

STATE OF ARIZONA
CITIZENS CLEAN ELECTIONS COMMISSION

Participating Candidate Guide

2005-2006 ELECTION CYCLE



Mission Statement

*“To fairly, faithfully and fully implement and administer
the Arizona Citizens Clean Elections Act.”*





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Introduction

Introduction

Welcome to Arizona's Citizens Clean Elections Commission Participating Candidate Guide for the 2005-2006 election cycle. This Guide was created to provide information to candidates interested in running for legislative or statewide office.

The Citizens Clean Elections Act ("Act") is a campaign finance reform measure that was initiated by Arizona citizens and passed by voters in 1998. The Act created a new campaign financing system that provides full public funding to qualified candidates who agree to abide by the Act and Citizens Clean Elections Commission ("Commission") rules. Participating candidates for statewide offices (governor, secretary of state, state treasurer, attorney general, superintendent of public instruction, corporation commissioner and mine inspector) and legislative offices (house of representatives and senate) are eligible to participate in the public funding program.

If you have questions, please do not hesitate to contact us at 1-602-364-3477 or toll free at 1-877-631-8891. We look forward to working with you.

Authority

Use of this Guide is intended solely as a reference guide. Every effort has been made to present accurate and reliable information, however, information contained in this Guide changes periodically. As a result, this Guide may contain some inadvertent errors. The Commission would appreciate your kindness in notifying our office of any inaccuracies, by calling us or by e-mailing a staff member.

Readers of this Guide should take note that the information contained herein should not be considered as having the same weight and authority as the Arizona Revised Statutes and established court decisions or Attorney General Opinions. In the event any information conflicts, this Guide is not controlling and users must instead follow relevant legal authority.

Additionally, the information contained in this Guide is not a satisfactory substitute for legal counsel. If you believe that you or your committee could be adversely affected in any matter relating to the subject matter contained herein, you should seek the professional assistance of an attorney.

Alternate Formats

This Guide is available in alternate formats. Persons who need information about the Guide in alternate formats should call the Commission, or e-mail Paula Ortiz at paula.ortiz@azcanelections.gov

The Citizens Clean Elections Commission

In 1998, the people of Arizona created a clean elections system to improve the integrity of Arizona state government by diminishing the influence of special interest money, to encourage citizen participation in the political process, and to promote freedom of speech under the U.S. and Arizona Constitutions.

Commissioners

The Commission consists of five commissioners. The commissioners are committed to enforce the Act in an honest, independent, and impartial fashion. No more than two members of the Commission shall be members of the same political party. No more than two members of the Commission shall be residents of the same county. No one shall be appointed as a member who does not have a voter registration that has been continuously recorded for at least five years immediately preceding appointment with the same political party or as an independent.

(Chair) Marcia Busching (D), Phoenix (Term ending Jan. 31, 2008)

Ermila Jolley (D), Yuma (Term ending Jan. 31, 2007)

Carl J. Kunasek (R), Mesa (Term ending Jan 31, 2009)

Gary Scaramazzo (I), Page (Term ending Jan. 31, 2010)

Royann J. Parker, (R) Tucson (Term ending Jan. 31, 2011)

Sources of Funding

- \$5 Tax Check-Off on the Arizona State Income Tax Return
- Dollar-for-Dollar Tax Credit on the Arizona State Income Tax Return
- 10% Surcharge on Civil Penalties and Criminal Fines
- \$5 Qualifying Contributions
- Civil Penalties from Enforcement Actions

Contact Information

Citizens Clean Elections Commission

1616 W. Adams, Suite 110
Phoenix, AZ 85007
(602) 364-3477
(602) 364-3487, fax
1-877-631-8891, toll free
www.azcleelections.gov

Secretary of State's Office

Administration / Elections:
Capitol Executive Tower 7th Floor
1700 West Washington Street
Phoenix, AZ 85007-2888
(602)542-4285 or (800)458-5842
(602) 542-6172, fax
elections@sos.state.az.us
www.azsos.gov

Commission Staff

Executive Director

Todd Lang

Deputy Director

Vacant

Voter Education Manager

Mike Becker

Campaign Finance Manager

Vacant

Fiscal Services Manager

Colleen McGee

Executive Assistant

Paula Ortiz

Administrative Assistant

Christina Murphy

Administrative Assistant

Cindy Stutesman



Chapter 1: How to Become a Candidate

Chapter 1: How to Become a Candidate takes prospective candidates through the preliminary steps on how to register as a candidate for the 2005-2006 election cycle.

Qualifications for Office

Every person elected to any elective office of the state shall be a qualified elector of the political division in which the person seeks election at the time of filing the nomination papers.

A qualified elector is a person who is properly registered to vote. The qualifications of a person who is properly registered to vote are all of the following:

- A citizen of the United States.
- 18 years of age or more on or before the date of the next regular general election following his registration.
- A resident of the state 29 days preceding the next election.
- Able to write name or make mark, unless prevented from doing so by physical disability.
- Has not been convicted of treason or a felony, unless restored to civil rights.
- Has not been adjudicated an incapacitated person.

Every candidate must meet basic qualifications for public office prescribed by the Arizona Constitution and Arizona Revised Statutes.

The residency requirement for candidacy means a continuous period of residency for the required number of years continuously and immediately preceding the election.

State Executive Offices

(Governor, Secretary of State, Attorney General, Treasurer, Superintendent of Public Instruction)

Qualifications

To be eligible for any state executive office, a person **MUST** be:

- Not less than 25 years of age.
- A citizen of the United States for at least 10 years preceding the election.
- A citizen of Arizona for at least 5 years preceding the election.

Governor –

Job Description

The Governor shall transact all executive business with the officers of the government, civil and military and may require information in writing from the officers in the executive department upon any subject relating to the duties of their respective offices. He shall take care that the laws be faithfully executed. He may convene the legislature in extraordinary session. He shall communicate, by message, to the legislature at every session the condition of the state, and recommend such matters as shall deem expedient.

Term

The term for Governor is four years. No Governor shall serve more than two consecutive terms in that office.

Secretary of State –

Job Description

The Secretary of State is the Chief Election Officer for the state whose duties include certifying candidates and election results. The Secretary of State serves as Acting Governor when the Governor is out of the state. The Secretary of State is the official keeper of records. Duties include filing the administrative rules of the state agencies and maintaining the official rules of the state agencies adopted under the Arizona Administrative Procedure Act. Additionally, the Secretary of State registers trade names and trademarks, and issues certificates of registration. The Secretary of State is first in the constitutional line of succession if the Governor leaves office in mid-term.

Term

The term for Secretary of State is four years. No Secretary of State shall serve more than two consecutive terms in that office.

Attorney General –

Job Description

The Attorney General is the chief legal officer in Arizona. The Attorney General's duties include serving as legal advisor for most state agencies, bringing and defending law suits on behalf of the State, enforcing criminal, election, environmental, civil rights and consumer protection laws, and serving as Director of the Department of Law. The Attorney General also issues formal legal opinions for State officers, legislators, and county attorneys upon request. The Attorney General is second in the constitutional line of succession if the Governor leaves office in mid-term.

Term

The term for Attorney General is four years. No Attorney General shall serve more than two consecutive terms in that office.

Treasurer –

Job Description

The Treasurer is the State's chief financial officer and is the keeper of the state's monies. The Treasurer manages the state general fund, a job that includes receiving, holding, investing and disbursing state money. The Treasurer is the third in the constitutional line of succession if the Governor leaves office in mid-term.

Term

The term for Treasurer is four years. No Treasurer shall serve more than two consecutive terms in that office.

Superintendent of Public Instruction –

Job Description

The state superintendent of public instruction shall be a member, and secretary, of the state board of education, and, ex-officio, a member of any other board having control of public instruction in any state institution. His powers and duties shall be prescribed by law.

Term

The term for Superintendent of Public Instruction is four years. No Superintendent of Public Instruction shall serve more than two consecutive terms in that office.

Corporation Commission

Qualifications

Arizona law does not set minimum age or length of residency requirements for a person who holds the office of corporation commissioner. The law, however, does give specific requirements for persons elected, appointed to, or holding the office of commissioner and appointees or employees of the Corporation Commission. They shall NOT be:

- A person in the employ of or holding an official relation to a corporation.
- A person subject to regulations by the Corporation Commission.
- A person owning stocks or bonds of a corporation subject to regulation.
- A person who is pecuniarily interested therein.

Job Description

The Corporation Commission regulates rates charged by gas, water, sewer, electric and telephone utilities; regulates issuance and enforcement securities; and regulates formation and filings by all corporations doing business in Arizona. There are five commissioners.

Term

The term for Corporation Commissioner is four years. A Corporation Commissioner may not serve more than two terms consecutively (any person who serves one half or more of a term shall be considered to have served one term).

Mine Inspector

Qualifications

The State Mine Inspector SHALL be:

- A resident of the state at least 2 years prior to election.
- Not under 30 years of age.
- Shall have been practically engaged in, and acquainted with, mines and mining in this state.
- Shall have had at least 4 years' experience in underground mining and;
- 3 additional years in either underground mining, smelting, open pit mining, or experience in any industry under the jurisdiction of the state mine inspector.

Job Description

The Mine Inspector enforces the state mining code and provides training and conducts investigations to improve individual health and safety. The Mine Inspector's duties also include providing worksite evaluations, inspections, reviews and monitoring all mine reclamation activities.

Term

The term for Mine Inspector is four years. No Mine Inspector shall serve more than four consecutive terms in that office.

State Legislature

Qualifications

- A citizen of the United States at the time of the election.
- At least 25 years of age.
- A resident of Arizona at least three years.
- A resident of the county from which the person is elected at least one year before the election.

Job Description

The Legislature is a state lawmaking body that proposes and enacts laws, appropriates funds for the support of the State government, proposes amendments to the State Constitution and provides public forums for hearings and debates about bills.

Term

No State Senator or State Representative shall serve more than four consecutive terms in that office.

- **State Senate:** The term for Senators is two years.
- **State House of Representatives:** The term for Representatives is two years.



Statement of Organization

Once an individual determines that he or she meets the qualifications to seek elective office, the next step is for the individual to file a statement of organization in order to establish the campaign committee. All campaign committees must file a statement of organization with the Secretary of State's Office. The statement of organization may NOT be filed with the Commission.

When to File the Statement of Organization

Each candidate, or individual exploring whether to become a candidate, who intends to receive contributions or make expenditures of more than \$500 in connection with a campaign for office shall file a statement of organization in order to establish the candidate's campaign committee or exploratory committee. An individual must file a statement of organization before:

- Making any expenditures,
- Accepting any contributions,
- Distributing any campaign literature, or
- Circulating any petitions.

Contents of Statement of Organization

The statement of organization shall include all of the following:

1. The name, address and type of committee.
 - The candidate, or possible candidate, must designate the type of committee, either a **Candidate Committee** or **Exploratory Committee**.
 - A **Candidate Committee** is a political committee designated and authorized by the candidate. A candidate must establish a candidate committee to qualify for the ballot.
 - An **Exploratory Committee** gives an individual the opportunity to raise and spend monies in order to explore the possibility of running for office without officially declaring candidacy. Once the individual makes the decision to run for office, the individual must establish a candidate committee. A candidate is not required to file an exploratory committee during the exploratory period.
2. The names, addresses, telephone numbers, occupations and employers of the chairman and treasurer of the committee. It is permissible for a candidate to be the chairman and treasurer of his or her own campaign committee.
3. The name, address, office sought and party affiliation of the candidate.
4. Name of the banking institution used by the committee.

Number of Committees

Exploratory Committee: An individual may have only one exploratory committee in existence at a time.

Candidate Committee: A candidate may have only one campaign committee designated for each election, however, a candidate may have more than one active campaign committee from different elections simultaneously in existence.



Nomination Petitions & Papers

To qualify for Commission funding, a participating candidate must either be an independent candidate or meet the following standards:

- To qualify for funding for a party primary election, a candidate must have properly filed nominating papers and nominating petitions with signatures in the primary election of a political party entitled to continued representation on the official ballot.
- To qualify for clean campaign funding for a general election, a candidate must be a party nominee of a political party recognized on the official ballot.

Timeline for Filing Nominating Papers and Petitions

All candidates must file nominating papers and nominating petitions with signatures with the Secretary of State's Office during a 30-day period specified in the chart below:

FILING PERIOD FOR ALL CANDIDATES	
Legislative Candidates:	May 15, 2006 - June 14, 2006
Statewide Candidates:	May 15, 2006 – June 14, 2006

Participating Candidates May File Early

Although legislative candidates may NOT begin raising the \$5 qualifying contributions prior to January 1, 2006, there are instances when a participating candidate may file his or her nominating papers and nominating petitions earlier than May 15, 2006.

Any time after January 1, 2006, a participating candidate who is ready to apply for funding may file his or her nominating petition and signatures early, instead of waiting for the traditional filing timeline. The nominating petition and signatures must be filed with the Secretary of State at the same time that the candidate applies to receive funding by submitting his or her \$5 qualifying contributions. If a candidate files his or her nominating petition and signatures early and qualifies to receive funding, the candidate will receive the appropriate primary funding amount immediately. Please refer to Chapter 3 for a detailed explanation of the process of applying for funding.

Campaign Finance Software

After the candidate files the Statement of Organization, the Secretary of State's Office will provide the candidate the following:

1. Campaign Finance Software. All campaign finance reports must be filed electronically with the Secretary of State's Office. The Secretary of State's Office provides computer software for electronic filing.
2. A personal identification number (pin) number to access the campaign finance software.
3. A packet of useful information pertaining to the 2005-2006 election cycle.



Establishing a Campaign Account

Before a candidate accepts contributions or makes expenditures, the candidate must designate a financial institution for the campaign account. The candidate shall notify the Secretary of State's Office of the designation of the financial institution either at the time of filing the statement of organization or within five business days after opening an account. All withdrawals or disbursements from the campaign account require the authorization of the treasurer or a designated agent of the campaign committee. All expenditures from the campaign account shall be paid directly to the person providing the goods or services, except for petty cash expenditures.

During an election cycle, each participating and nonparticipating candidate shall conduct all campaign financial activities through a single, current election campaign account and any petty cash accounts, as are permitted by law.

Petty Cash Accounts

A candidate's campaign committee may establish one or more petty cash accounts, which in aggregate shall not exceed \$1,160 at any time. No single expenditure shall be made from a petty cash account exceeding \$120.

When reporting the use of petty cash in a campaign finance report, the individual expenditures made with the cash do NOT need to be reported; only the actual cash withdrawal is required to be included in campaign finance reports. The campaign treasurer, however, is required to maintain a record of all expenditures made with petty cash. The record shall identify the name and address of every person to whom an expenditure is made, the date, and the amount and purpose or reason for the expenditure. The Commission recommends that the treasurer keep a running total of all petty cash withdrawals and expenditures to ensure that the maximum of \$1,160 is not inadvertently exceeded.

USE OF PETTY CASH EXAMPLE

On July 16, 2006, a participating candidate withdraws \$200 in cash from the campaign account to use as petty cash. In the campaign finance software, the candidate shall enter an expenditure for \$200, dated July 16, 2006, payable to the person who withdrew the cash, and a memo stating “petty cash.” The candidate then uses the cash to make purchases that are less than \$120 each. The candidate provides the receipts to the treasurer and the treasurer retains the following documentation for campaign records:

<u>Petty Cash Expenditures</u>			
July 20, 2006	\$50	Home Depot	lumber for signs
July 21, 2006	\$75	Sign Central	bumper stickers
July 27, 2006	\$75	Kinkos	copies of flyers

Prior Campaign Accounts

A candidate may not use a prior campaign account during the current election cycle. A candidate may maintain a campaign account other than the candidate’s current campaign account if the other campaign account is for a campaign in a prior election cycle in which the candidate was not a participating candidate.

Remaining monies from a prior campaign may be transferred to the candidate’s current campaign account. The money transferred must have originally been received from individuals or from the candidate. The early contribution limits apply and the origins of the transferred monies shall be justified upon request. Therefore, monies transferred to the current campaign account shall not exceed \$120 per individual contributor. No monies may be transferred that were originally received from PACs or corporations.

Designated Person

A candidate may designate other persons with authority to withdraw funds from the candidate’s campaign account. The candidate and any person so designated shall sign a joint statement, on the Application for Certification as a Participating Candidate (*Chapter 2*), under oath, promising to comply with the requirements of the Act. Regardless of who the designated person is, the campaign treasurer is ultimately responsible for all financial activity conducted by the campaign.

Records and Bookkeeping of Campaign Treasurer

The treasurer of the campaign committee is the custodian of the committee's books and accounts and shall keep an account of all of the following:

1. All contributions or monies received by or on behalf of the committee.
2. The identification of any person that makes any contribution, the date and amount of each contribution, and the date of deposit into the campaign account.
3. Cumulative totals contributed by each individual.

4. The name and address of every person to whom any expenditure is made, the date, amount and purpose or reason for the expenditure.
5. All bank statements for the designated campaign account.

The treasurer shall record a contribution made by check or money order as a contribution by the person whose signature or name appears on the bottom of the instrument or who endorses the check or money order before delivery to the committee. If a contribution is made by more than one person in a single check, the treasurer shall record the amount to be attributed to each contributor.

The treasurer shall preserve all records specified above and copies of all campaign finance reports for three years after the election.

Access to Records

During the primary election period and the general election period, all candidates shall make available for public inspection all bank accounts, campaign finance reports, and financial records relating to the candidate's campaign, either by immediate disclosure through electronic means or at the candidate's campaign headquarters.

1. All candidates shall maintain at a single location within the state, the books and records of financial transactions. In all cases, all such information shall be made available for inspection by the Commission during regular business hours.
2. On request of the Attorney General, the county, city or town attorney or the Secretary of State, the treasurer shall provide any of the records required to be kept by the campaign treasurer.

Resign to Run Law

The resign to run law applies to incumbent elective officers who seek election to any public office other than the office that the incumbent is currently holding. If an elected official wishes to declare his or her candidacy anytime before the final year of the term being held, the officeholder must first resign his or her office. An elected official is not deemed to have offered himself or herself for nomination or election to an office or to have made a formal, public declaration of candidacy solely by his or her designation of a candidate campaign committee.

