

# NOTICES OF EXEMPT RULEMAKING

The Administrative Procedure Act requires the *Register* publication of the rules adopted by the state's agencies under an exemption from all or part of the Administrative Procedure Act. Some of these rules are exempted by A.R.S. §§ 41-1005 or 41-1057; other rules are exempted by other statutes; rules of the Corporation Commission are exempt from Attorney General review pursuant to a court decision as determined by the Corporation Commission.

## NOTICE OF EXEMPT RULEMAKING

### TITLE 2. ADMINISTRATION

#### CHAPTER 20. CITIZENS CLEAN ELECTIONS COMMISSION

*Editor's Note: The following Notices of Exempt Rulemaking were exempt from Executive Order 2012-03 as issued by Governor Brewer. (See the text of the executive order on page 1705.)*

[R13-98]

#### PREAMBLE

- 1. Article, Part, or Section Affected (as applicable) Rulemaking Action**  
R2-20-104 Amend
- 2. The statutory authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**  
Authorizing statute: A.R.S. § 16-940, et seq.  
Implementing statute: A.R.S. § 16-956(C)
- 3. The effective date of the rules:**  
Amendment to R2-20-104(C)(8): October 6, 2011  
Amendment to R2-20-104(D)(5): May 23, 2013
- 4. A list of all previous notices appearing in the Register addressing the exempt rule:**  
Not applicable
- 5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**  
Name: Thomas M. Collins, Interim Executive Director  
Address: Citizens Clean Elections Commission  
1616 W. Adams St., Suite 110  
Phoenix, AZ 85007  
Telephone: (602) 364-3477  
Fax: (602) 364-3487  
E-mail: thomas.collins @azcleelections.gov
- 6. An explanation of the rule, including the agency's reasons for initiating the rule, including the statutory citation to the exemption from regular rulemaking procedures:**  
R2-20-104.  
Amends R2-20-104(C)(8) to remove a reference to equalizing payments that is no longer necessary after *Arizona Free Enterprise Club v. Bennett*, 131 S. Ct. 2806 (2011) and 2012 Ariz. Sess. Laws Ch. 257. Replaces with new language clarifying rule applies to primary and general election.  
Amends R2-20-104(D)(5) to require a participating candidate to attend a Commission-sponsored training within 60 days of being certified or within 60 days of the beginning of the qualifying period if the candidate is certified before the beginning of the qualifying period.
- 7. A reference to any study relevant to the rule that the agency reviewed and either relied on in its evaluation of or justification for the rule or did not rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:**  
Not applicable

Notices of Exempt Rulemaking

- 8. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:**  
Not applicable
- 9. The summary of the economic, small business, and consumer impact:**  
Not applicable
- 10. A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):**  
There were no substantive changes between rules as initially proposed and as finally adopted by the Commission.
- 11. A summary of the comments made regarding the rule and the agency response to them:**  
The Commissioners solicited public comment throughout the rulemaking process.  
The Commissioners considered the rule in open meetings and took actions they deemed appropriate.
- 12. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:**  
Not applicable
- a. Whether the rule requires a permit, whether a general permit is used and if not, the reasons why a general permit is not used:**  
Not applicable
- b. Whether federal law is applicable to the subject of the rule, whether the rule is more stringent than the federal law and if do, citation to the statutory authority to exceed the requirements of federal law:**  
Not applicable
- c. Whether a person submitted an analysis to the agency that compares the rule's impact on the competitiveness of business in this state to the impact on business in other states:**  
Not applicable
- 13. Incorporations by reference and their location in the rules:**  
Not applicable
- 14. Was this rule previously made as an emergency rule? If so, please indicate the Register citation:**  
Not applicable
- 15. The full text of the rules follows:**

