner who is the subject of a reported concern to the decision of the Commission relating to abstention or recusal.
- 6) Preference for transparent process
  - a. Considerations of privacy and best interests of the State with respect to disclosure of frivolous, irrelevant, or prejudicial filings.
- 7) Authorize Executive Director or Chair of the Commission to address clearly meritless filings without further proceedings.

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days after the Commission receives the request. A request for an informal settlement conference shall be in writing and must be filed with the Commission no later than 20 days before the hearing date. A person with the authority to act on behalf of the Commission must represent the Commission at the conference. The AAG shall attend the settlement conference, but shall not be the individual authorized to act on behalf of the Commission.

- B.** The Commission representative shall notify the appellant in writing that the statements, either written or oral, made by the appellant at the conference, including a written document, created or expressed solely for the purpose of settlement negotiations, are inadmissible in any subsequent administrative hearing. The parties participating in the settlement conference waive their right to object to the participation of the agency representative in the final administrative decision.

**Historical Note**

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

**R2-20-226. Administrative Hearing**

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

**Historical Note**

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

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

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5. "Former employee" means one who was, and is no longer, an employee of the Commission.
  6. "Official responsibility" means the direct administrative or operating authority, whether intermediate or final, to approve, disapprove, or otherwise direct Commission action. Official responsibility may be exercised alone or with others and either personally or through subordinates.
  7. "Outside employment" or "outside activity" means any work, service or other activity performed by a Commissioner or employee other than in the performance of the Commissioner's or employee's official employment duties. It includes such activities as writing and editing, publishing, teaching, lecturing, consulting, self-employment, and other services or work performed, with or without compensation.
  8. "Person" means an individual, corporation, company, association, firm, partnership, society, joint stock company, political committee, or other group, organization, or institution.
- A. A violation of this Article by an employee may be cause for disciplinary action, which may be in addition to any penalty prescribed by law.
  - B. When the Commission's Executive Director determines that an employee may have or appears to have a conflict of interest, the Commission's Executive Director may question the employee in the matter and gather other information. The Commission's Executive Director and the employee's supervisor shall discuss with the employee possible ways of eliminating the conflict or appearance of conflict. If the Commission's Executive Director, after consultation with the employee's supervisor, concludes that remedial action should be taken, he or she shall refer a statement to the Commission containing his or her recommendation for such action. The Commission, after consideration of the employee's explanation and the results of any investigation, may direct appropriate remedial action as it deems necessary.
  - C. Remedial action pursuant to subsection (B) of this Section may include, but is not limited to:
    1. Changes in assigned duties;
    2. Divestment by the employee of his or her conflicting interest;
    3. Disqualification for particular action; or
    4. Disciplinary action.

**Historical Note**

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

**R2-20-303. 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****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

## CHAPTER 20. CITIZENS CLEAN ELECTIONS COMMISSION

4. To the acceptance of loans from banks or other financial institutions on customary terms to finance proper and usual activities, such as home mortgage loans.
- D.** A Commissioner or an employee shall not solicit a contribution from another employee for a gift to an official superior, make a donation as a gift to an official superior, or accept a gift from an employee receiving less pay than himself or herself. However, this subsection does not prohibit a voluntary gift of nominal value or donation in a nominal amount made on a special occasion such as birthday, holiday, marriage, illness, or retirement.
- E.** This Section does not preclude a Commissioner or employee from receipt of reimbursement, unless prohibited by law, for expenses of travel and such other necessary subsistence as is compatible with this Article for which no state payment or reimbursement is made. However, this Section does not allow a Commissioner or employee to be reimbursed, or payment to be made on his or her behalf, for excessive personal living expenses, gifts, entertainment, or other personal benefits, nor does it allow a Commissioner or employee to be reimbursed by a person for travel on official business under Commission orders when reimbursement is prescribed by statute.

**Historical Note**

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

**R2-20-308. Outside Employment or Activities**

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

**Historical Note**

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

**R2-20-309. Financial Interests**

- A.** Commissioners and employees shall not engage in, directly or indirectly, a financial transaction as a result of, or primarily relying on, information obtained through the Commissioner's or employee's duties or employment.
- B.** Commissioners and employees shall not have a direct or indirect financial interest that conflicts substantially, or appears to conflict substantially, with the Commissioner's or employee's official duties and responsibilities, except in cases where the Commissioner or employee makes full disclosure, and disqualifies himself or herself from participating in any decisions, approval, disapproval, recommendation, the rendering of advice, investigation, or in any proceeding of the Commission in which the financial interest is or appears to be affected. Full disclosure by a Commissioner or employee will require that individual to submit a written statement to the Executive Director or Chair disclosing the particular financial interest

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which conflicts substantially, or appears to conflict substantially, with the Commissioner's or employee's duties and responsibilities.

- C. Commissioners and employees shall disqualify themselves from a proceeding in which the Commissioner's or employee's impartiality might reasonably be questioned, such as in a situation where the Commissioner or employee knows that he or she, or his or her family member, has an interest in the subject matter in controversy or is a party to the proceeding, or has any other interest that could be substantially affected by the outcome of the proceeding.
- D. This Section does not preclude a Commissioner or employee from having a financial interest or engaging in financial transactions to the same extent as a private citizen not employed by the Commission, as long as the Commissioner's or employee's financial interest does not conflict with official Commission duties.

**Historical Note**

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

**R2-20-310. Political and Organization Activity**

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

***Proposed Commission Meeting Dates for  
Sept - December 2022***

<b>Month</b>	<b>Date</b>	<b>State Holiday</b>
September	29 <sup>th</sup>	<i>Monday, Sept 5<sup>th</sup>, Labor Day</i>
October	27 <sup>th</sup>	<i>Monday, Oct 10<sup>th</sup>, Columbus Day</i>
November	<i>TBD</i>	<i>Friday, Nov 11<sup>th</sup> Veteran's Day &amp; Thursday, Nov 24<sup>th</sup>, Thanksgiving Day</i>
December	15 <sup>th</sup>	<i>Monday, Dec 26<sup>th</sup>, Christmas Holiday Monday, Jan 2<sup>nd</sup>, New Years Day Holiday</i>

*In the event additional meetings are required or changes need to be made, staff will work directly with each member to secure at least a quorum. All above noted meeting dates will be on Thursday. Meeting start time is 9:30 a.m.*



**ITEM VI**