Summary

- ❖ In order to run for state or legislative office, a candidate must first file the statement of organization with the Secretary of State's Office.
- ❖ A statement of organization must be filed before accepting any contributions, making any expenditures, collecting any ballot petition signatures and distributing any campaign literature.
- ❖ All campaign finance reports shall be filed electronically. The Secretary of State's Office provides campaign finance software for electronic filing.
- ❖ A candidate must establish a single bank account through which all campaign transactions are processed.
- ❖ A candidate may establish a petty account, not to exceed \$1,160 at anytime. No petty cash expenditure may exceed \$120.
- ❖ The campaign treasurer is responsible for maintaining all committee records.
- ❖ An elected official must resign in order to declare his candidacy for a *different* elective office, except when the officer is in the final year of the current elective office.

References

- ❖ Qualifications for office & term limits
 - Qualified Elector - Arizona Constitution Article VII, §§ 15 & A.R.S. § 16-101(A)(1-6)
 - State Executive Offices – Arizona Constitution Article V, §§ 2, 3, 4 and 6
 - Corporation Commission – Arizona Constitution Article XV, §§ 1, 3 and 5 & A.R.S. § 40-101
 - Mine Inspector – Arizona Constitution Article XIX
 - Legislature – Arizona Constitution Article V, §§ 1, 2 and 21
- ❖ Participating candidates may file early
 - A. R.S. § 16-951(B)
- ❖ All campaign financial activity shall be conducted through a single campaign account
 - A.A.C. R2-20-110(A)
- ❖ Petty cash accounts
 - A.R.S. § 16-948(C)
- ❖ Resign to run
 - A.R.S. § 38-296



Chapter 2: How to Become a Participating Candidate

Chapter 2: How to Become a Participating Candidate takes candidates through the steps on how to become a participating candidate. A candidate who is interested in accepting public funding must first file an application to be certified as a participating candidate. After a candidate is certified as a participating candidate, the candidate is eligible to raise \$5 qualifying contributions and apply for funding.

Application for Certification as a Participating Candidate



Candidates interested in becoming a participating candidate must file an application called the “Application for Certification as a Participating Candidate” with the Secretary of State’s Office before the end of the qualifying period, August 24, 2006.

At the time the candidate submits his or her Application for Certification, the candidate shall file a campaign finance report reflecting all campaign activity to date.

Candidate Certifies Under Oath

In the Application for Certification, the candidate certifies under oath that the candidate:

1. Has complied with the restrictions of A.R.S. § 16-941(A) during the election cycle to date, which are as the following:
 - a. Not accepted contributions other than early contributions specified in A.R.S. § 16-945;
 - b. Not made expenditures that exceed the candidate’s personal money limit; and
 - c. Conducted all financial activity through a single campaign account.
2. Will continue to comply with the restrictions in paragraph 1 during the remainder of the election cycle, and will:
 - a. Not make expenditures in the primary election period in excess of the adjusted primary election spending limit; and
 - b. Not make expenditures in the general election period in excess of the adjusted general election spending limit; and
 - c. Return unused monies to the Fund in accordance with A.R.S. § 16-953.
3. Will file all campaign finance reports required under Title 16, Chapter 6, Article I, during the election cycle to date, and the reports will be complete and accurate.
4. Agrees to use all Clean Elections funding for direct campaign purposes only;
5. Has filed a campaign finance report, showing all activity to date in the current election cycle;
6. Will comply with all requirements of the Act and Commission rules;

7. Is subject to all enforcement actions by the Commission as authorized by the Act and Commission rules;
8. Has the burden of proving that expenditures made by or on behalf of the candidate are for direct campaign purposes;
9. Will keep and furnish to the Commission all documentation relating to expenditures, receipts, funding, books, records (including bank records for all accounts), and supporting documentation and other information that the Commission may request;
10. Will permit an audit or examination by the Commission of all receipts and expenditures including those made by the candidate. The candidate shall also provide any material required in connection with an audit, investigation, or examination conducted by the Commission. The candidate shall facilitate the audit by making available in one central location, such as the Commission's office space, records and such personnel as are necessary to conduct the audit or examination, and shall pay any amounts required to be repaid;
11. Will submit the name and mailing address of the person who is entitled to receive equalizing funds payments on behalf of the candidate and the name and address of the campaign depository designated by the candidate. Changes in the information required by this paragraph shall not be effective until submitted to the Commission in a letter signed, or submitted electronically, by the candidate or the committee treasurer;
12. Will pay any civil penalties included in a conciliation agreement or otherwise imposed against the candidate;
13. Will timely file all campaign finance reports with the Secretary of State in an electronic format; and
14. Will file an amended application for certification reporting any change in the information prescribed in the application for certification within 5 days after the change.

Where to Find the Application for Certification as a Participating Candidate

The Application for Certification as a Participating Candidate is available:

- At the end of this Guide
- On the Commission website, which is www.azcleaselections.gov
- At the Commission Office
- At the Secretary of State's Office

Processing the Application for Certification as a Participating Candidate

Although the Application for Certification as a Participating Candidate must be submitted to the Secretary of State's Office, it is the Commission that shall act upon the application within seven calendar days. Unless during that time the Commission denies an application with written reasons that all or part of a certification is incomplete or untrue, the candidate will be certified as participating. The Commission will send the candidate a letter notifying him or her that he or she has been certified as a participating candidate. Once certified, the candidate is held to all laws governing participating candidates.

Changing Participation Status

A candidate who is a certified participating candidate may opt out of Clean Elections and choose to be decertified.

Voluntary termination of participating candidate status may only occur before the end of the qualifying period, August 24, 2006. To withdraw from participating candidate status:

- The candidate is required to send a letter to the Commission stating the candidate's intent to withdraw and the reason for the withdrawal.
- The candidate may not accept any private monies until the withdrawal is approved by the Commission.
- The Commission shall act on the withdraw request within 7 days.
- If the Commission takes no action in the 7-day time period, the withdrawal is automatic and the candidate shall immediately begin the process of returning public funds to the Commission.

A candidate whose withdrawal has been approved shall:

- No longer be eligible to receive public funding;
- Return all Clean Elections funding to the Commission; and
- Make his or her best efforts to return all \$5 qualifying contributions to the contributors within 30 days of the candidate's withdrawal. If contributors cannot be located, then the \$5 qualifying contributions shall be sent to the Commission.

A nonparticipating candidate who has accepted contributions up to the limits permissible for nonparticipating candidates, but later chooses to run as a participating candidate, shall:

- Make the change to participating candidate status during the exploratory and qualifying periods only;
- Return the amount of each contribution in excess of the individual contribution limit for participating candidates;
- Return all Political Action Committee (PAC) monies received;
- Not have spent contributions exceeding the aggregate early contribution limit, or any part of a contribution exceeding the individual early contribution limit of \$120;
- Comply with all contribution and spending limits required of a participating candidate for the election cycle.

Candidate and Treasurer Training Workshops

Every participating candidate and the candidate's treasurer are required to attend a training workshop sponsored by the Commission. This is a new rule adopted by the Commission for the 2005 – 2006 election cycle. The Commission staff conducts training workshops for participating candidates, and campaign treasurers.

If a candidate or a treasurer cannot attend a training workshop, he or she must notify the Commission. The Commission will then send training materials to the candidate or the treasurer. The candidate or the treasurer must sign a statement certifying that he or she has received and reviewed the training materials. **However, it is highly recommended that both the candidate and treasurer attend a workshop in person.**

:

The Commission will sponsor training classes both in Phoenix and outside of Phoenix in 2006. Check the Commission website at www.azcleelections.gov for updates on training class dates.

Exploratory Period

The dates for the exploratory period are set forth in the chart below.

EXPLORATORY PERIOD	
November 3, 2004 – December 31, 2005:	Legislative Candidates
November 3, 2004 – July 31, 2005:	Statewide Candidates

During the exploratory period, participating candidates may:

- Raise and spend a limited amount of early contributions and personal monies.
 - Early contributions are raised from individuals. Personal monies are the candidate's and the candidate's family's contributions to the campaign. For more information on early contributions and personal monies, please refer to Chapter 7.
- File the Application for Certification as a Participating Candidate;
- Retire campaign debt.



Retiring Prior Campaign Debt

During the exploratory period only, the candidate may accept additional early contributions or use additional personal money to retire prior campaign debt. The exploratory period is the only period of time during which candidates may raise funds to pay for debt from a previous campaign.

If a participating candidate has a debt from a previous election in which the candidate was not a participating candidate, then, during the exploratory period only, the candidate may accept additional monies to retire the debt. The candidate may accept the following monies to retire a prior campaign debt:

- Individual contribution limits applicable to nonparticipating candidates. For the 2005 – 2006 election cycle, the individual contribution limits are \$296 for legislative candidates and \$760 for statewide candidates.

- Unlimited personal monies.

\$5 Qualifying Contributions

Participating candidates **MAY NOT** raise \$5 qualifying contributions during the exploratory period.

Qualifying Period

Once the exploratory period ends, the qualifying period begins on January 1, 2006 for legislative candidates and August 1, 2005 for statewide candidates. The dates of the qualifying period are as follows:

QUALIFYING PERIOD	
January 1, 2006 – August 24, 2006:	Legislative Candidates
August 1, 2005 – August 24, 2006:	Statewide Candidates

During the qualifying period, candidates may:

- Open a candidate committee by filing a Statement of Organization (*Chapter 1*);
- Raise and spend a limited amount of early contributions and personal monies (*Chapter 7*);
- File the Application for Certification as a Participating Candidate;
- Collect nominating petition signatures;
- Collect \$5 qualifying contributions (*Chapter 3*);
- File the Participating Candidate's Application to Receive Funds and Qualifying Contributions Report (*Chapter 3*);
- Receive Clean Elections funding, including matching funding (*Chapter 4*).

At the end of the qualifying period, candidates are required to:

- Send to the Commission any unspent early contributions
- Return to the candidate or family member any unspent personal monies

Campaign Finance Reporting Requirements

Each participating candidate is required to file campaign finance reports reporting the committee's receipts and disbursements. The following chart lists all of the required campaign finance reports and the deadlines for filing the reports. All campaign finance reports must be filed electronically with the Secretary of State's Office.

PARTICIPATING CANDIDATE CAMPAIGN FINANCE REPORTING REQUIREMENTS		
Name of Report	Due Date	Covered Period
January 31st Report	January 31, 2006	(Period 1) covering November 23, 2004 to December 31, 2005
June 30th Report	June 30, 2006	(Period 2) covering January 1, 2006 to May 31, 2006
Application for Certification Report	When a candidate submits the Application for Certification	Covering all campaign transactions to date. Due to the Secretary of State at the same time the Application for Certification is filed with the Secretary of State's Office.
Qualifying Contributions Report	When a candidate submits the \$5 qualifying contributions to SOS	Reporting all \$5 qualifying contributions being submitted to the Secretary of State for verification.
End of Qualifying Period Report	August 31, 2006	Covering all campaign transactions through August 24, 2006. Any unspent early contributions reported must be sent to the Commission.
Pre-Primary Report	August 31, 2006	(Period 3) covering June 1, 2006 – August 23, 2006
Return of Primary Funds Report	September 19, 2006	Covering all campaign transactions through September 12, 2006. Any unspent monies reported must be sent to the Commission by September 26, 2006.
Post-Primary Report	October 12, 2006	(Period 4) covering August 24, 2006 to October 2, 2006. This report shall include the identification of monies (if any) that were returned to the Commission at the end of the primary election period.
Pre-General Report	October 26, 2006	(Period 5) covering October 3, 2006 to October 18, 2006
Post-General Report	December 7, 2006	(Period 6) covering October 19, 2006 to November 27, 2006. This report shall include the identification of monies (if any) that were returned to the Commission at the end of the general election period.
Return of General Funds	December 14, 2006	Any unspent monies must be sent to the Commission.

Summary

- ❖ In order to become a participating candidate, a candidate must file the “Application for Certification as a Participating Candidate” with the Secretary of State. A campaign finance report showing all campaign activity to date must be filed at the same time.
- ❖ A participating candidate may file his or her nominating papers and nominating petitions earlier than May 15, 2006, as long as he or she is concurrently filing the \$5 qualifying contributions.
- ❖ A nonparticipating candidate may choose to become certified as a participating candidate during the exploratory and qualifying periods only.
- ❖ All participating candidates and their campaign treasurers must attend a training class sponsored by the Commission.
- ❖ \$5 qualifying contributions may not be raised during the exploratory period.

References

- ❖ Campaign finance report filed with Application for Certification
 - A.A.C. R2-20-104(C)
- ❖ Requirements for a nonparticipating candidate to become eligible for participating candidate status
 - A.A.C. R2-20-104(A) & (B)
- ❖ Voluntary termination of participating candidate status
 - A.A.C. R2-20-108
- ❖ Requirements for attending Commission sponsored training classes
 - A.A.C. R2-20-104(D)(5)
- ❖ Retiring prior campaign debt
 - A.R.S. § 16-945(C)
- ❖ Campaign finance reporting requirements
 - A.R.S. § 16-913
 - A.A.C. R2-20-109



Chapter 3: Qualifying for Funding

Chapter 3: Qualifying for Funding explains the process for collecting the \$5 qualifying contributions and submitting them to the Secretary of State in order to qualify for Commission funding.

Qualifying Contributions

To qualify for Commission funding, a participating candidate is required to collect a certain number of \$5 qualifying contributions from individuals registered to vote in the candidate's district (or statewide for statewide candidates). Each \$5 qualifying contribution must be accompanied by a qualifying contribution form. The Commission has developed a 3-part form that is available free to participating candidates. The Commission also accepts the use of photocopies and computer reproduced qualifying contribution forms as long as they comply with the requirements set forth in the Act which specifies that the qualifying contribution form must list the name of the candidate; name, address, and signature of the contributor; date of contribution; and name of solicitor. Each qualifying contribution also must include the original signatures of the contributor and the solicitor.

Required Number of Qualifying Contributions

To qualify for clean campaign funding, a candidate must have been certified as a participating candidate and have obtained the following number of qualifying contributions:

Governor	Secretary of State	Attorney General	Treasurer	Superintendent of Public Instruction	Corp. Comm.	Mine Inspector	Legislature
4,200	2,625	2,625	1,575	1,575	1,575	525	210

To ensure that a candidate has a sufficient number of valid \$5 qualifying contributions, the Commission recommends that a candidate gather at least 20% more qualifying contributions than the minimum number required.

OFFICE	QUALIFYING CONTRIBUTIONS – minimum required	QUALIFYING CONTRIBUTIONS – minimum + 20% (*recommended*)
Governor	4,200 x \$5 = \$21,000	4,200 + 20% = 5,040 x \$5 = \$25,200
Secretary of State	2,625 x \$5 = \$13,125	2,625 + 20% = 3,150 x \$5 = \$15,750
Attorney General	2,625 x \$5 = \$13,125	2,625 + 20% = 3,150 x \$5 = \$15,750
Treasurer	1,575 x \$5 = \$7,875	1,575 + 20% = 1,890 x \$5 = \$9,450
Superintendent of Public Instruction	1,575 x \$5 = \$7,875	1,575 + 20% = 1,890 x \$5 = \$9,450
Corporation Commission	1,575 x \$5 = \$7,875	1,575 + 20% = 1,890 x \$5 = \$9,450
Mine Inspector	525 x \$5 = \$2,625	525 + 20% = 630 x \$5 = \$3,150
Legislature	210 x \$5 = \$1,050	210 + 20% = 252 x \$5 = \$1,260

Time Period for Collecting \$5 Qualifying Contributions

Candidates may accept \$5 qualifying contributions during the following time periods:

- January 1, 2006 - August 24, 2006 for Legislative candidates;
- August 1, 2005 - August 24, 2006 for Statewide candidates.

The last day a participating candidate may submit the \$5 qualifying contributions to the Secretary of State's Office is August 31, 2006.

Definition of Qualifying Contribution

- The sum of \$5, exactly;
- Made by a qualified elector ("contributor"). A qualified elector is a person who is qualified to register to vote and who is properly registered to vote in the district of the office the candidate is seeking;
- The contributor has not given another qualifying contribution to the same candidate during that election cycle;
- The contributor has not been given anything of value in exchange for the qualifying contribution;
- The contribution is received unsolicited or solicited from a person who is not employed or retained by the candidate and who is not compensated by or on behalf of the candidate to collect the qualifying contribution;
- If made by check or money order, made payable to the candidate's campaign committee, or if made in cash, deposited in the candidate's campaign committee's bank account;
- If a married couple contributes a \$10 check, BOTH spouses must sign the check for it to be considered two valid qualifying contributions and each spouse must sign and date a three-part form (one check, two forms); and
- Accompanied by a three-part reporting slip that includes the printed name, registration address, and signature of the contributor; the name of the candidate for whom the contribution is made; the date; and the printed name and signature of the solicitor, if applicable.



HELPFUL HINTS
\$5 QUALIFYING CONTRIBUTIONS

- Any expense incurred as a result of collecting qualifying contributions is considered to be a direct campaign expense and must be paid for out of the candidate's campaign account.
- The \$5 qualifying contributions must be kept by the candidate before submitting them to the Secretary of State, however, the candidate is NOT allowed to spend that money.
- The contributor's party affiliation DOES NOT matter for the \$5 qualifying contributions.
- A contributor may give a \$5 qualifying contribution to more than one candidate for the same office.
- A contributor may give a \$5 qualifying contribution, a \$120 early contribution, as well as sign a nomination petition on behalf of the same candidate.

Solicitation of the \$5 Qualifying Contributions



The Solicitor

The solicitor is defined as a person who is eligible to be registered to vote in this state and seeks \$5 qualifying contributions from qualified electors of this state. The solicitor can be the candidate, the contributor or a volunteer. The solicitor, however, MAY NOT be compensated to collect \$5 qualifying contributions.

On the qualifying contribution form, the solicitor must provide the following information:

- Solicitor's name;
- Residential address; and
- Signature.

Every resident of the state is qualified to register to vote if he or she:

- Is a citizen of the United States;
- Is eighteen years of age or more on or before the date of the regular general election next following his or her registration;
- Has been a resident of the state 29 days preceding the next election;
- Is able to write his or her name or make a mark, unless prevented from doing so by physical disability;
- Has not been convicted of treason or a felon, unless restored to civil rights;
- Has not been adjudicated an incapacitated person.