TITLE 2. ADMINISTRATION

CHAPTER 20. CITIZENS CLEAN ELECTIONS COMMISSION

ARTICLE 1. GENERAL PROVISIONS

Section

R2-20-104. Certification as a Participating Candidate

ARTICLE 1. GENERAL PROVISIONS

**R2-20-104. Certification as a Participating Candidate**

- A.** A nonparticipating candidate who accepts contributions up to the limits authorized by A.R.S. § 16-905, but later chooses to run as a participating candidate, shall:
1. Make the change to participating candidate status during the exploratory and qualifying periods only;
  2. Return the amount of each contribution in excess of the individual contribution limit for participating candidates;
  3. Return all Political Action Committee (PAC) monies received;
  4. Not have spent contributions exceeding the early contribution limit, or any part of a contribution exceeding the early contribution limit;
  5. Comply with all provisions of A.R.S. § 16-941 and Commission rules.
- B.** Money from prior election. If a nonparticipating candidate has a cash balance remaining in the campaign account from the prior election cycle, the candidate may seek certification as a participating candidate in the current election after:
1. Transferring money from the prior campaign account to the candidate's current election campaign account. The amount transferred shall not exceed the permitted personal monies, early contributions, and debt-retirement contributions, as defined in A.R.S. § 16-945(C);
  2. Spending the money lawfully prior to April 30 of an election year in a way that does not constitute a direct campaign purpose and does not meet the definition of "expenditure" under A.R.S. § 16-901(8); and the event or item purchased

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- is completed or otherwise used and depleted prior to April 30 of an election year;
3. Remitting the money to the Fund;
  4. Disposing of the money in accordance with A.R.S. § 16-915.01; or
  5. Holding the money in the prior election campaign account, not to be used during the current election, except as provided pursuant to this Section.
- C. Application for certification as a participating candidate. Pursuant to A.R.S. § 16-947, a candidate seeking certification shall file with the Secretary of State a Commission-approved application and a campaign finance report reflecting all campaign activity to date, in accordance with A.R.S. § 16-915. In the application, a candidate shall certify under oath that the candidate:
1. Agrees to use all Clean Elections funding for direct campaign purposes only;
  2. Has filed a campaign finance report, showing all campaign activity to date in the current election cycle;
  3. Will comply with all requirements of the Act and Commission rules;
  4. Is subject to all enforcement actions by the Commission as authorized by the Act and Commission rules;
  5. Has the burden of proving that expenditures made by or on behalf of the candidate are for direct campaign purposes;
  6. Will keep and furnish to the Commission all documentation relating to expenditures, receipts, funding, books, records (including bank records for all accounts), and supporting documentation and other information that the Commission may request;
  7. Will permit an audit or examination by the Commission of all receipts and expenditures including those made by the candidate. The candidate shall also provide any material required in connection with an audit, investigation, or examination conducted by the Commission. The candidate shall facilitate the audit by making available in one central location, such as the Commission's office space, records and such personnel as are necessary to conduct the audit or examination, and shall pay any amounts required to be repaid;
  8. Will submit the name and mailing address of the person who is entitled to receive ~~equalizing fund payments~~ primary and general election funding on behalf of the candidate and the name and address of the campaign depository designated by the candidate. Changes in the information required by this subsection shall not be effective until submitted to the Commission in a letter signed or submitted electronically, by the candidate or the committee treasurer;
  9. Will pay any civil penalties included in a conciliation agreement or otherwise imposed against the candidate;
  10. Will timely file all campaign finance reports with the Secretary of State in an electronic format; and
  11. Will file an amended application for certification reporting any change in the information prescribed in the application for certification within five days after the change.
- D. If certified as a participating candidate, the candidate shall:
1. Only accept early contributions from individuals during the exploratory and qualifying periods in accordance with A.R.S. § 16-945. No contributions may be accepted from political action committees, political parties or corporations;
  2. Not accept any private contributions, other than early contributions and a limited number of \$5 qualifying contributions;
  3. Make expenditures of personal monies of no more than the amounts prescribed in A.R.S. § 16-941(A)(2) for legislative candidates and for statewide office candidates;
  4. Conduct all campaign activity through a single campaign account. A participating candidate shall only deposit early contributions, qualifying contributions and Clean Elections funds into the candidate's current campaign account. The campaign account shall not be used for any non-direct campaign purpose as provided in Article 7 of these rules;
  5. Attend ~~at least one a Commission sponsored~~ candidate training class ~~sponsored by the Commission~~ within 60 days of being certified or within 60 days of the beginning of the qualifying period if the candidate is certified before the beginning of the qualifying period. If the candidate is unable to attend a training class, the candidate shall:
    - a. Notify the Commission that the candidate is unable to attend a training class. The Commission then will send that person the Commission training materials; and
    - b. The candidate shall sign and send to the Commission a statement certifying that he or she has received and reviewed the Commission training materials; and
  6. Limit campaign expenditures. Prior to qualifying for Clean Elections funding, a candidate shall not incur debt, or make an expenditure in excess of the amount of cash on hand. Upon approval for funding by the Secretary of State, a candidate may incur debt, or make expenditures, not to exceed the sum of the cash on hand and the applicable spending limit.
- E. Personal loans. A participating candidate may loan his or her campaign committee personal monies during the exploratory and qualifying periods only. The total sum of personal funds and loans shall not exceed the personal monies expenditure limits set forth in A.R.S. § 16-941(A)(2). If the loan is to be repaid, the loans shall be repaid promptly upon receipt of Clean Elections funds if the participating candidate qualifies for Clean Elections funding. Loans from a bank, or other institution listed in A.R.S. § 16-901(5)(b)(vii) to a candidate shall be considered personal monies and shall not exceed the personal monies expenditure limits set forth in A.R.S. § 16-941(A)(2).
- F. A participating candidate may raise early contributions for election to one office and choose to run for election to another