Unsolicited Qualifying Contributions

Candidates may receive qualifying contributions unsolicited. If an unsolicited contribution is received, the candidate shall:

- Sign the qualifying contribution form as the solicitor and be accountable for all of the responsibilities of a solicitor.

Important Note:



Qualifying Contribution Prohibitions

A lobbyist may not give a contribution to a legislator or the governor when the legislature is in regular session. In addition, lobbyists may not solicit contributions on behalf of a legislator or the Governor when the legislature is in regular session.

EXAMPLES OF WAYS PARTICIPATING CANDIDATE'S MAY RAISE \$5 QUALIFYING CONTRIBUTIONS

- Have volunteers solicit qualifying contributions on behalf of the candidate.
- Host parties or forums to receive qualifying contributions.
- If a candidate hosts a party or event where refreshments are available, the candidate may not require a \$5 contribution for partaking in refreshments.
- An individual hosts a party or an event in his or her home. In this situation, each adult in the household may spend up to \$100 in value for invitations, food and beverages only which does not count as a contribution to the candidate. Any amount spent by the homeowner over \$100, or for any other purpose, will need to be reported as a contribution from the individual and is subject to individual contribution limits. The candidate may also use campaign monies to pay for refreshments for the event, subject to the food expenditure limits of \$7 per person for breakfast, \$7.50 per person for lunch and \$15 per person for dinner.
- Candidates may post on their web site a solicitation for qualifying contributions and the qualifying contribution form. The web site should direct visitors to download or print out the qualifying contribution form, complete it and return the completed form with the original signature and the \$5 contribution to the candidate.
- Candidates may register an individual to vote and receive a qualifying contribution from that individual on the same day.

Application for Funding

Once a candidate has received the required number of qualifying contributions, the candidate may apply for Commission funding with the Secretary of State's Office **no later than August 31, 2006**.

Procedure to Apply for Funding

To apply for funding, the candidate must file the following items with the Secretary of State's Office:

1. "Participating Candidate's Application to Receive Funds and Qualifying Contributions Report" (Form available at the end of this Guide and on the Commission website). If the candidate is in a one-party-dominant district and chooses to reallocate his or her funding, the designated box should be marked on this form. *(Please see Chapter 4 for more information on one-party-dominant districts).*
2. Printed list of \$5 qualifying contributors sorted by county, generated from the Campaign Finance Software.
3. Original qualifying contribution slips sorted by county.
4. A check from the candidate's campaign account for the total amount of the \$5 qualifying contributions being submitted, made payable to the "Clean Elections Fund."
5. A campaign finance report, filed electronically, reporting all \$5 qualifying contributions being submitted.

Important Note:



Submitting \$5 Qualifying Contributions

Once the \$5 qualifying contributions have been remitted to the Clean Elections Fund, the qualifying contributions will not be returned to the candidate for any reason.

Verifying the \$5 Qualifying Contributions

Random Sample

After the candidate applies for funding, the Secretary of State's Office selects a random sample of 5% of the qualifying contributions forms. The Secretary of State's Office then sends the random sample to the county recorder of the county of the addresses specified on the selected forms.

Verification

The county recorder then verifies the selected forms within 10 days of receiving the random sample. The county recorder will provide a report to the Secretary of State's Office identifying as disqualified any forms that are:

- Unsigned by the contributor;
- Undated; or
- Signed by a person who is not registered to vote inside the electoral district of the office the candidate is seeking on the date specified on the slip.

Result of Random Sample

The Secretary of State's Office shall multiply the number of forms not disqualified by twenty, and if the result is greater than 110% of the minimum number required, the candidate will be approved for funding. However, if the result is less than 90% of the minimum number required, the candidate will be denied funding.



SAMPLING PROCEDURE EXAMPLE

Assumption: 1 candidate for a Legislative seat submits 252 qualifying contributions

Secretary of State takes 5% sample of 252, which is 13

If 12 of the 13 are valid, 12×20 is 240, $240/210$ is 114%
114% is above 110%. Therefore, funding is granted!

If 10 of the 13 are valid, 10×20 is 200, $200/210$ is 95%
95% is between 90% and 110%. Therefore, all 252 \$5 qualifying contribution forms
must be verified by the County Recorder(s).

If 8 of the 13 are valid, 8×20 is 160, $160/210$ is 76%
76% is below 90%. Therefore, funding is denied.

Number of Times a Candidate May Apply for Funding

After the county recorder has verified the random sample of the candidate's qualifying contribution forms, the candidate is approved for funding if the candidate has the minimum number of qualifying contributions required.

If the results of the random sample fall between 90% and 110% of the required amount of valid \$5 qualifying contributions, the county recorder must check all qualifying contribution forms.

If there is an insufficient number of valid forms, the candidate may make only one supplemental filing of additional \$5 qualifying contributions to the Secretary of State's Office if:

- The result from the original random sample is from 90% to 110% of the forms needed to qualify for funding;
- The candidate files at least the minimum number of additional forms needed to qualify for funding;
- The additional forms are not duplicates from individuals who have previously contributed to that candidate; and
- The period for filing qualifying contribution forms has not expired.

Failure to Qualify for Funding

A candidate will fail to qualify for funding if the result of the random sample of originally submitted qualifying contribution forms is less than 90% of the minimum number required. The candidate may NOT submit additional forms to make up the difference. The candidate must start the process of collecting the qualifying contributions all over again.

Important Note:



Failure to Qualify for Funding

If a candidate fails to qualify for funding, the candidate is still considered to be a participating candidate. In order to raise funds as a nonparticipating candidate, the candidate must send a letter to the Commission requesting de-certification. Otherwise, the candidate is still bound by the contribution and spending limits agreed to by a participating candidate.

Summary

- ❖ Participating candidates are required to raise a minimum number of qualifying contributions.
- ❖ Qualifying contributions must be \$5 exactly and must be from individuals.
- ❖ Qualifying contributions may be solicited or may be unsolicited. If in doubt, remember that the candidate is always the ultimate solicitor.
- ❖ When a candidate is ready to apply for funding, the candidate must submit to the Secretary of State:
 - ❑ The “Participating Candidate’s Application to Receive Funds and Qualifying Contributions Report”
 - ❑ A printed list of the \$5 qualifying contributors sorted by County, using the Campaign Finance Software.
 - ❑ All of the original qualifying contribution forms sorted by County.
 - ❑ A check from the candidate’s campaign account for the total amount of \$5 qualifying contributions being submitted, made payable to “Clean Elections Fund.”
 - ❑ A campaign finance report, filed electronically, reporting all \$5 qualifying contributions being submitted to the Secretary of State.
- ❖ The Secretary of State will select a 5% random sample of the qualifying contributions and send them to the appropriate county recorder.
- ❖ The county recorder will check the validity of the qualifying contributions and notify the Secretary of State of the results.

References

- ❖ Qualifying contributions
 - A.R.S. § 16-946
 - A.A.C. R2-20-101(20)
 - A.A.C. R2-20-105(B)&(C)
 - Please also refer to the Commission’s Substantive Policy Statements (3)
- ❖ Certification for funding
 - A.R.S. § 16-950
 - A.A.C. R2-20-105
- ❖ Second chance to apply for funding
 - A.A.C. R2-20-105(G)



Chapter 4: Primary Election Funding

Chapter 4: Primary Election Funding explains the process of how participating candidates receive initial primary election funding and matching funding from the Commission.

DATES OF PRIMARY ELECTION PERIOD	
Legislative Offices:	July 11, 2006 – September 12, 2006
Statewide Offices:	July 11, 2006 – September 12, 2006

Primary Election Spending Limit



Once a candidate qualifies to receive clean elections funding, the Commission shall provide the candidate with funding equal to the original primary election spending limit. Participating candidates are also eligible to receive matching funds if their nonparticipating opponents in the same party primary exceed the spending limits. Participating candidates must return to the Commission any unspent monies at the end of the primary election period and may NOT carry excess primary election funding over to the general election period.

The table below details the funding that qualified participating candidates will be provided with when they qualify to receive funding.

PRIMARY ELECTION COMMISSION FUNDING FOR PARTICIPATING CANDIDATES				
Office	Party Candidate	Independent	Unopposed	One-Party
Governor	\$453,849	\$794,306	\$5 Qualifying Contributions	N/A
Secretary of State	\$95,550	\$167,213	\$5 Qualifying Contributions	N/A
Attorney General	\$95,550	\$167,213	\$5 Qualifying Contributions	N/A
Treasurer	\$47,770	\$83,598	\$5 Qualifying Contributions	N/A
Superintendent of Public Instruction	\$47,770	\$83,598	\$5 Qualifying Contributions	N/A
Corporation Commission	\$47,770	\$83,598	\$5 Qualifying Contributions	N/A
Mine Inspector	\$23,890	\$41,808	\$5 Qualifying Contributions	N/A
Legislature	\$11,945	\$20,904	\$5 Qualifying Contributions	\$17,918

Funding for Unopposed Candidates

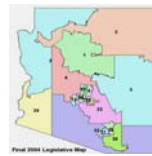
A candidate is unopposed if he or she meets ALL of the following criteria:

1. Unopposed in his or her primary;
2. Unopposed in the primary of any other party; AND
3. Unopposed by any opposing independent candidate.

An unopposed participating candidate will NOT receive full funding from the Commission. An unopposed participating candidate will receive \$5 times the number of qualifying contributions that the candidate submitted to the Secretary of State. Also, an unopposed candidate is NOT eligible to receive matching funds.

Determining Whether a Participating Candidate is Unopposed:

- For the House of Representatives, a candidate is opposed if there are at least two other candidates from the same party, or if there will be at least two other candidates for the same office in the general election by an independent or a candidate from another party.
- For statewide office and Senate, a candidate is opposed if there is at least one other candidate from the same party, or if there will be at least one other candidate for the same office in the general election by an independent or a candidate from another party.



One-Party-Dominant Legislative District

A candidate who is a member of the dominant party in a one-party-dominant district may choose to reallocate a portion of funds from the general election period to the primary election period. This allows the candidate to be more competitive in the primary election.

A one-party-dominant district is a legislative district in which the number of registered voters registered in the party with the highest number of registered voters exceeds the number of registered voters registered to each of the other parties by an amount at least as high as 10% of the total number of voters registered in the district. One-party-dominant legislative districts are determined by the Commission.

A candidate who chooses the reallocation option must so designate in the appropriate section of the Participating Candidate's Application to Receive Funds and Qualifying Contributions Report, which is submitted to the Secretary of State's Office along with the \$5 qualifying contributions. The Commission will disburse the following amounts:

ONE-PARTY-DOMINANT DISTRICT FUNDING	
Primary Election	\$17,918
General Election	\$11,945

Independent Candidates

When an independent participating candidate qualifies for funding, the candidate receives 70% of the sum of the original primary election spending limit and the original general election spending limit. An independent candidate is a candidate who:

- Has properly filed nominating papers and nominating petitions with signatures, and
- Is registered as an independent or with no party preference or who is registered with a political party that is not qualified for representation on the ballot.

The funding, set forth in the chart below, is received shortly after the candidate is approved to receive funding, and is available for the candidate to spend in both the primary and general election periods. The independent participating candidate is not required to return any unspent monies at the end of the primary election period. The independent participating candidate is not eligible to receive matching funds in the primary election period.

INDEPENDENT CANDIDATE FUNDING	
Governor	\$794,306
Secretary of State	\$167,213
Attorney General	\$167,213
Treasurer	\$83,598
Superintendent of Public Instruction	\$83,598
Corporation Commission	\$83,598
Mine Inspector	\$41,808
Legislative	\$20,904



Primary Election Period Matching Funding

Participating candidates may receive matching funding in the primary election period if their nonparticipating opponents make expenditures in excess of the primary election spending limit. Beginning July 11, 2006, the start of the primary election period, the Commission will immediately provide participating candidates with matching funds whenever expenditures made by a nonparticipating candidate in the same party primary exceed the primary election spending limit.

<u>PRIMARY ELECTION PERIOD MATCHING FUNDS EXAMPLE</u>	
Assumption: 1 legislative seat, 2 candidates 1 participating, 1 nonparticipating	
Nonparticipating candidate spends	\$15,000
Primary election spending limit	\$11,945
<i>Matching funds provided</i>	<i>\$3,055</i>

Primary Election Period Matching Funds Limits

The chart below shows the initial primary funding, the maximum primary matching funding and the maximum primary total funding that is available to participating candidates in the primary election period. The total monies distributed to a candidate during the primary election period will not exceed three times the original primary election spending limit.

PRIMARY ELECTION PERIOD			
Office	INITIAL PRIMARY FUNDING +	MAXIMUM MATCHING FUNDS =	MAXIMUM TOTAL FUNDS
Governor	\$453,849	\$907,698	\$1,361,547
Secretary of State	\$95,550	\$191,100	\$286,650
Attorney General	\$95,550	\$191,100	\$286,650
Treasurer	\$47,770	\$95,540	\$143,310
Superintendent of Public Instruction	\$47,770	\$95,540	\$143,310
Corporation Commission	\$47,770	\$95,540	\$143,310
Mine Inspector	\$23,890	\$47,780	\$71,670
Legislature	\$11,945	\$23,890	\$35,835
One-Party-Dominant	\$17,918	\$35,836	\$53,754

Exceptions:

Candidates who have chosen the one-party-dominant reallocation option: Primary matching funds will start for a participating candidate who has chosen the reallocation option whenever a nonparticipating opponent exceeds the *adjusted* primary election spending limit of \$17,918.

Unopposed candidates: Unopposed candidates are not eligible to receive matching funds in the primary election period.

Independent candidates: Independent candidates are not eligible to receive matching funds in the primary election period.

Independent Expenditures

Chapter 11 explains how a participating candidate may be eligible to receive matching funds when an independent expenditure advocates the election or defeat of a particular candidate.

Process of Providing Matching Funds

1. The Commission staff receives instant notification from the Secretary of State's Office whenever nonparticipating candidates file a campaign finance report.

2. The Commission staff calculates the amount of matching funds that are due to the participating candidate and notifies the candidate when funds will be available.
3. The matching fund checks are typically available on the next business day after Commission staff receives notification from the Secretary of State's Office. However, the Arizona Department of Administration (ADOA) processes the checks and the Commission has no control over ADOA timelines.
4. In the case of possible matching funds arising from independent expenditures that have NOT been reported, the staff will make an initial recommendation whether the independent expenditures constitute "express advocacy" as defined in statute and commission rules. If so, the staff will make a recommendation whether and how much matching funds are triggered by the express advocacy. The Commission will review the recommendations, make any additional inquiries deemed necessary, and then issue the appropriate award of matching funds (if any).

Return of Unspent Monies

Within 5 days after the end of the primary election period, a participating candidate shall return to the Commission all monies in the candidate's campaign account above an amount sufficient to pay any unpaid bills for expenditures made during the primary election and for goods or services directed to the primary election. Participating candidates are NOT permitted to carry primary funding forward to the general election period.

Unpaid Bills

A participating candidate shall pay all uncontested and unpaid bills no later than 30 days after the primary election. If after 30 days, the bill is still contested, the candidate must inform the Commission, in writing, of the status of the bill. The candidate must continue to inform the Commission, in writing, every 30 days until the issue is resolved. Any monies in a candidate's campaign account after payment of bills shall be returned promptly to the Commission.

Bank Interest

After the primary election, participating candidates must send to the Commission any bank interest earned on campaign monies. Participating candidates are not permitted to spend bank interest on their campaigns.

Recap Campaign Finance Report

Participating candidates are required to file a recap campaign finance report after the primary election. The report shall include all campaign activity through September 12, 2006 and shall report unspent monies returned to the Commission. The recap campaign finance report for the primary election is due September 19, 2006.

Summary

- ❖ Once a participating candidate qualifies to receive funding, the Commission will provide the candidate with initial primary funding. The amounts of funding are different if the candidate is independent, unopposed, or a member of the dominant party in a one-party-dominant legislative district.
- ❖ Participating candidates may receive matching funds if nonparticipating opponents in the same party primary make expenditures in excess of the primary election spending limit.
- ❖ Participating candidates may receive a total of three times the original primary election spending limit from the Commission.
- ❖ Any monies not spent by the end of the primary election period shall be returned to the Commission.
- ❖ Participating candidates are not permitted to spend bank interest earned on campaign monies. Bank interest must be sent to the Commission at the end of the primary election period.

References

- ❖ Funding for unopposed candidates
 - A.R.S. § 16-951(A)(3)
- ❖ One-party dominant districts
 - A.R.S. § 16-952(D)
- ❖ Independent candidates
 - A.R.S. §§ 16-951(A)(2) & -953(A)
- ❖ Return of unspent monies
 - A.R.S. § 16-953
- ❖ Matching funds calculations
 - A.R.S. § 16-952(A) & (E)
 - A.A.C. R2-20-113



Chapter 5: General Election Funding

Chapter 5: General Election Funding explains the process of how successful participating candidates in the primary election receive a new allocation of funding at the beginning of the general election cycle. Participating candidates may also be eligible to receive matching funding during the general election cycle.

DATES OF GENERAL ELECTION PERIOD	
Legislative Offices:	September 13, 2006 – November 7, 2006
Statewide Offices:	September 13, 2006 – November 7, 2006

General Election Spending Limit

At the beginning of the general election period, the Commission shall provide to each participating candidate qualified for the general election ballot an amount equal to the original general election spending limit. Participating candidates are also eligible to receive matching funds if their nonparticipating opponents exceed the general election spending limits.

The table below details the funding that qualified participating candidates will be provided with at the beginning of the general election period.

GENERAL ELECTION COMMISSION FUNDING FOR PARTICIPATING CANDIDATES				
Office	Party Candidate	Independent	Unopposed	One-Party
Governor	\$680,774	\$794,306	\$5 Qualifying Contributions	N/A
Secretary of State	\$143,325	\$167,213	\$5 Qualifying Contributions	N/A
Attorney General	\$143,325	\$167,213	\$5 Qualifying Contributions	N/A
Treasurer	\$71,655	\$83,598	\$5 Qualifying Contributions	N/A
Superintendent of Public Instruction	\$71,655	\$83,598	\$5 Qualifying Contributions	N/A
Corporation Commission	\$71,655	\$83,598	\$5 Qualifying Contributions	N/A
Mine Inspector	\$35,835	\$41,808	\$5 Qualifying Contributions	N/A
Legislature	\$17,918	\$20,904	\$5 Qualifying Contributions	\$11,945

Funding for Unopposed Candidates

A qualified participating candidate who is unopposed in the general election will receive an amount equal to \$5 times the number of valid qualifying contributions submitted by the candidate to the Secretary of State. The unopposed candidate is not eligible to receive matching funds.

If a candidate is unopposed in both the primary election and the general election, and receives the amount equal to \$5 times the number of qualifying contributions in the primary election, the candidate will NOT receive any additional funding for the general election.

If a candidate is opposed in the primary election and unopposed in the general election, the candidate will receive the original spending limit for the primary election, and an amount equal to \$5 times the number of valid qualifying contributions submitted by the candidate for the general election.

Determining Whether a Participating Candidate is Unopposed:

- General election for the House of Representatives: Opposed means that there are at least two opponents on the ballot competing for election in the same district.
- General election for statewide offices and Senate seats: Opposed means that there is at least one opponent on the ballot competing for election in the same district.

One-Party-Dominant District



A candidate who is a member of the dominant party in a one-party- dominant district may choose to reallocate a portion of funds from the general election period to the primary election period. This allows the candidate to be more competitive in the primary election.

A one-party-dominant district is a district in which the number of registered voters registered in the party with the highest number of registered voters exceeds the number of registered voters registered to each of the other parties by an amount at least as high as 10% of the total number of voters registered in the district. One-party-dominant legislative districts are determined by the Commission.

A candidate who chooses the reallocation option must so designate in the appropriate section of the Participating Candidate's Application to Receive Funds and Qualifying Contributions Report, which is submitted to the Secretary of State's Office along with the \$5 qualifying contributions. The Commission will disburse the following amounts:

ONE-PARTY-DOMINANT DISTRICT FUNDING	
Primary Election	\$17,918
General Election	\$11,945

Independent Candidates

When an independent participating candidate qualifies for funding, the candidate receives 70% of the sum of the original primary election spending limit and the original general election spending limit. An independent candidate is a candidate who:

- Has properly filed nominating papers and nominating petitions with signatures, and
- Is registered as an independent or with no party preference or who is registered with a political party that is not qualified for representation on the ballot.

The funding, set forth in the chart below, is received as soon as the candidate is approved to receive funding, and is available for the candidate to spend in both the primary and general election periods. The independent participating candidate is not required to return any unspent monies at the end of the primary election period and will not receive a new allocation of Commission funding at the start of the general election period. The independent participating candidate, however, is eligible to receive matching funding in the general election period.

GENERAL ELECTION PERIOD– Independent Candidates			
Office	INITIAL FUNDING (for Primary and General Election periods combined) +	MAXIMUM MATCHING FUNDS =	MAXIMUM TOTAL FUNDS
Independent Gubernatorial Candidates	\$794,236	\$1,361,548	\$2,155,784
Independent Secretary of State Candidates	\$167,213	\$286,650	\$453,863
Independent Attorney General Candidates	\$167,213	\$286,650	\$453,863
Independent Treasurer Candidates	\$83,598	\$143,310	\$226,908
Independent Superintendent of Public Instruction Candidates	\$83,598	\$143,310	\$226,908
Independent Corporation Commission Candidates	\$83,598	\$143,310	\$226,908
Independent Mine Inspector Candidates	\$41,808	\$71,670	\$113,478
Independent Legislative Candidate	\$20,904	\$35,836	\$56,740

Commission Disbursement Procedure for General Election Funds

1. Within 7 days after a primary election and before the Secretary of State completes the canvass, the Commission shall disburse funds for general election campaigns to the participating candidates who received the greatest number of votes at each primary election, provided that the candidate with the highest number of votes out of the total number of

votes, has at least 2% points greater than the candidate with the next highest votes based on the unofficial results as of that date. In a legislative race for the Arizona House of Representatives, the Commission shall disburse funds for general election campaigns to participating candidates with the highest or second highest number of votes cast, provided such candidate received votes totaling at least 2% points, of the total ballots cast, greater than the total vote cast for the candidate with the 3rd highest vote total.

- Promptly after the Secretary of State’s Office completes the canvass, the Commission shall disburse funds for general election campaigns to all eligible participating candidates to whom payment has not yet been made. If a participating candidate has received funds from the Commission pursuant to the previous paragraph and the canvass or recount determines that the candidate is not eligible to appear on the general election ballot, the participating candidate shall return all unused funds to the Fund within 10 days after such determination is made. That candidate shall make no promissory payments from the general election funding from the date of the canvass.



General Election Period Matching Funding

Participating candidates may receive matching funding in the general election period if their nonparticipating opponents receive contributions, minus expenditures made through the primary election, in excess of the general election spending limit.

<u>GENERAL ELECTION PERIOD MATCHING FUNDS EXAMPLE</u>	
Assumption: 1 legislative seat, 2 candidates 1 participating, 1 nonparticipating	
Nonparticipating candidate’s total contributions	\$40,000
<u>Nonparticipating candidate’s primary election expenditures</u>	<u>\$20,000</u>
Difference	\$20,000
<u>General Election Spending Limit</u>	<u>\$17,918</u>
<i>Matching funds provided</i>	<i>\$2,082</i>

Process of Providing Matching Funds

- The Commission staff receives instant notification from the Secretary of State’s Office whenever nonparticipating candidates file a campaign finance report.
- The Commission staff calculates the amount of matching funds that are due to the participating candidate and notifies the candidate when funds will be available.
- The matching fund checks are typically available on the next business day after Commission staff receives notification from the Secretary of State’s Office. However, the Arizona

Department of Administration (ADOA) processes the checks and the Commission has no control over ADOA timelines.

4. In the case of possible matching funds arising from independent expenditures that have NOT been reported, the staff will make an initial recommendation whether the independent expenditures constitute “express advocacy” as defined in statute and commission rules. If so, the staff will make a recommendation whether and how much matching funds are triggered by the express advocacy. The Commission will review the recommendations, make any additional inquiries deemed necessary, and then issue the appropriate award of matching funds (if any).

General Election Period Matching Funds Limits

The chart below shows the initial general election funding, the maximum general matching funding and the maximum general total funding. The total monies distributed to a candidate, during the general election period, will not exceed three times the original general election spending limit.

GENERAL ELECTION PERIOD			
Office	INITIAL GENERAL FUNDING +	MAXIMUM MATCHING FUNDS =	MAXIMUM TOTAL FUNDS
Governor	\$680,774	\$1,361,548	\$2,042,322
Secretary of State	\$143,325	\$286,650	\$429,975
Attorney General	\$143,325	\$286,650	\$429,975
Treasurer	\$71,655	\$143,310	\$214,965
Superintendent of Public Instruction	\$71,655	\$143,310	\$214,965
Corporation Commission	\$71,655	\$143,310	\$214,965
Mine Inspector	\$35,835	\$71,670	\$107,505
Legislature	\$17,918	\$35,836	\$53,754
One-Party-Dominant	\$11,945	\$23,890	\$35,835

Exceptions:

Candidates who have chosen the one-party-dominant reallocation option: General election matching funds will start for a participating legislative candidate who has chosen the reallocation option whenever a nonparticipating opponent exceeds the *adjusted* general election spending limit of \$11,945.

Unopposed participating candidates: Unopposed candidates are not eligible to receive matching funds in the general election period.

Unopposed nonparticipating candidates in primary election: Expenditures made during the primary election period by or on behalf of an independent candidate or a nonparticipating candidate who was unopposed in a party primary, shall be treated as though made during the general election period. Therefore, the matching funds calculations will not

include any expenditures made by nonparticipating candidates during the primary election period.

Transfer of Funds and Impact on Matching Funds

A nonparticipating candidate's transfer of surplus funds from a previous election cycle to an account to be used in the present election will be considered a contribution, and will be included in the calculation of matching funds for the general election.

Return of Unspent Monies

At the end of the general election period, a participating candidate shall return to the Commission all monies in the candidate's campaign account above an amount sufficient to pay any unpaid bills for expenditures made during the general election and for goods or services directed to the general election.

Unpaid Bills

A participating candidate shall pay all uncontested and unpaid bills no later than 30 days after the general election. If after 30 days, the bill is still contested, the candidate must inform the Commission, in writing, of the status of the bill. The candidate must continue to inform the Commission, in writing, every 30 days until the issue is resolved. Any monies in a candidate's campaign account after payment of bills shall be returned promptly to the Commission.

Bank Interest

After the general election, participating candidates must send to the Commission any bank interest earned on campaign monies. Participating candidates are not permitted to spend bank interest on their campaigns.

Recap Campaign Finance Report

Participating candidates are required to file a recap campaign finance report after the general election. The report shall include all campaign activity through November 7, 2006 and shall report unspent monies returned to the Commission. The recap campaign finance report for the general election will be considered to have been filed when the Post-General campaign finance report is filed by December 7, 2006.

Summary

- ❖ Immediately following the primary election, the Commission shall disburse general election funding to participating candidates who were successful in the primary election. These amounts are different if the candidate is independent, unopposed, or the member of the dominant party in a one-party-dominant legislative district.
- ❖ Participating candidates may receive matching funds if their opponent receives contributions, minus expenditures made in the primary election period, in excess of the general election spending limit.
- ❖ Participating candidates may receive a total of three times the original general election spending limit from the Commission.
- ❖ Any monies not spent by the end of the general election period shall be returned to the Commission.
- ❖ Participating candidates are not permitted to spend bank interest earned on campaign monies. Bank interest must be sent to the Commission at the end of the general election period.

References

- ❖ Funding for unopposed candidates
 - A.R.S. § 16-951(D)
- ❖ One-party-dominant districts
 - A.R.S. § 16-952(D)
- ❖ Independent candidates
 - A.R.S. §§ 16-951(A)(2) & -953(A)
- ❖ Return of unspent monies
 - A.R.S. § 16-953
- ❖ Matching funds calculations
 - A.R.S. § 16-952(B) & (E)
 - A.A.C. R2-20-113



Chapter 6: Use of Campaign Monies

Chapter 6: Use of Campaign Monies guides participating candidates through the laws regarding permissible expenditures. Participating candidates may use campaign monies for direct campaign purposes only.

Direct Campaign Purposes



A participating candidate shall use funds in the candidate's current campaign account to pay for goods and services for direct campaign purposes only. The laws regarding use of funds pertain to Commission funding, personal monies and individual contributions. Participating candidates have the burden of proving that expenditures were made for direct campaign purposes. If the Commission determines that an expenditure was not made for direct campaign purposes, the Commission may order the candidate to repay the Commission with personal monies.

When making an expenditure, the candidate shall first determine if the expenditure is a direct campaign expenditure that shall be reported. If so, the candidate shall then determine if the expenditure complies with the laws governing the use of Commission funding.

Prohibited Use of Campaign Monies

The Commission has adopted rules to give specific guidance regarding what participating candidates may **NOT** spend their campaign monies on. Monies in a participating candidate's campaign account shall **NOT** be used:

1. For costs of legal defense in any campaign law enforcement proceeding.
2. For food and beverages for staff and volunteers exceeding of \$7.00 for breakfast, \$7.50 for lunch, and \$15.00 for dinner.
3. For personal use, which includes:
 - Household food items or supplies;
 - Clothing, other than items of de minimus value that are used in the campaign, such as campaign "T-shirts" or caps with campaign slogans;
 - Tuition payments, other than those associated with training campaign staff;
 - Mortgage, loan, rent, lease or utility payments:
 - For any part of any personal residence of the candidate or a member of the candidate's family; or
 - For real or personal property that is owned or leased by the candidate or a member of the candidate's family and used for campaign purposes, to the extent the payments exceed the fair market value of the property usage;

- Admission to a sporting event, concert, theater, or other form of entertainment, unless part of a specific campaign activity;
 - Dues, fees or gratuities at a country club, health club, recreational facility or other nonpolitical organization, unless they are part of the costs of a specific fundraising event that takes place on the organization's premises; and
 - Gifts or donations.
4. Fixed assets with a value in excess of \$600. A fixed asset is defined as tangible property usable in a capacity that will benefit the candidate for a period of more than one year from the date of acquisition.

Use of Assets from a Prior Election

A participating candidate may use assets such as signs, pamphlets, and office equipment from a prior election cycle only after the candidate's current campaign acquires the assets for an amount equal to the fair market value of the assets. The Commission defines "fair market value" as the amount at which property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or sell and both having reasonable knowledge of the relevant facts.

If the candidate was a participating candidate during the prior election cycle, the payment for the assets shall be made to the Commission. If the candidate was a nonparticipating candidate during the prior election cycle, the payment shall be made to the prior campaign. If the prior campaign account of a nonparticipating candidate is closed, the payment shall be made to the candidate.

Travel Expenses



Travel expenses incurred by the candidate in the course of campaigning are considered to be direct campaign expenses that must be paid for with campaign funds and must be reported. Participating candidates, therefore, need to keep careful track of their travel expenses. Travel expenses include mileage or gasoline, hotels, etc.

While the candidate is *required* to use campaign funds to pay for travel expenses, campaign staff and volunteers *may choose* to pay their own travel expenses and not be reimbursed. If a staff member or volunteer chooses to pay for his or her own travel expenses, it will NOT be considered to be a contribution to the candidate. A campaign, however, is not precluded from paying for a staff member's travel expenses that are directly campaign related.

Using a Personal Vehicle

When using a personal vehicle, the candidate shall reimburse himself or herself for mileage or for gas used. The candidate may choose his or her own mileage reimbursement rate, however, it shall be no less than 10¢ per mile and no more than 40.5¢ per mile. For a trip that includes both campaign related and non-campaign related stops, only the portion of the cost of the trip that is allocable to campaign activity shall be considered to be a direct campaign expense.

Food and Beverages Expenses

Participating candidates may use campaign monies to pay for food and beverages if the expenditure is directly related to the campaign, such as refreshments provided at a fundraiser. Any payment for food and beverages made by a person for the purpose of influencing an election shall be reported as a campaign expenditure. Participating candidates are limited to making food expenditures of \$7.00 per person for breakfast, \$7.50 per person for lunch, and \$15.00 per person for dinner. Participating candidates have the burden of proving that the food expenditure limits have been adhered to. The Commission recommends that the treasurer maintain documentation of each food expenditure and the number of people who ate.

FOOD EXPENDITURES EXAMPLES

- One afternoon, campaign volunteers and staff are stuffing envelopes and the candidate wants to buy them pizza and drinks. The campaign may spend up to \$7.50 per person on food and drinks. If there are 20 volunteers, the campaign, therefore, may spend up to a total of \$150.
- A candidate wants to have a \$5 qualifying contribution fundraising party. If the gathering is held in the evening, the campaign may spend up to \$15.00 per person in attendance for refreshments. If the attendees wish to bring their own food, anything they bring is considered to be an in-kind contribution to the campaign and must be reported. If the event is held at someone's home, each adult living in the home may provide up to \$100 each in food and beverages without it being considered a contribution to the candidate.

Summary

- ❖ Participating candidates are permitted to use campaign funding for direct campaign purposes only.
- ❖ Participating candidates have the burden of proving that expenditures are for a direct campaign purpose. If the Commission finds that an expenditure was not for a direct campaign purpose, the Commission can order the candidate to repay the Commission.
- ❖ Participating candidates are required to use campaign funding for all direct campaign related travel. Volunteers may choose to not be reimbursed for travel related expenses.
- ❖ Participating candidates are limited to spending \$7.00 per person for breakfast, \$7.50 per person for lunch and \$15.00 per person for dinner.

References

- ❖ Use of funds
 - A.A.C. R2-20-702
- ❖ Use of assets from a prior election
 - A.A.C. R2-20-702.01
- ❖ Repayment to the Commission
 - A.A.C. R2-20-704 & -705
- ❖ Campaign travel and food expenditure guidelines
 - Commission Substantive Policy Statements 11, 12 & 13
 - A.R.S. § 16-901(5)(b)(iv)
 - A.A.C. R2-20-702
- ❖ Volunteers may volunteer their time, services and travel expenses
 - A.R.S. § 16-901(5)(b)(i) & (iv)
- ❖ A person hosting an event in their home may provide up to \$100 in food and beverages
 - A.R.S. § 16-901(5)(b)(iii)



Chapter 7: Campaign Contributions

Chapter 7: Campaign Contributions describes how participating candidates may accept a limited amount of personal contributions and individual contributions during the exploratory and qualifying periods, in addition to receiving Commission funding. "Contribution" means any gift, subscription, loan, advance or deposit of money or anything of value made for the purpose of influencing an election.



Definition of Contribution

"Contribution" means any gift, subscription, loan, advance or deposit of money or anything of value made for the purpose of influencing an election.

Contribution Includes the Following:

- A contribution made to retire campaign debt.
- Money or the fair market value of anything directly or indirectly given or loaned to an elected official for the purposes of defraying the expense of communications with constituents, regardless of whether the elected official has declared his or her candidacy.
- The entire amount paid to a political committee to attend a fund-raising or other political event and the entire amount paid to a political committee as the purchase price for a fund-raising meal or item. However, it is not considered to be a contribution if the actual cost of the meal or fund-raising item is for the purchaser's personal use and not for resale, and the actual cost is the entire amount paid by the purchaser in connection with the event. The exception does not apply to auction items.
- Unless specifically exempted, the provision of goods or services without charge or at a charge that is less than the usual and normal charge for such goods and services.

Contribution Does NOT Include the Following:

1. Personal Services & Travel Expenses

- The value of services provided without compensation by any individual who volunteers on behalf of a candidate, a candidate's campaign committee or any other political committee.
- Any reimbursed payment for personal travel expenses made by an individual who, on his or her own behalf, volunteers his or her personal services to a candidate.
- Legal or accounting services provided to a candidate at no cost. This exemption only applies if the only person paying for the services is the regular employer of the person rendering the services and if services are solely for the purpose of compliance with this title.

2. Duties of Elected Officials

- Money or the value of anything directly or indirectly provided to defray the expense of an elected official meeting with constituents if the elected official is engaged in the performance of the duties of his or her office or provided by the state or a political subdivision to an elected official for communication with constituents if the elected official is engaged in the performance of the duties of his or her office.