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office.

- G. Contributions to officeholder expense accounts are subject to the restrictions of A.R.S. § 41-1234.01, contributions prohibited during session; exceptions.

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TITLE 2. ADMINISTRATION

CHAPTER 20. CITIZENS CLEAN ELECTIONS COMMISSION

[R13-99]

PREAMBLE

- 1. Article, Part, or Section Affected (as applicable) Rulemaking Action**  
R2-20-105 Amend
- 2. The statutory authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**  
Authorizing statute: A.R.S. § 16-940, *et seq.*  
Implementing statute: A.R.S. § 16-956(C)
- 3. The effective date of the rules:**  
Amendment to R2-20-105(C): October 6, 2011  
Amendment to R2-20-105(J): May 23, 2013
- 4. A list of all previous notices appearing in the Register addressing the exempt rule:**  
Not applicable
- 5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**  
Name: Thomas M. Collins, Interim Executive Director  
Address: Citizens Clean Elections Commission  
1616 W. Adams St., Suite 110  
Phoenix, AZ 85007  
Telephone: (602) 364-3477  
Fax: (602) 364-3487  
E-mail: thomas.collins @azcleanelections.gov
- 6. An explanation of the rule, including the agency's reasons for initiating the rule, including the statutory citation to the exemption from regular rulemaking procedures:**  
R2-20-105.  
Amends R2-20-105(C) to facilitate the E-Qual program by permitting participants to obtain a certain number of qualifying contributions through E-Qual.  
Amends R2-20-105(J) to increase the number of qualifying contributions necessary to qualify for Clean Elections funding.
- 7. A reference to any study relevant to the rule that the agency reviewed and either relied on in its evaluation of or justification for the rule or did not rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:**  
Not applicable
- 8. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:**  
Not applicable
- 9. The summary of the economic, small business, and consumer impact:**  
Not applicable
- 10. A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):**  
There were no substantive changes between rules as initially proposed and as finally adopted by the Commission.

Notices of Exempt Rulemaking

**11. A summary of the comments made regarding the rule and the agency response to them:**

The Commissioners solicited public comment throughout the rulemaking process.