3. Property, Food & Beverages

- An individual may use personal property, including their home, a church or community room used on a regular basis by members of a community for noncommercial purposes, in the course of volunteering for a candidate. For candidate-related activities, each adult in the household may spend up to \$100 for invitations, food and beverages only, which does not count as a contribution to the candidate. Any amount over \$100, or for any other purpose, will need to be reported as a contribution from the individual and is subject to individual contribution limits, or the campaign will have to pay as a campaign expenditure.

4. Political Party Activities

- **Slate cards and sample ballots:**

The payment by a political party for printing and postage expenses for slate cards, sample ballots, and other written materials that substantially promote three or more nominees of the party for public office. This exemption does not apply if costs are for a display of the listing of candidates made on telecommunications systems or in newspapers, magazines or similar types of general circulation advertising.

- **Campaign Materials:**

The political parties purchase of campaign materials including pins, bumper stickers, handbills, brochures, posters, party tabloids and yard signs, which will be used by the party in connection with volunteer activities on behalf of any nominee of the party. This exemption does not apply if payments are used for the costs of campaign materials or activities used in connection with any telecommunications system, newspaper, magazine, billboard, direct mail or similar type of general public communication or political advertising.

5. Independent Expenditures

- An expenditure by a person or political committee, other than a candidate's campaign committee, that expressly advocates the election or defeat of a clearly identified candidate, and that is made without cooperation or consultation with any candidate, candidate committee or candidate agent. *See Chapter 11 for more information on independent expenditures.*

6. Bank

- Monies loaned by a state bank, a federally chartered depository institution or a depository institution. In order for this exemption to apply, this loan shall be deemed a loan by each endorser or guarantor, in that proportion of the unpaid balance that each endorser or guarantor bears to the total number of endorsers or guarantors, the loan shall be made on a basis that assures repayment, evidenced by a

written instrument, shall be subject to a due date or amortization schedule and shall bear the usual and customary interest rate of the lending institution.

- Interest or dividends earned by a political committee on any bank accounts, deposits or other investments of the political committee. Participating candidates may **NOT** spend these monies. Participating candidates must send this money to the Commission at the end of the primary election period and at the end of the general election period.

7. Transfer for Joint Fundraiser

- A transfer between campaigns to distribute monies raised through a joint fundraising effort in which each candidate pays a proportionate share of the fundraising expenses and receives a proportionate share of the funds that are raised.

8. Vendor Extension of Credit

- An extension of credit for goods and services made in the ordinary course of the vendor's business. This applies only if the vendor provides similar terms of credit to other nonpolitical customers and makes a reasonable attempt to collect the debt. If the candidate does not pay the debt after 6 months, it shall be deemed receipt of a contribution by the candidate, but not a contribution by the creditor. If a candidate receives an extension of credit, it shall be considered to be outstanding debt and it shall be included in campaign finance reports filed by the candidate with the Secretary of State.

9. Officeholder expenditures

- *See Chapter 12 for more information on the officeholder expenses rule.*

Types of Contributions



Early Contributions

Participating candidates may raise a limited number of private contributions, which are called early contributions. Early contributions are also commonly referred to as “seed money” and “individual contributions.” Early contributions may be raised and spent only during the exploratory period and the qualifying period. Any early contributions not spent by the end of the qualifying period shall be sent to the Commission.

A participating candidate may accept early contributions to make campaign expenditures. Early contributions may only be collected from individuals, not political committees or businesses. Candidates may receive contributions from individual U.S. citizens in the form of check drawn on the account of the actual contributor or by a money order or a cashier’s check containing the name of the actual contributor or must be evidenced by a written receipt with a copy of the receipt given to the contributor and a copy maintained in the records of the candidate. The contributor does not need to be a resident of Arizona and does not need to be registered to vote.

As illustrated in the chart below, a participating candidate may accept early contributions up to, but not exceeding, \$120 per individual during an election cycle.

Office	INDIVIDUAL EARLY CONTRIBUTION LIMIT	AGGREGATE EARLY CONTRIBUTION LIMIT
Governor	\$120	\$46,440
Secretary of State	\$120	\$23,820
Attorney General	\$120	\$23,820
Treasurer	\$120	\$11,910
Superintendent of Public Instruction	\$120	\$11,910
Corporation Commission	\$120	\$11,910
Mine Inspector	\$120	\$5,950
Legislature	\$120	\$2,980

Deadline for Raising and Spending Early Contributions

Participating candidates may start raising and spending early contributions November 3, 2004. Participating candidates are not permitted to raise or spend early contributions after the end of the qualifying period (August 24, 2006). Any early contributions not spent by August 24, 2006 shall be sent by the candidate to the Commission.



Personal Money and Family Contributions

In addition to raising early contributions, a participating candidate may spend a limited amount of personal money prior to the end of the qualifying period, August 24, 2006. The personal money limits are as follows:

Office	PERSONAL MONEY LIMITS	PERSONAL MONEY + EARLY CONTRIBUTIONS (see above chart)
Governor	\$1,160	$\$46,440 + \$1,160 = \$47,600$
Secretary of State	\$1,160	$\$23,820 + \$1,160 = \$24,980$
Attorney General	\$1,160	$\$23,820 + \$1,160 = \$24,980$
Treasurer	\$1,160	$\$11,910 + \$1,160 = \$13,070$
Superintendent of Public Instruction	\$1,160	$\$11,910 + \$1,160 = \$13,070$
Corporation Commission	\$1,160	$\$11,910 + \$1,160 = \$13,070$
Mine Inspector	\$1,160	$\$5,950 + \$1,160 = \$7,110$
Legislature	\$580	$\$2,980 + \$580 = \$3,560$

It is important to understand that monies given to a candidate from certain family members count toward the candidate's personal money limit. Family contributions are considered personal monies and should be added to the personal monies total.

A family member includes:

- Parent
- Grandparent
- Spouse
- Child or sibling of the candidate
- Parent or spouse of any of those persons mentioned above

Therefore, if one of the aforementioned family members wants to give a contribution to a candidate's campaign, the contribution will count towards the \$580 personal contribution limit.

FAMILY CONTRIBUTION EXAMPLE

The candidate's father and brother each contribute \$120 to the campaign, for a total of \$240. The candidate, therefore, may only contribute an additional \$340 of his or her own monies to his or her campaign ($\$580 - \$240 = \$340$).

Deadline for Raising and Spending Personal Monies

Participating candidates are not permitted to raise or spend personal monies after the end of the qualifying period, August 24, 2006. Any personal monies not spent by August 24, 2006 shall be returned to the candidate, or the candidate's family member.

Political Committee Contributions

A participating candidate may NOT accept contributions from political committees.

In-Kind Contributions

An in-kind contribution is a contribution of goods or services or anything of value that is not a monetary contribution. Participating candidates may accept in-kind contributions only from individual contributors and limited to \$120 in value. An individual may give a participating candidate an in-kind contribution and a monetary contribution, however the combined total contributed to the candidate may not exceed \$120. The candidate may also give in-kind contributions to his campaign provided that they, combined with any personal monies contributed by the candidate, do not exceed \$580.

In-kind contributions must be assessed at a fair value and must be included in campaign finance reports filed by the candidate with the Secretary of State.

IN-KIND CONTRIBUTION EXAMPLE

A candidate has 4 boxes of printer paper lying around her home that she would like to use for her campaign. This would be considered an in-kind contribution by the candidate to her campaign. The in-kind contribution is permissible as long as the candidate has not already reached her personal money contribution limit of \$580. The candidate needs to assess a fair market value for the paper and she decides on \$25 per box. The candidate, therefore, needs to include in the next campaign finance report that she has made an in-kind contribution of \$100 to her campaign and she needs to include a description of what the in-kind contribution was (example: 4 boxes of printer paper).

Loans

A loan is a contribution. The early contribution limits apply to loans. Therefore, an individual may loan a participating candidate up to \$120. That person can make no additional contributions to the campaign until the loan has been repaid. A loan in excess of the contribution limits is illegal whether or not it is repaid.

A participating candidate may choose to designate the personal monies that he or she has contributed to his or her campaign as a loan. If the loan is to be repaid, the loan shall be repaid promptly upon receipt of Commission funding.

Important Note:



Contribution Prohibitions

A lobbyist may not give a contribution to a legislator or the Governor when the legislature is in regular session. In addition, lobbyists may not solicit contributions on behalf of a legislator or the Governor when the legislature is in regular session.



Contributions Reported in a Campaign Finance Report

A campaign finance report must include all contributions accepted by the committee through the end of the reporting period. It is the candidate and the treasurer's responsibility to ensure that all contributions are entered in the campaign finance software daily. Entering campaign contributions into the software on a daily basis is a crucial component of complying with campaign finance laws.

It is the treasurer's responsibility to communicate to staff the importance of turning in receipts so that the campaign can remain in compliance with the campaign finance law.

Each contribution reported in a campaign finance report shall include the name, address, occupation and employer of the contributor. Contributions of \$25 or less may be aggregated. The campaign finance software provides separate sections for the user to enter those contributions less than and those greater than \$25.

The campaign finance software provides a separate section for the user to enter \$5 qualifying contributions. The \$5 qualifying contributions do not need to be reported until such time that the candidate applies for funding and submits the \$5 qualifying contributions to the Secretary of State's Office for verification. At the time the candidate submits the \$5 qualifying contributions for verification, the candidate must file a campaign finance report, electronically, to report all \$5 qualifying contributions being submitted and must submit a complete list of \$5 qualifying contributions sorted by county using the Campaign Finance Software.

Remedying an Excessive Contribution

If a candidate receives an early contribution that exceeds the contribution limits, the candidate must refund the excessive contribution to the contributor. The candidate must enter the original amount received and the refunded amount in the campaign finance software. The software contains a designated section to key in refunded contributions.

If a candidate receives a \$5 qualifying contribution that the candidate does not want to submit to the SOS for verification, or if the \$5 qualifying contribution is received after the candidate applies for funding, the candidate has three options to dispose of the monies:

1. The candidate may return the \$5 to the contributor.
2. The candidate may ask the contributor's permission to keep the \$5 as an early contribution, provided that the contributor has not already reached the \$120 early contribution limit.
3. The candidate may send the \$5 to the Commission. The Commission will then deposit the \$5 into the Fund.

After a disposal has been made, the candidate would simply delete the unused qualifying contributions from the list of qualifying contributions in the software. The candidate is not required to report \$5 qualifying contributions that have been refunded.

Summary

- ❖ Participating candidates may raise and spend early contributions from individuals only. Individuals may contribute up to \$120 in monetary and in-kind contributions to a participating candidate.
- ❖ Participating candidates may provide a limited amount of personal monies to their own campaign. Legislative candidates may contribute up to \$580 in monetary and in-kind personal contributions. Statewide candidates may contribute up to \$1,160 in monetary and in-kind personal contributions.
- ❖ Candidates can choose to designate personal money contributions as loans that shall be repaid upon receiving Commission funding.
- ❖ Contributions given to a candidate by certain family members count towards the candidate's personal monies contribution limit.
- ❖ An in-kind contribution is a contribution of goods or services or anything of value that is not a monetary contribution.

References

- ❖ Definition of contribution
 - A.R.S. § 16-901(5)
- ❖ Definition of early contribution
 - A.R.S. § 16-945(A)(1-2)
 - A.A.C. R2-20-111(B)(4)
- ❖ Participating candidates may not accept contributions other than early contributions, personal contributions and \$5 qualifying contributions
 - A.R.S. § 16-941(A)(1)
- ❖ Personal contributions include contributions from certain family members
 - A.R.S. §§ 16-901(10) & -901(18)(d)
- ❖ Definition of in-kind contribution
 - A.R.S. § 16-901(15)
- ❖ Campaign loans
 - A.R.S. § 16-901(5)(a)(ii)
 - A.A.C. R2-20-104(E)
- ❖ Contents of campaign finance reports
 - A.R.S. § 16-915



Chapter 8: Campaign Expenditures

Chapter 8: Campaign Expenditures are incurred when a committee makes a direct payment to a vendor or incurs debt. A campaign finance report must include all expenditures made by the committee through the end of the reporting period.



Definition of Expenditure

An “expenditure” is any purchase, payment, distribution, loan, advance, deposit or gift of money or anything of value made by a person for the purpose of influencing an election in this state. The definition of expenditure includes a contract, promise or agreement to make an expenditure resulting in an extension of credit and the value of any in-kind contribution received.

Expenditure Does NOT Include the Following:

- A news story, commentary or editorial distributed through any telecommunications system, newspaper, magazine or other periodical publication. This exemption does not apply if the publications’ facilities are owned or controlled by a political committee, political party or candidate.
- Nonpartisan activity designed to encourage individuals to vote or to register to vote.
- The payment by a political party of the costs of preparation, display, mailing or other distribution incurred by the party with respect to any printed slate card, sample ballot or other printed listing of three or more candidates for any elective office. This exemption does not apply if the display of candidates is made on any telecommunications system or in newspapers, magazines or similar types of general public political advertising.
- The political parties’ purchase of campaign materials including pins, bumper stickers, handbills, brochures, posters, party tabloids and yard signs, which will be used by the party in connection with volunteer activities on behalf of any nominee of the party. This exemption does not apply if payments are used for the costs of campaign materials or activities used in connection with any telecommunications system, newspaper, magazine, billboard, direct mail or similar type of general public communication or political advertising.
- Any deposit or other payment filed with the Secretary of State or any other similar officer to pay any portion of the cost of printing an argument in a publicity pamphlet advocating or opposing a ballot measure.

Expenditures Reported in a Campaign Finance Report

A campaign finance report must include all expenditures made by the committee through the end of the reporting period. It is the candidate's responsibility to ensure that all expenditures are entered in the campaign finance software. Entering campaign expenditures into the software on a daily basis is a crucial component of complying with campaign finance law. It is the candidate's responsibility to communicate to staff the importance of turning in receipts so that the campaign can remain in compliance with the campaign finance law. Each expenditure reported in a campaign finance report shall include a description of the goods and services that were purchased. The campaign finance software provides a space in the memo line for the user to enter a detailed description for each expenditure.

Reporting Debt

The definition of "expenditure" includes campaign debt and extensions of credit. Debt is incurred by a candidate when the promise, contract or agreement to make an expenditure occurs. For example, if a candidate places an order for campaign signs that is payable upon delivery, the moment the candidate places the order, the candidate has incurred a debt.

The campaign finance software contains a specific section for outstanding debt to be entered. If the exact level of debt is unknown, it shall be estimated. Each campaign finance report must include an itemized account of the campaign debts and extensions of credit that are owed by the candidate and that remain outstanding. The campaign finance report must include the name and address of the obligee or creditor, the amount owed, whether the amount is certain or estimated and on what basis, and the purpose of the obligation. An obligation that is itemized on a campaign finance report shall be listed on all subsequent finance reports until extinguished. Debt and extensions of credit must be reported continuously until paid.

***Exception:** Regularly recurring administrative expenses such as rent, utilities and salaries are NOT considered to be debts until the payments are past due.

Important Note:



Incurring Debt

Candidates may not make expenditures exceeding the amount of monies in their campaign account. Before receiving Commission funding, a participating candidate may not incur debt with the intention of paying it off after receiving Commission funding. If a participating candidate intends to make expenditures prior to receiving Commission funding, the candidate must raise early contributions and personal contributions.

Using a Personal Credit Card



The candidate, treasurer or designated agent with authority to spend campaign funds shall pay monies directly from the campaign account to the person providing the goods or services.

If someone does use a personal credit card on behalf of a campaign, the expenditure is incurred immediately upon use, *not* when the bill is received. Until such time that the campaign reimburses the individual who used the credit card, the amount is considered to be an in-kind contribution. It is important to note that participating candidates may not exceed the early contribution limits of \$120 per individual, which include the value of an in-kind contribution.

When the person who used the credit card is reimbursed, the treasurer shall include on the campaign finance report the full name and street address of the person, and the nature of the goods and services for which payment has been made.

Petty Cash Accounts

A candidate's campaign committee may establish one or more petty cash accounts, which in aggregate may not exceed \$1,160 at any time. No single expenditure shall be made from a petty cash account exceeding \$120. On a campaign finance report, the treasurer shall identify the name and address of the person who withdrew the cash, the date, the amount of cash withdrawn, and a memo stating "petty cash."

Expenditures made with petty cash do *not* need to be itemized on a campaign finance report; however, the treasurer shall maintain a detailed record of all expenditures that are made with petty cash. The Commission recommends that the treasurer keep a running total of all petty cash withdrawals and expenditures to ensure that the maximum of \$1,160 is not inadvertently exceeded.

Refund & Repayment

If a candidate receives a refund from an expenditure (for example, the candidate returned merchandise to the store), the original expenditure and the refunded amount must be reported. The campaign software includes a specific section to report refunds.

A loan repayment is **NOT** an expenditure. The campaign finance software contains a specific section to enter in loan repayments.

A refund of a contribution is **NOT** an expenditure. The campaign finance software contains a specific section to enter in contribution refunds.

Important Notes:



Reporting Expenditures

- Any outlay of cash, the writing of a personal check or the use of a credit card by a staff member or consultant for which the staff member or consultant will be reimbursed is considered to be an expenditure on the day the cash, check, or credit card is used, NOT when the person is reimbursed.
- If the campaign orders any service or good, and either knows the cost of that good or service, or can make a reasonable estimate of that service or good, the expenditure must be reported in the reporting period that includes the date that the campaign orders the service (for example, if a campaign knows the per copy cost of printing, and orders 100,000 copies, it must report the expenditure in the reporting period that includes the date it orders the copies—even if an invoice is received later).
- Recurring services such as telephone service, cell phone service, utility service, and rent, become reportable expenditures the date that the campaign (or consultant or staff, if a staff member or consultant will pay the bill and be reimbursed) receives the bill as long as the bill is sent using the same billing procedures for its other customers.

Summary

- ❖ A campaign finance report filed by a candidate must include all expenditures made by the committee through the end of the reporting period. This includes any outstanding debt.
- ❖ Outstanding debt is incurred whenever a promise, contract or agreement to make an expenditure occurs.
- ❖ Participating candidates may not incur debt before receiving Commission funding.
- ❖ An expenditure made with a credit card is incurred immediately upon use, NOT when the bill is received.
- ❖ Participating candidates may have one or more petty cash accounts. The total sum in all petty cash accounts may not exceed \$1,160 at any time. Expenditures made with petty cash may not exceed \$120.

References

- ❖ Definition of expenditure
 - A.R.S. § 16-901(8)
- ❖ Contents of campaign finance reports
 - A.R.S. § 16-915
- ❖ Petty cash accounts
 - A.R.S. § 16-948(C)



Chapter 9: Voter Education

Chapter 9: Voter Education is a vital part of Clean Elections. The Commission sponsors debates for candidates in both the primary and general election periods. Participating candidates are required to attend the debates and nonparticipating candidates are encouraged to participate in the debates. The Commission also mails a candidate statement pamphlet to every household in Arizona with a registered voter prior to early voting in the primary and general election periods. All candidates are given the opportunity to submit a statement and a photograph to be included in the pamphlets.

Debates



The Commission sponsors debates among candidates in both the primary election period and the general election period. Participating candidates are required to attend and participate in debates. The Commission also invites and encourages nonparticipating candidates to participate in debates.

The Commission chooses sponsors and ensures the debates are carried out in a strictly nonpartisan and professional manner. The Commission will be considered a “co-sponsor” of the debates for advertising purposes; however, the “sponsoring organization” will make all debate arrangements, including dates, times, locations, media coverage, format and ground rules.

Required Participation

The candidate debates are MANDATORY for participating candidates in both the primary and general election periods. Nonparticipating candidates are invited and encouraged to participate in debates. Candidates invited to participate in the debates will be limited to those candidates who will appear on the primary or general election ballots. All candidates must appear in person, not by proxy or electronically, unless to accommodate a disability. One debate will be held in the primary election period and one debate will be held in the general election period, circumstances permitting.

Failure to Participate in Debate

All certified participating candidates are required to attend and participate in the debates sponsored by the Commission. Unless exempted, if a participating candidate fails to participate in any Commission-sponsored debate, the participating candidate is ineligible to receive any further matching funds for that election.

Exemption from Participation in Debate

A participating candidate may request to be exempt from participating in a required debate by:

- Submitting a written request to the Commission at least one week prior to the scheduled debate; and
- Stating the reasons and circumstances justifying the request for exemption.

After examining the request, the Commission will exempt a candidate from participating in a debate if at least three Commissioners determine that the circumstances are:

- Beyond the control of the candidate;
- Of such nature that a reasonable person would find the failure to attend justifiable or excusable; or
- Of good cause, which includes illness or absence from the state at the time of the debate.

Request for Reconsideration

A participating candidate who fails to participate in a required debate, without a prior exemption from the Commission, may submit a request for reconsideration to the Commission. The candidate's request for reconsideration shall:

- State the reason the candidate failed to participate in the debate; and
- Be submitted to the Commission no later than 5 business days after the date of the debate the candidate failed to attend.

After examining the request for reconsideration, the Commission will excuse a candidate from the penalties imposed if at least three Commissioners determine that the circumstances were:

- Beyond the control of the candidate;
- Of such nature that a reasonable person would find the failure to attend justifiable or excusable; or
- Of good cause, which includes illness or absence from the state at the time of the debate.

Exceptions to Debate Participation

- No debate will be held if there is no participating candidate in the election for the particular office.
- No debate will be held if the election is uncontested.
- Write-in candidates for the primary election, independent candidates, and those candidates with no party affiliation will not be invited to participate in the primary election debate.
- Write-in candidates for the general election will not be invited to participate in the general election debate.

Candidate Statement Pamphlets



The Commission will produce primary and general election candidate statement pamphlets for the 2006 elections. The Commission will produce and mail candidate statement pamphlets to every household in Arizona that has a registered voter before the start of early voting for both the primary and general elections.

The candidate statement pamphlets are nonpartisan, comprehensive sources of information for Arizona voters. Participating and nonparticipating candidates may supply the Commission with a statement for inclusion in the pamphlets. All candidates who will appear on either the primary or general election ballot may submit a statement by the deadline. The pamphlets will include the office in which the candidate is running, as well as the candidate's name, party affiliation, funding source, web address and statement. Candidates will be allowed to submit separate statements for the primary and general election pamphlets.

Submission Deadlines

The Commission will not accept late submissions for inclusion in the pamphlets. Primary election statements and photographs shall be submitted no later than 5:00pm on June 14, 2006 for inclusion in the primary election pamphlet. General election statements and photographs shall be submitted no later than 5:00pm on August 3, 2006.

Statements

The 2006 pamphlets will include statements of 200 words in length. The Commission will allow candidates to submit separate statements for the primary and general election pamphlets. New statements will be accepted for the general election pamphlet. If a statement is not submitted for the primary election pamphlet, and a candidate wins the primary election, the candidate may submit a statement for the general election pamphlet. If a candidate submits a statement for the primary election pamphlet and does not submit a new statement for the general election pamphlet, the statement from the primary election pamphlet will be used for the general election pamphlet.

The Commission will only accept statements electronically through the Commission's website. Statements that exceed the allotted 200 words will NOT be accepted.

Photographs

The 2006 pamphlets will include photographs of candidates. A statement can be submitted without having submitted a photograph, or vice versa. The Commission will accept digital photos only. Candidates can submit digital photos through the Commission website, by e-mail or candidates can make an appointment to have a digital photo taken at the Commission's graphic design firm. If a candidate submits a photo for inclusion in the primary election pamphlet, the same photo will be used for the general election pamphlet. Photos for inclusion in the general election pamphlet will only be accepted from candidates who did not submit a photo for inclusion in the primary election pamphlet.

Submission Process

- Submit the statement and photo online at www.azcleaselections.gov. After the statement and photo are submitted, a verification form will appear.
- Print out and review the verification form for submission to the Commission.
- Sign and date the verification form and make a copy of the verification form for candidate records.
- Fax the verification form or mail the verification form to the Commission immediately after the statement is submitted. The verification form **MUST BE RECEIVED** by the Commission on or before 5:00pm on the deadlines of June 14, 2006 (primary election pamphlet) and July 27, 2006 (general election pamphlet).
FAX: 602-364-3487 / 1616 W. Adams, Suite 110 Phoenix, AZ 85007
- The Commission will receive the verification form and enter the statement and photo into the pamphlets.

All statements will appear in the pamphlets exactly as they are submitted. The Commission will not permit changes to statements after the final verification form has been returned.

Upon request, the Commission will offer the use of an internal, public computer should candidates need to utilize these facilities in order to submit statements. This computer will be housed at the Commission's office.

Please visit the Commission's website at www.azcleaselections.gov for detailed instructions on how to submit a statement and photograph.

Format and Availability

The pamphlets will be available in English/Spanish and large-type print. The Commission will distribute additional copies of the pamphlets to the Secretary of State's Office, the 15 county election offices, political parties, and libraries.

For the primary election, the pamphlets will be mailed to households no later than August 10, 2006. For the general election, the pamphlets will be mailed no later than October 5, 2006.

Summary

- ❖ The Commission sponsors debates that are administered by sponsoring organizations that make all debate arrangements, including dates, times, locations, media coverage, format and ground rules.
- ❖ Participating candidates are required to attend and participate in Commission sponsored debates. Nonparticipating candidates are invited and encouraged to participate in the debates.
- ❖ The Commission mails Candidate Statement Pamphlets to each household in Arizona with a registered voter.
- ❖ All candidates who are qualified for the ballot are encouraged to submit a statement and a photograph to be included in the Candidate Statement Pamphlets.
- ❖ Detailed instructions regarding how to submit a statement and photograph are available on the Commission's website at www.azcleanelections.gov

References

- ❖ Commission is responsible for sponsoring debates
 - A.R.S. § 16-956(A)(2)
 - A.A.C. R2-20-107(A)
- ❖ Failure to participate in a debate
 - A.A.C. R2-20-107(E)
- ❖ Exemption from participation in a debate
 - A.A.C. R2-20-107(F), (G) & (H)
- ❖ Commission is responsible for producing and mailing candidate statement pamphlets
 - A.R.S. § 16-956(A)(1)



Chapter 10: Nonparticipating Candidates

Chapter 10: Nonparticipating Candidates are also effected by the Clean Elections Act. In fact, the Act has wide-reaching effects on nonparticipating candidates running for statewide and legislative office in the State of Arizona. Chapter 10 covers the most noteworthy of these effects.

Contribution Limits

The Clean Elections Act reduces the amount of contributions that nonparticipating legislative and statewide office candidates are permitted to accept. The contribution limits below reflect the adjusted contribution limits.

<u>Contribution Limits</u>	<u>Legislative Offices</u>	<u>Statewide Offices</u>
Individual's contribution to a candidate	\$296	\$760
Political Committee's contribution to a candidate	\$296	\$760
Nominee's total from political party and all political organizations combined	\$7,568	\$75,624
Total contributed by an individual to candidates and committees who give to candidates	\$3,530 in a calendar year	\$3,530 in a calendar year

Reporting Requirements

Nonparticipating candidates are required to file six period campaign finance reports. Nonparticipating candidates may also be required to file "trigger" reports when contributions and expenditures meet and exceed certain thresholds.



Six Period Reports

The following chart lists the required period reports and the deadlines for filing the reports. The six period reports are required of all candidates, whether participating or nonparticipating. All reports must be filed electronically with the Secretary of State's Office using the Secretary of State's campaign finance software.

NONPARTICIPATING CANDIDATE REPORTING REQUIREMENTS		
Due Date	Name of Report	Covered Period
January 31, 2006	January 31 st Report	(Period 1) covering November 23, 2004 to December 31, 2005.
June 30, 2006	June 30 th Report	(Period 2) covering January 1, 2006 to May 31, 2006.
August 31, 2006	Pre-Primary Report	(Period 3) covering June 1, 2006 – August 23, 2006.
October 12, 2006	Post-Primary Report	(Period 4) covering August 24, 2006 to October 2, 2006.
October 26, 2006	Pre-General Report	(Period 5) covering October 3, 2006 to October 18, 2006.
December 7, 2006	Post-General Report	(Period 6) covering October 19, 2006 to November 27, 2006.

Trigger Reports

Nonparticipating candidates must file a series of original and supplemental campaign finance reports with the Secretary of State's Office, above and beyond the six period campaign finance reports, when certain dollar amount thresholds are met or are exceeded. These additional campaign finance reports are required of all nonparticipating legislative and statewide office candidates regardless of whether there is a participating candidate in the race. The reports are used by the Commission to trigger equalization of funding for participating candidates running campaigns under the Act.

1. Nonparticipating candidates must file an **original report** on the correct filing date, when in the:
 - **Primary Election Period:** Expenditures through the primary election exceed 70% of the primary election spending limit; or
 - **General Election Period:** Total contributions made to any date during the general election period, less expenditures made through the primary election, exceed 70% of the general election spending limit.
2. Nonparticipating candidates must file **supplemental reports**, (commonly referred to as "**trigger reports**") which are triggered after the original report has been made, on the correct filing date each time in the:

- **Primary Election Period:** Expenditures exceed 10% of the original primary election spending limit or \$25,000, whichever is lower, before the general election period; or
- **General Election Period:** Contributions less expenditures through the primary election exceed 10% of the original general election spending limit or \$25,000, whichever is lower, during the general election period.

Trigger Levels

The following chart summarizes the amounts that trigger reports during the primary and general election periods:

Office	70%/10% of Primary Election Spending Limits	70%/10% of General Election Spending Limits
Governor	\$317,694 / \$25,000	\$476,542 / \$25,000
Secretary of State	\$66,885 / \$9,555	\$100,328 / \$14,333
Attorney General	\$66,885 / \$9,555	\$100,328 / \$14,333
Treasurer	\$33,439 / \$4,777	\$50,159 / \$7,166
Superintendent of Public Instruction	\$33,439 / \$4,777	\$50,159 / \$7,166
Corporation Commission	\$33,439 / \$4,777	\$50,159 / \$7,166
Mine Inspector	\$16,723 / \$2,389	\$25,085 / \$3,584
Legislature	\$8,362 / \$1,195	\$12,543 / \$1,792

Trigger Reporting Dates

On the next page is a chart of original and supplemental trigger reporting dates. When a nonparticipating candidate reaches a trigger threshold, the nonparticipating candidate is required to file a campaign finance report by the next due date listed in the chart. It is important to note that a nonparticipating candidate is NOT required to file a campaign finance report on each one of these due dates; only the date immediately following a trigger level being reached.

NONPARTICIPATING CANDIDATE 2006 TRIGGER REPORTING DATES	
January	1
February	1
March	1
April	1
May	1
June	1
July	1, 11, 18, 25
August	1, 8, 15, 22, 29, 30, 31
September	1, 5, 6, 7, 8, 11, 12, 19, 26
October	3, 10, 17, 24, 25, 26, 27, 30, 31
November	1, 2, 3, 6, 7
December	<i>none</i>

Important Note:



Trigger Reports

The campaign finance software provided by the Secretary of State's Office is programmed for the triggering events and will prompt the user to file a report whenever appropriate. The software must be opened and used every day during an election cycle in order for the triggering events to occur properly. If the campaign transactions are not entered into the software on a daily basis, a nonparticipating candidate may inadvertently miss a trigger-reporting deadline.

Matching Funds for Participating Candidates

Please refer to the "Primary Election Period Matching Funding" section in Chapter 4 and the "General Election Period Matching Funding" section in Chapter 5 for details regarding matching funds calculations and the process through which participating candidates receive matching funding.

Contents of All Campaign Finance Reports

All campaign finance reports shall include the following information regarding the campaign's receipts and disbursements:

1. The amount of cash on hand at the beginning of the reporting period.

2. For the reporting period and the election, the total amount of all receipts and an itemized list of all receipts in the following categories, together with the total of all receipts in each category:
 - a. Contributions from individuals by name, address, occupation and employer.
 - b. Contributions from political committees.
 - c. For a candidate's campaign committee, the candidate's contribution or promise of personal monies, including loans guaranteed by the candidate.
 - d. All other loans.
 - e. Rebates, refunds and other offsets to operating expenditures.
 - f. Dividends, interest and other forms of receipts.
 - g. The value of in-kind contributions.

3. The identification of each:
 - a. Individual who makes any contribution during the period covered by the report whose total contribution or contributions for that election have an aggregate amount exceeding twenty-five dollars together with the date and amount of the contributions. Contributions of twenty-five dollars or less may be aggregated.
 - b. Political committee that makes a contribution during the period covered by the report together with the date and amount of the contribution.
 - c. Person who makes a loan during the period covered by the report, together with the identification of any endorser or guarantor of the loan and the amount endorsed or guaranteed by each, and the date and amount of the loan.
 - d. Person who provides any rebate, refund or other offset to operating expenditures during the period covered by the report together with the date and amount of the receipt.
 - e. Person who provides a dividend, interest or other receipt during the period covered by the report, together with the date and amount of the receipt.

4. For the reporting period and the election, the total amount of all disbursements and an itemized list of all disbursements in the following categories together with the total of all disbursements in each category:
 - a. Expenditures, other than a contract, promise or agreement to make an expenditure resulting in an extension of credit, made to meet committee operating expenses.
 - b. Transfers to other political committees.
 - c. For a candidate's campaign committee, the repayment of loans made or guaranteed by the candidate.
 - d. Repayment of all other loans.
 - e. Refunds of contributions received and other offsets to contributions.
 - f. Loans made by the reporting political committee.
 - g. The value of in-kind contributions received.
 - h. Independent expenditures.
 - i. Any other disbursements.

5. The name and address of each recipient of an expenditure made during the period covered by the report and the date, amount of the expenditure and a clear description of the items or services purchased.
6. An itemized account of the campaign debts and extensions of credit that are owed by the candidate or political committee and that remain outstanding, including the name and address of the obligee or creditor, the amount owed, whether the amount is certain or estimated and on what basis, and the purpose of the obligation. An obligation that is itemized on a campaign finance report shall be listed on all subsequent finance reports until extinguished.
7. The total sum of all receipts, together with the total receipts less offsets, and the total sum of all disbursements, together with the total disbursements less offsets, for both the period covered by the report and the election.

Important Notes:



Reporting Expenditures

- Any outlay of cash, the writing of a personal check or the use of a credit card by a staff member or consultant for which the staff member or consultant will be reimbursed is considered to be an expenditure on the day the cash, check, or credit card is used, NOT when the person is reimbursed.
- If the campaign orders any service or good, and either knows the cost of that good or service, or can make a reasonable estimate of that service or good, the expenditure must be reported in the reporting period that includes the date that the campaign orders the service (for example, if a campaign knows the per copy cost of printing, and orders 100,000 copies, it must report the expenditure in the reporting period that includes the date it orders the copies—even if an invoice is received later).
- Recurring services such as telephone service, cell phone service, utility service, and rent, become reportable expenditures the date that the campaign (or consultant or staff, if a staff member or consultant will pay the bill and be reimbursed) receives the bill as long as the bill is sent using the same billing procedures for its other customers.

Summary

- ❖ Nonparticipating candidates are required to file six period campaign finance reports.
- ❖ Nonparticipating candidates are required to file “trigger” campaign finance reports whenever certain expenditure and contribution thresholds are met and exceeded.
- ❖ The campaign finance software must be used on a daily basis in order for the software to correctly prompt the user to file trigger reports.
- ❖ All campaign finance reports filed by all candidates must include, among other requirements, all contributions and expenditures for the reporting period and all outstanding debt.

References

- ❖ Nonparticipating candidate contribution limits
 - A.R.S. § 16-905
 - A.R.S. § 16-941(B)(1)
- ❖ Dates of period campaign finance reports
 - A.R.S. § 16-913
- ❖ Trigger reporting levels and dates
 - A.R.S. § 16-941(B)(2)
 - A.R.S. § 16-958
- ❖ Matching funds calculations
 - A.R.S. § 16-952
 - A.A.C. R2-20-113
- ❖ Contents of campaign finance reports
 - A.R.S. § 16-915



Chapter 11: Independent Expenditures

Chapter 11: Independent Expenditures may be made by a person or group to advocate the election or defeat of a candidate or candidates. Those who make independent expenditures must register with the Secretary of State and must file campaign finance reports whenever certain triggering thresholds are met and exceeded. Participating candidates may receive matching funds for independent expenditures that are made against them or in favor of their opponents.

Filing an Independent Expenditure Committee



A person or group who wants to make independent expenditures cumulatively exceeding \$500 is required to file a statement of organization with the Secretary of State's Office before receiving contributions or making expenditures. Once registered with the Secretary of State's Office, the person is held to all campaign finance laws and reporting requirements. The Secretary of State's Office will provide the person with a copy of the campaign finance software, which shall be used to electronically file all campaign finance reports.

A person or group who wants to make independent expenditures that cumulatively do NOT exceed \$500 must file a \$500 threshold exemption statement with the Secretary of State's Office.

Definition of Independent Expenditure

An independent expenditure is an expenditure by a person or political committee, other than a candidate's campaign committee, that expressly advocates the election or defeat of a clearly identified candidate, that is made without cooperation or consultation with any candidate or committee or agent of the candidate and that is not made in concert with or at the request or suggestion of a candidate, or any committee or agent of the candidate.

Definition of Express Advocacy

1. Conveying a communication containing a phrase such as "vote for," "elect," "re-elect," "support," "endorse," "cast your ballot for," "(name of candidate) in (year)," "(name of candidate) for (office)," "vote against," "defeat," "reject," or a campaign slogan or words that in context can have no reasonable meaning other than to advocate the election or defeat of one or more clearly identified candidates; or
2. Making a general public communication, such as in a broadcast medium, newspaper, magazine, billboard, or direct mailer referring to one or more clearly identified candidates and targeted to the electorate of that candidate(s):

- That in context can have no reasonable meaning other than to advocate the election or defeat of the candidate(s), as evidenced by factors such as the presentation of the candidate(s) in a favorable or unfavorable light, the targeting, placement, or timing of the communication, or the inclusion of statements of the candidate(s) or opponents; or
 - In the sixteen-week period immediately preceding a general election.
3. A general public 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.



What is NOT Considered to be an Independent Expenditure

An expenditure by a political committee or a person that does not meet the definition of an independent expenditure is considered to be an in-kind contribution to the candidate, and a corresponding expenditure by the candidate, unless otherwise exempted. An expenditure is NOT an independent expenditure if any of the following applies:

- Any officer, member, employee or agent of the political committee making the expenditure is also an officer, member, employee or agent of the committee of the candidate whose election or whose opponent's defeat is being advocated by the expenditure or an agent of the candidate whose election or whose opponent's defeat is being advocated by the expenditure.
- There is any arrangement, coordination or direction with respect to the expenditure between the candidate or the candidate's agent and the person making the expenditure, including any officer, director, employee or agent of that person.
- In the same election the person making the expenditure, including any officer, director, employee or agent of that person, is or has been:
 - (i) Authorized to raise or expend monies on behalf of the candidate or the candidate's authorized committees.
 - (ii) Receiving any form of compensation or reimbursement from the candidate, the candidate's committees or the candidate's agent.
- The expenditure is based on information about the candidate's plans, projects or needs, or those of his campaign committee, provided to the expending person by the candidate or by the candidate's agents or any officer, member or employee of the candidate's campaign committee with a view toward having the expenditure made.

Exceptions for Certain Organizations

Certain organizations are permitted by law to make expenditures that will not be considered to be political contributions to a candidate or an independent expenditure:

1. Communications by a corporation to its stockholders and executive or administrative personnel and their families, or by a labor organization to its members and their families, on any subject.
2. Nonpartisan registration and get-out-the-vote campaigns by a corporation aimed at its stockholders and executive or administrative personnel and their families or by a labor organization aimed at its members and their families.
3. The establishment, administration and solicitation of voluntary contributions to a separate segregated fund to be utilized for political purposes by a corporation, labor organization, membership organization, trade association, cooperative or corporation without capital stock.
4. The establishment, administration and solicitation of voluntary contributions from employees of a corporation or limited liability company, including contributions made by payroll deduction, deposit or transfer or other similar method, and that are made directly to a separate segregated fund that is used for political purposes by a trade association of which the employing corporation or limited liability company is a member.
5. Contributions for use to support or oppose an initiative or referendum measure or amendment to the constitution.
6. A membership organization, trade association, cooperative or corporation without capital stock may engage in the activities permitted in paragraphs 1 and 2 of this section if such activities are directed toward its members, stockholders or members of its members, its and its members' executive or administrative personnel, and their families.



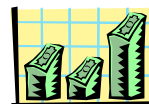
Independent Expenditure Trigger Reporting Dates

A person making an independent expenditure is required to file campaign finance reports whenever certain expenditure thresholds are reached. Any person that makes independent expenditures cumulatively exceeding \$580 in an election cycle is required to file an original campaign finance report by the next due date listed in the chart below. A supplemental campaign finance report must be filed by the next due date when previously unreported independent expenditures exceed \$1,000.

Below is a chart of original and supplemental trigger reporting dates. When a person making an independent expenditure reaches a trigger threshold, the person is required to file a campaign finance report by the next due date listed in the chart. Each independent expenditure reported must include a designation of the office and the candidate(s) whose election or defeat is being advocated, and whether the independent expenditure advocates the election or the defeat of the candidate(s). The campaign finance software provides designated areas to enter the required information.

INDEPENDENT EXPENDITURE 2006 TRIGGER REPORTING DATES	
January	1
February	1
March	1
April	1
May	1
June	1
July	1, 11, 18, 25
August	1, 8, 15, 22, 29, 30, 31
September	1, 5, 6, 7, 8, 11, 12, 19, 26
October	3, 10, 17, 24, 25, 26, 27, 30, 31
November	1, 2, 3, 6, 7
December	<i>none</i>

Matching Funds for Participating Candidates



The Commission will provide matching funding to participating candidates affected by independent expenditures. Participating candidates may receive matching funding for independent expenditures made against them or in favor of opposing candidates. However, the total monies distributed to a candidate during an election period will not exceed three times the original election spending limit.

The following expenditures shall be treated as follows when calculating matching funds:

- Independent expenditures against a participating candidate shall be treated as expenditures of each opposing candidate in the primary election period, or contributions to each opposing candidate in the general election period.
- Independent expenditures in favor of one or more nonparticipating opponents of a participating candidate shall be treated as expenditures of those nonparticipating candidates in the primary election period or contributions to those nonparticipating candidates in the general election period.

- Independent expenditures in favor of a participating candidate shall be treated, for every opposing participating candidate, as though the independent expenditures were an expenditure of a nonparticipating opponent in the primary election period, or a contribution to a nonparticipating opponent in the general election period.

For further details regarding matching funds calculations, refer to the primary and general elections matching funds explanations in chapters 4 and 5.

Process of Providing Matching Funds

1. The Commission receives notification from the Secretary of State's Office whenever persons making independent expenditures file a campaign finance report. The Commission has the authority to provide matching funds based on information gathered from a campaign finance report or from other information that comes to the Commission's attention. Therefore, if a person fails to report activity but the Commission is aware that independent expenditures have been made, the Commission may estimate the value of a known expenditure and provide matching funds to participating candidates.
2. The Commission staff calculates the amount of matching funds that are due to the participating candidate and notifies the candidate when funds will be available.
3. The matching fund checks are typically available on the next business day after Commission staff receives notification from the Secretary of State's Office. However, the Arizona Department of Administration (ADOA) processes the checks and the Commission has no control over ADOA timelines.
4. In the case of possible matching funds arising from independent expenditures that have NOT been reported, the staff will make an initial recommendation whether the independent expenditures constitute "express advocacy" as defined in statute and commission rules. If so, the staff will make a recommendation whether and how much matching funds are triggered by the express advocacy. The Commission will review the recommendations, make any additional inquiries deemed necessary, and then issue the appropriate award of matching funds (if any).

Summary

- ❖ Persons or groups who want to make independent expenditures cumulatively exceeding \$500 must first file a statement of organization with the Secretary of State's Office. Persons or groups who want to make independent expenditures that cumulatively do not exceed \$500 must file a \$500 threshold exemption statement with the Secretary of State's Office.
- ❖ An independent expenditure is an expenditure that is made without cooperation or consultation with the candidate whose election or defeat is being expressly advocated.
- ❖ Persons making independent expenditures must file campaign finance reports when certain expenditure thresholds are met and exceeded.
- ❖ Participating candidates may receive matching funds for independent expenditures that are made against them or in favor of their opponents.

References

- ❖ Registration of independent expenditure committees
 - A.R.S. § 16-902.01
- ❖ Definition of independent expenditure
 - A.R.S. § 16-901(14)
- ❖ Definition of express advocacy
 - A.R.S. § 16-901.01
- ❖ Permitted expenditures by corporation and labor organizations
 - A.R.S. § 16-920
- ❖ Trigger reporting levels and dates
 - A.R.S. § 16-941(D)
 - A.R.S. § 16-958
- ❖ Matching funds calculations
 - A.R.S. § 16-952
 - A.A.C. R2-20-113



Chapter 12: Post-Election Requirements

Chapter 12: Post-Election Requirements - After the primary and general elections, participating candidates must return any unused monies to the Commission. All office holders may establish a separate account to raise and spend monies for officeholder related expenses.



Return of Unspent Monies

Within 5 days after filing the primary and general election recap campaign finance reports, a participating candidate shall return to the Commission all monies in the candidate's campaign account above an amount sufficient to pay any unpaid bills for that election period. A participating candidate shall pay all uncontested and unpaid bills no later than 30 days after the general election. If after 30 days, the bill is still contested, the candidate must inform the Commission, in writing, of the status of the bill. The candidate must continue to inform the Commission, in writing, every 30 days until the issue is resolved. Any monies in a candidate's campaign account after payment of bills shall be returned promptly to the Commission.

Bank Interest

Candidates may keep their campaign monies in an interest bearing bank account. Participating candidates, however, are not permitted to spend bank interest because bank interest is specifically excluded from the definition of "contribution" in Arizona State statute. Participating candidates must send any bank interest earned to the Commission at the end of the primary election period and at the end of the general election period.

Terminating the Campaign Committee

A candidate may terminate his or her political committee by having the committee chairman and treasurer file a termination statement with the Secretary of State's Office. The chairman and treasurer certify that the committee will no longer receive any contributions or make any disbursements, that the committee has no outstanding debts or obligations, and that any surplus monies have been disposed of properly.

The Secretary of State's Office requires the committee to file a campaign finance report showing a zero account balance before the committee can officially be terminated.

Officeholder Expenses

Current officeholders, both participating and nonparticipating, are permitted to raise and spend money to pay for officeholder related expenses. The intent of the officeholder expenses rule is to allow participating candidates to raise money to spend on office related needs and to help prevent nonparticipating candidates from triggering matching funds for their opponents in future elections. Failure to register an officeholder expenses committee may cause participating candidates to inadvertently exceed their next election cycle early contribution limits and nonparticipating candidates to inadvertently trigger matching funds for their opponents.

Spending Limits

Prior to April 30 of the election year for that office, an elected official may raise or spend money to defray the expense of performing officeholder duties.

- The candidate may exhaust all surplus monies from prior campaign accounts or may use personal monies for officeholder expenses.
- Money raised shall be only from individuals and the maximum raised from an individual during the election cycle shall not exceed \$60.
- The sum of the money raised or spent shall not exceed two times the early contribution limit applicable to the officeholder's current office. The chart below lists the limits for each office:

2005 OFFICEHOLDER EXPENSES LIMITS	
Governor	\$92,880
Secretary of State	\$47,640
Attorney General	\$47,640
Treasurer	\$23,820
Superintendent of Public Instruction	\$23,820
Corporation Commission	\$23,820
Mine Inspector	\$11,900
Legislature	\$5,960

Officeholder Expense Account

Before making any expenditures or raising any monies for the officeholder expense account, the officeholder must file a statement of organization with the Secretary of State's Office with the designation "Officeholder Expense Account." The account shall be separate from any candidate campaign account. All activity related to officeholder expenses are deemed reportable. The officeholder must file all period campaign finance reports, until such time that the account has been terminated with the Secretary of State's Office. Any money remaining in the officeholder expense account after April 30 of an election year shall either not be spent for the remainder of the calendar year, or shall be remitted to the Fund.

Time Limit

Officeholder expenses money must be raised, spent, and the benefit from the expenditure received by April 30 of the election year. Any expenditure made after April 30 will be considered to be a regular campaign expenditure. For current legislative officeholders, the cutoff date is April 30, 2006. For current statewide officeholders, the cutoff date is April 30 of their respective re-election year.

Permissible Expenditures

Money in the officeholder expense account CANNOT be used for direct campaign purposes or in connection with the officeholder's future campaign for elective office.

Permissible uses of the money in the officeholder expense account include:

- Expenditures for office equipment and supplies.
- Expenditures for work-related travel.
- Donations to tax-exempt charitable organizations.
- Expenditures to meet or communicate with constituents.

Summary

- ❖ After both the primary election and the general election, participating candidates must return any unspent monies to the Commission. Participating candidates are not allowed to carry monies forward into the next election.
- ❖ In order to terminate the candidate committee, the candidate must file a termination statement with the Secretary of State's Office and must file a campaign finance report showing a zero account balance.
- ❖ Current officeholders may raise and spend monies for officeholder related expenses. A separate account must be established with the Secretary of State's Office.

References

- ❖ Return of unspent monies
 - A.R.S. § 16-953
- ❖ Terminating the campaign committee
 - A.R.S. § 16-914(A)
- ❖ Officeholder expenses
 - A.A.C. R2-20-104(F)



Chapter 13: Enforcement

Chapter 13: Enforcement - The Commission is charged with the responsibility of enforcing the Clean Elections Act and has the authority to impose civil penalties. The Commission may initiate an enforcement action based on staff analysis, or the Commission may receive a written complaint from a member of the public. The Commission also has the authority to conduct financial audits on all candidates' campaign accounts.

Enforcement Procedures



Externally Generated Complaints

Any person may file a complaint against a candidate if he or she believes a violation of the Commission Act or Rules has occurred or is about to occur. The complaint must be made in writing, and the signature of the complainant must be notarized. The Commission will **NOT** accept verbal or anonymous complaints. A compliant complaint must:

- Provide the full name and address of the person filing the complaint (“complainant”);
- Be signed, sworn to and notarized by a notary public;
- Clearly identify each person, committee or group that is alleged to have committed a violation (“respondent”);
- Clearly recite the facts showing specific violations under the Commission’s jurisdiction;
- Include any documentation supporting the allegations; and
- Differentiate between statements based on the complainant’s personal knowledge and those based on information from others.

If the complaint is in compliance with the above listed requirements, the Commission will assign it a Matter Under Review (MUR) number, send an acknowledgement to the complainant and send a copy of the complaint to the respondent. If the complaint does not comply with the above listed requirements, the Commission shall notify the complainant and the complainant may resubmit his or her complaint.

Internally Generated Complaints

The Commission staff, in its review of campaign finance reports, or otherwise, may initiate an internally generated complaint against a candidate. Complaints may be internally generated based on the findings of an audit. The complaint is handled in an identical manner to an externally generated complaint, with the Commission acting as the complainant.

Respondent's Opportunity to Respond to a Complaint

Within 5 days after receiving a complaint, the Commission will send a copy of the complaint to the respondent. Upon receipt, the respondent has 5 days to provide the Commission with a written response.

After the 5-day response period, the Executive Director will evaluate the matter to determine whether there is reason to believe that a violation has occurred. The Executive Director has the authority to dismiss frivolous and erroneous complaints without them being presented to the Commission.

Reason to Believe Recommendation

The Executive Director will review the written complaint, the respondent's written response, campaign finance reports and any supporting documentation provided by the complainant and respondent. A full-fledged investigation of the matter will not begin unless the Commission finds reason to believe a violation has occurred.

The Executive Director shall make a recommendation to the Commission at a public Commission meeting whether or not there is reason to believe a violation has occurred. If the Commission decides that there is no reason to believe a violation has occurred, the matter will be closed and both parties will be notified in writing. If at least three of the five commissioners find that there is reason to believe a violation has occurred, the Commission staff will open an investigation into the matter.

Investigation

If the Commission finds that there is reason to believe that a violation has occurred, the Commission shall serve on that person an order stating with reasonable particularity the nature of the violation and requiring compliance within 14 days. During that period, the respondent may provide an explanation to the Commission, comply with the order, or enter into a public administrative settlement with the Commission. Also, during the 14-day period, the Commission may perform additional investigative work and will consider any additional explanation provided by the respondent. The Commission investigation may include field investigations, audits and other methods of information gathering. The Commission may also issue subpoenas and orders requiring persons to answer written questions.

Probable Cause to Believe Recommendation

Upon expiration of the 14 days and the investigation, the Executive Director will prepare a probable cause to believe recommendation stating his or her recommendation on whether there is probable cause to believe that a violation has occurred. The Executive Director's recommendation will be sent to the respondent and the respondent will have 5 days to respond, in writing, to the recommendation. After reviewing the respondent's response (if any), the Executive Director will prepare his or her final recommendation to the Commission.

The Executive Director will present the probable cause to believe recommendation to the Commission at a public meeting. If the Commission finds that there is probable cause to believe a violation has occurred, the Commission shall make a public finding to that effect and issue an order assessing a civil penalty, unless the Commission publishes findings of fact and conclusions of law expressing good cause for reducing or excusing the penalty. If the Commission finds no probable cause, the complaint shall be terminated and both the respondent and complainant will be notified in writing.

Any candidate in a particular election contest who believes that any opposing candidate has violated the Act for that election may file a complaint with the Commission requesting that action be taken. If the Commission fails to make a “reason to believe” finding within 30 days after the filing of such a complaint, the candidate may bring a civil action in the superior court to impose the civil penalties prescribed by the Act.

Administrative Settlement

At any time during a complaint process, the respondent may choose to enter into a settlement agreement with the Commission. A settlement agreement is not binding until it is approved by the Commission and it is signed by the Executive Director and the respondent.



Administrative Hearing

If the Commission finds probable cause and issues an order and notice of penalties requiring compliance, the respondent may file a request for an administrative hearing with the Office of Administrative Hearings (OAH). The respondent must file the request for a hearing with the Commission within 30 days of receipt of the order and notice of penalties. OAH is a state agency that provides the opportunity for an impartial hearing administered by an Administrative Law Judge. After the hearing, the Administrative Law Judge will issue a recommendation to the Commission, which the Commission will consider at its next public meeting. The Commission may choose to adopt the Administrative Law Judge’s recommendation or may choose to retain the Commission’s original decision.

Penalties

The Commission has the authority to assess civil penalties on both participating and nonparticipating candidates. No civil penalty negotiated by the Commission or imposed by a court may exceed the greater of \$10,000 or an amount equal to any contribution or expenditure involved in the violation. In the case of a knowing and willful violation, the civil penalty may not exceed the greater of \$15,000 or an amount equal to 200% of any contribution or expenditure involved in the violation. All civil penalties collected by the Commission are deposited into the Clean Elections Fund.

Participating Candidates

A participating candidate may not accept contributions other than a limited number of \$5 qualifying contributions, personal monies and early contributions. A participating candidate shall not make expenditures in excess of the personal money limits, early contribution limits, the primary election spending limits, and the general election spending limits.

1. The civil penalty for a violation of any contribution or expenditure limit by or on behalf of a participating candidate shall be 10 times the amount by which the expenditures or contributions exceed the applicable limit.
2. The civil penalty for a violation by or on behalf of any candidate of any reporting requirement shall be:
 - \$120 per day for candidates for the legislature; and
 - \$350 per day for candidates for statewide office.

The penalty imposed shall be doubled if the amount not reported for a particular election cycle exceeds 10% of the adjusted primary or general election spending limit. No penalty imposed shall exceed twice the amount of expenditures or contributions not reported. The candidate and the candidate's campaign account shall be jointly and severally responsible for any penalty imposed.

3. Any campaign finance report filed indicating a violation of the contribution or spending limits involving an amount in excess of 10% of the sum of the adjusted primary election spending limit and the adjusted general election spending limit for a particular candidate shall result in disqualification of a candidate or forfeiture of office.

Nonparticipating Candidates

1. The civil penalty for a violation by or on behalf of any candidate of any reporting requirement shall be:
 - \$120 per day for candidates for the legislature; and
 - \$350 per day for candidates for statewide office.

The penalty imposed shall be doubled if the amount not reported for a particular election cycle exceeds 10% of the adjusted primary or general election spending limit. No penalty imposed shall exceed twice the amount of expenditures or contributions not reported. The candidate and the candidate's campaign account shall be jointly and severally responsible for any penalty imposed.

2. Any campaign finance report filed indicating a violation of the contribution or spending limits involving an amount in excess of 10% of the sum of the adjusted primary election spending limit and the adjusted general election spending limit for a particular candidate shall result in disqualification of a candidate or forfeiture of office.

Repayment

Any participating candidate adjudged to have committed a knowing violation of the contribution or spending limits shall repay from the candidate's personal monies to the Clean Elections Fund, all monies expended from the candidate's campaign account and shall turn over the candidate's campaign account to the Fund.

Any expenditure made by the candidate or the candidate's committee that cannot be documented as a direct campaign expenditure shall promptly be repaid to the Clean Elections Fund with the candidate's personal monies.



Audits

The Commission has the authority to conduct audits of all candidates. The Commission will initiate an audit to aid in the investigation of an enforcement action. The Commission also conducts random audits throughout the election cycle of both participating and nonparticipating candidates. For the 2005-2006 election cycle, the Commission will randomly select 10 candidates to be audited after the Pre-Primary and after the Post-Primary campaign finance reports are filed.

The Commission contracts with an independent accounting firm to conduct all auditing work.

Audit Procedure

If a candidate is selected for an audit, the Commission will notify the candidate and the accounting firm in writing. The accounting firm will contact the candidate to explain the auditing process and to set up an appointment for an entrance interview. The auditors will conduct all fieldwork at a site provided by the candidate. The candidate must make all books and records available to the auditors and must have personnel familiar with the records available to answer questions.

Preliminary Audit Report

After completion of the fieldwork, the auditors may prepare a written preliminary audit report. If the auditors cannot complete a preliminary audit report, the candidate shall be notified in writing. The preliminary audit report will include:

- An evaluation of procedures and systems employed by the candidate to comply with the Act and rules;
- The accuracy of statements and campaign finance reports filed with the Secretary of State; and
- Preliminary findings.

The preliminary audit report will be presented to the Commission at a public meeting, and if the Commission approves the preliminary audit report, it will be provided to the candidate. Upon receipt of the Commission approved preliminary audit report, the candidate has 10 days to submit written comments to the Commission.

Final Audit Report

Taking in consideration any written comments provided by the candidate, the auditors will provide the Commission with a final audit report at a public meeting. The final audit report may include the identification of issues that warrant referral for possible enforcement proceedings. At the public meeting, the Commission will vote to approve the final audit report. The candidate will be provided with the final audit report at least 24 hours before the public meeting. Following Commission approval of the final audit report, it will be sent to the candidate within 5 days after the public meeting.

Summary

- ❖ The Commission may initiate an enforcement procedure based on a written complaint filed by a member of the public or based on a Commission staff recommendation.
- ❖ The Commission has the authority to assess civil penalties on both participating and nonparticipating candidates. Penalties are set forth in statute and in Commission rule.
- ❖ If the Commission determines that a participating candidate has committed a knowing violation of spending or contribution limits, the candidate must use his or her personal monies to repay the Commission.
- ❖ The Commission has the authority to conduct audits of all candidates. The Commission uses an accounting firm to conduct all auditing work.

References

- ❖ Compliance and enforcement procedures
 - A.A.C. R2-20-201 through -228
- ❖ Delivery of subpoenas
 - A.A.C. R2-20-103(G) & (H)
- ❖ Administrative hearing
 - A.A.C. R2-20-224
- ❖ Maximum civil penalties
 - A.A.C. R2-20-222
- ❖ Civil penalties for participating candidates
 - A.R.S. § 16-942
- ❖ Civil penalties for nonparticipating candidates
 - A.R.S. § 16-942(B) & (C)
- ❖ Authority to audit all candidates
 - A.R.S § 16-956(B)
- ❖ Auditing procedures
 - A.A.C. R2-20-401 through -406



Glossary of Terms

Adjusted Spending Limit: The original spending limit as further adjusted to account for reported overages by nonparticipating candidates or independent expenditures.

Candidate's Campaign Committee: A political committee designated and authorized by a candidate. A candidate campaign committee may have only one member: the candidate.

CCEC: Citizens Clean Elections Commission acronym.

Citizens Clean Elections Fund: The account through which participating candidates receive public funds.

Contribution: Anything of value, including gifts, loans, in-kind contributions, advances or deposits of money, made for the purpose of influencing an election.

Includes any of the following:

- A contribution made to retire campaign debt.
- Money or the fair market value of anything directly or indirectly given or loaned to an elected official for the purposes of defraying the expense of communications with constituents, regardless of whether the elected official has declared his or her candidacy.
- The entire amount paid to a political committee to attend a fund-raising or other political event and the entire amount paid to a political committee as the purchase price for a fund-raising meal or item. However, it is not considered to be a contribution if the actual cost of the meal or fund-raising item is for the purchaser's personal use and not for resale, and the actual cost is the entire amount paid by the purchaser in connection with the event. The exception does not apply to auction items.
- Unless specifically exempted, the provision of goods or services without charge or at a charge that is less than the usual and normal charge for such goods and services.

[A.R.S. § 16-901(5)(a)(i-iv)]

Does not include any of the following:

- The value of services provided without compensation by any individual who volunteers on behalf of a candidate, a candidate's campaign committee or any other political committee.
- Money or the value of anything directly or indirectly provided to defray the expense of an elected official meeting with constituents if the elected official is engaged in the performance of the duties of his or her office or provided by the state or a political subdivision to an elected official for communication with constituents if the elected official is engaged in the performance of the duties of his or her office.
- An individual may use personal property, including their home, a church or community room used on a regular basis by members of a community for noncommercial purposes, in the course of volunteering for a candidate. Each adult in the household may contribute up to \$100 in value for invitations, food and beverages only. This does not count as a contribution to the candidate. Any amount over \$100, or for any other purpose, will need to be reported as a contribution from the individual and is subject to individual contribution limits.

- Any reimbursed payment for personal travel expenses made by an individual who, on his or her own behalf, volunteers his or her personal services to a candidate.
- The payment by a political party for printing and postage expenses for slate cards, sample ballots, and other written materials that substantially promote three or more nominees of the party for public office. This exemption does not apply if costs are for a display of the listing of candidates made on telecommunications systems or in newspapers, magazines or similar types of general circulation advertising.
- Independent expenditures.
- Monies loaned by a state bank, a federally chartered depository institution or a depository institution. In order for this exemption to apply, this loan shall be deemed a loan by each endorser or guarantor, in that proportion of the unpaid balance that each endorser or guarantor bears to the total number of endorsers or guarantors, the loan shall be made on a basis that assures repayment, evidenced by a written instrument, shall be subject to a due date or amortization schedule and shall bear the usual and customary interest rate of the lending institution.
- Legal or accounting services provided to a candidate at no cost. This exemption only applies if the only person paying for the services is the regular employer of the person rendering the services and if services are solely for the purpose of compliance with this title.
- The political parties' purchase of campaign materials including pins, bumper stickers, handbills, brochures, posters, party tabloids and yard signs, which will be used by the party in connection with volunteer activities on behalf of any nominee of the party. This exemption does not apply if payments are used for the costs of campaign materials or activities used in connection with any telecommunications system, newspaper, magazine, billboard, direct mail or similar type of general public communication or political advertising.
- A transfer between campaigns to distribute monies raised through a joint fund-raising effort in which each candidate pays a proportionate share of the fundraising expenses and receives a proportionate share of the funds that are raised.
- An extension of credit for goods and services made in the ordinary course of the vendor's business. This applies only if the vendor provides similar terms of credit to other nonpolitical customers and makes a reasonable attempt to collect the debt. If the candidate does not pay the debt after six months, it shall be deemed receipt of a contribution by the candidate but not a contribution by the creditor.
- Interest or dividends earned by a political committee on any bank accounts, deposits or other investments of the political committee.
- Expenditures made in accordance with the Officeholder Expense Rule.
[A.R.S. § 16-901(5)(b)(i-xiii)]

Expenditure: An expenditure is defined as:

- Any purchase, payment, distribution, loan, advance, deposit or gift of money or anything of value made by a person for the purpose of influencing an election in this state.
- A contract, promise or agreement to make an expenditure resulting in an extension of credit.
- The value of any in-kind contribution received.
[A.R.S. § 16-901(8)]

Does not include any of the following:

- A news story, commentary or editorial distributed through any telecommunications system, newspaper, magazine or other periodical publication. This exemption does not apply if the publications' facilities are owned or controlled by a political committee, political party or candidate.
- Nonpartisan activity designed to encourage individuals to vote or to register to vote.
- The payment by a political party of the costs of preparation, display, mailing or other distribution incurred by the party with respect to any printed slate card, sample ballot or other printed listing of three or more candidates for any elective office. This exemption does not apply if the display of candidates is made on any telecommunications system or in newspapers, magazines or similar types of general public political advertising.
- The political parties' purchase of campaign materials including pins, bumper stickers, handbills, brochures, posters, party tabloids and yard signs, which will be used by the party in connection with volunteer activities on behalf of any nominee of the party. This exemption does not apply if payments are used for the costs of campaign materials or activities used in connection with any telecommunications system, newspaper, magazine, billboard, direct mail or similar type of general public communication or political advertising.
- Any deposit or other payment filed with the Secretary of State or any other similar officer to pay any portion of the cost of printing an argument in a publicity pamphlet advocating or opposing a ballot measure.

[A.R.S. § 16-901(8)]

Election Cycle: The period between successive general elections for a particular office.

Exploratory Period: The period beginning on the day after a general election and ending the day before the start of the qualifying period. For the 2006 election cycle, the exploratory period starts November 3, 2004. The exploratory period ends December 31, 2005 for legislative candidates and July 31, 2005 for statewide candidates.

Fair Market Value: The amount at which property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or sell and both having reasonable knowledge of the relevant facts.

Family Contribution: Any contribution that is provided to a candidate's campaign committee by a parent, grandparent, spouse, child or sibling of the candidate or a parent or spouse of any of those persons.

Filing Officer: The official filing officer for the Commission is the Secretary of State's office.

Fund: Citizens Clean Elections Fund; the account through which participating candidates receive public funds.

General Election Period: The period beginning on the day after primary election day and ending on general election day. For the 2006 election cycle, the general election period starts September 13, 2006 and ends November 7, 2006.

General Election Spending Limits: The level of funding that participating candidates receive from the Commission for the General Election Period.

Independent Candidate: A candidate who is not affiliated with a party recognized on the ballot.

Independent Expenditure: An expenditure by a person or political committee, other than a candidate's campaign committee, that expressly advocates the election or defeat of a clearly identified candidate, and that is made without cooperation or consultation with any candidate, candidate committee or candidate agent.

In-Kind Contribution: A contribution of goods or services or anything of value that is not a monetary contribution.

Nonparticipating Candidate: A candidate who does not become certified as a participating candidate under the Clean Elections Act, and, consequently, does not receive public funding to run his or her campaign.

One-Party-Dominant Legislative District: A district in which the number of registered voters registered in the party with the highest number of registered voters exceeds the number of registered voters registered to each of the other parties by an amount at least as high as 10 percent of the total number of voters registered in the district. One-party-dominant legislative districts are determined by the Commission after the Independent Redistricting Commission adopts the legislative district maps. This typically occurs at the end of May during an election year.

Original Spending Limit: A limit specified by primary election spending limits and general election spending limits, or a special amount expressly set for a particular candidate (i.e., unopposed or independent candidates).

PAC: political action committee acronym.

Participating Candidate: A candidate who becomes certified as participating pursuant to A.R.S. § 16-947, and receives public funding to run his or her campaign.

Personal Monies: Assets to which the candidate has legal right; salary and other earned income from candidate employment; dividends and proceeds from the sale of stocks or investments; income from trusts; proceeds of loans obtained that are not contributions; proceeds from legal games of chance; and *family contributions*.

Political Committee: A candidate, association or combination of persons organized for the purpose of influencing the result of any election. This includes political activity advocating the election or defeat of a candidate for election, an initiative, referendum, recall, measure or proposition.

Primary Election Period: The nine-week period ending on primary election day. For the 2006 election cycle, the primary election period starts July 11, 2006 and ends September 12, 2006.

Primary Election Spending Limits: The level of funding that participating candidates receive from the Commission for the Primary Election Period.

Qualifying Period: The period beginning on the first day of August in a year preceding an election for an election for a statewide office, or on the first day of January of an election year for an election for legislator, and ending 75 days before the day of the general election. For the 2006 election cycle, the qualifying period starts for legislative candidates on January 1, 2006 and ends August 24, 2006. For statewide candidates, the qualifying period starts August 1, 2005 and ends August 24, 2006.

Rule: An agency statement that implements, interprets or prescribes law or policy, or describes the procedure or practice requirements of an agency.

SOS: Secretary of State acronym.

Statewide Office: Those offices that hold control over the entire state, not a certain portion within the state. Statewide offices include governor, secretary of state, state treasurer, attorney general, superintendent of public instruction, corporation commissioner and mine inspector.

Substantive Policy Statement (SPS): A written expression informing the general public of an agency's current approach to, or opinion of, the requirements of the federal or state constitution or statute, administrative rule or regulation, or final judgment of a court of competent jurisdiction, including, where appropriate, the agency's current practice, procedure or method of action based upon that approach or opinion. An SPS is advisory only. An SPS does not impose additional requirements or penalties on regulated parties, confidential information or rules.

Surplus Monies: The remainder of a political committee's money after all of its expenditures have been made and its debts have been extinguished.

Unopposed: In the primary election for the House of Representatives, a candidate is unopposed if there is no more than one other candidate from the same party, and if there is no opposition for the same office in the general election by an independent or a candidate from another party. In the primary election for statewide office and Senate, a candidate is unopposed if there are no other candidates from the same party, and if there is no opposition for the same office in the general election by an independent or a candidate from another party. In the general election for the House of Representatives, a candidate is unopposed if there is no more than one other candidate on the ballot competing for election in the same district. In the general election for statewide offices and Senate, a candidate is unopposed if there is no opponent on the ballot competing for the same office.



Participating Candidate Checklist



The following checklist is intended to help participating candidates keep track of the necessary paperwork that needs to be filed with the Secretary of State's Office. These forms can be picked up at the Commission office, the SOS's Office, downloaded from the Commission's website, or found in the back of this Guide. The SOS's Office, as well as the Commission, will notarize forms free of charge if the signor presents valid picture identification.

Statement of Organization

Establishes the candidate's campaign committee with the SOS's Office.

Application for Certification as a Participating Candidate

Establishes the candidate as a participating candidate.

Deadline: August 24, 2006.

The form must be notarized.

A campaign finance report detailing all campaign activity to date must be filed electronically on the same date that the Application for Certification is submitted to the SOS's Office.

Nominating Petition

The triplicate form, nominating petitions and nomination papers must be submitted to the SOS's Office by June 14, 2006 in order to qualify for the ballot.

Participating Candidate's Application to Receive Funds and Qualifying Contributions Report

Accompanies the submission of the \$5 qualifying contributions to the SOS.

Last day to submit \$5 qualifying contributions: August 24, 2006.

The application must be signed by the candidate, but does not need to be notarized.

If the candidate is in a one-party-dominant district and wants to choose the reallocation option, the correct box must be marked.

The following must be submitted along with the \$5 qualifying contributions:

A complete printed list of \$5 qualifying contributors sorted by County using the Campaign Finance Software.

The original qualifying contribution forms, signed and dated by the qualifying contributors and the solicitor, if there was a solicitor, sorted by County.

A check in the amount equal to the sum of the qualifying contributions submitted, made payable to "Clean Elections Fund."

A campaign finance report must be filed electronically when the \$5 qualifying contributions are submitted to the SOS's Office. All \$5 qualifying contributions being submitted must be included in the campaign finance report.



LIST OF FORMS

** All Forms can also be found at www.azcleaselections.gov **

Participating Candidate Timelines

Application for Certification as a Participating Candidate

Application to Receive Funds & Qualifying Contributions Report

\$5 Qualifying Contribution Form