The Commissioners considered the rule in open meetings and took actions they deemed appropriate.

**12. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:**

Not applicable

**a. Whether the rule requires a permit, whether a general permit is used and if not, the reasons why a general permit is not used:**

Not applicable

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

Not applicable

**c. Whether a person submitted an analysis to the agency that compares the rule's impact on the competitiveness of business in this state to the impact on business in other states:**

Not applicable

**13. Incorporations by reference and their location in the rules:**

Not applicable

**14. Was this rule previously made as an emergency rule? If so, please indicate the Register citation:**

Not applicable

**15. The full text of the rules follows:**

**TITLE 2. ADMINISTRATION**

**CHAPTER 20. CITIZENS CLEAN ELECTIONS COMMISSION**

**ARTICLE 1. GENERAL PROVISIONS**

Section

R2-20-105. Certification for Funding

**ARTICLE 1. GENERAL PROVISIONS**

**R2-20-105. Certification for Funding**

**A.** After a candidate is certified as a participating candidate, pursuant to A.R.S. § 16-947, in accordance with the procedure set forth in R2-20-104, that candidate may collect qualifying contributions only during the qualifying period.

**B.** A participating candidate must submit to the Secretary of State, a list of names of persons who made qualifying contributions, an application for funding prescribed by the Secretary of State, the minimum number of original reporting slips, and an amount equal to the sum of the qualifying contributions collected pursuant to A.R.S. § 16-950 no later than one week after the end of the qualifying period. Any and all expenses associated with obtaining the qualifying contributions, including credit card processing fees must be paid for from the candidate's early contributions or personal monies. A candidate may develop his or her own three-part reporting slip for qualifying contributions, or one that is photocopied or computer reproduced, if the form substantially complies with the form prescribed by the Commission. The candidate must comply with the Act and ensure that the original qualifying slip is tendered to the Secretary of State, a copy remains with the candidate, and that a copy is given to the contributor.

**C.** A candidate may accept electronic \$5 qualifying contributions up to a maximum of 50 percent of the minimum number required to qualify for funding for the elected office sought by the candidate. The Secretary of State's secured internet portal must be used to collect electronic \$5 qualifying. A \$5 contribution must accompany every \$5 qualifying contribution form and must be submitted via the Secretary of State's portal using a private electronic payment service, specified by the Secretary of State's Office, bank account, credit or debit card. A non-refundable transaction fee may be assessed on electronic \$5 qualifying contribution transactions. The transaction fee is not a contribution to the candidate's campaign and is paid by the contributor. If excess funds are accumulated by the candidate's campaign based on the transaction fee then all excess funds must be given to the Commission and must be entered into the candidate's campaign finance report as interest/dividend/other income in accordance with A.R.S. § 16-915(3)(e).

**~~C.D.~~** A solicitor who seeks signatures and qualifying contributions on behalf of a participating candidate shall provide his or her residential address, typed or printed name and signature on each reporting slip. The solicitor shall also sign a sworn statement on the contribution slip avowing that the contributor signed the slip, that the contributor contributed the \$5, that based on information and belief, the contributor's name and address are correctly stated and that each contributor is a

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qualified elector of this state. If a contribution is received unsolicited, the candidate or contributor may sign the qualifying contribution form as the solicitor and is accountable for all of the responsibilities of a solicitor. Nothing in this rule shall prohibit the use of direct mail or the internet to obtain qualifying contributions as long as an original signature is provided on the qualifying contribution form. The candidate may sign the qualifying contribution form as the solicitor and is accountable for all of the responsibilities of a solicitor. For qualifying contributions received in accordance with subsection (C) of this Section, the residential address and signature of the solicitor is not required.

**D.E.** The Secretary of State has the authority to approve or deny a candidate for Clean Elections funding, pursuant to A.R.S. § 16-950(C) based upon the verification of the qualifying contribution forms by the appropriate county recorder. The county recorder shall disqualify any qualifying contribution forms that are:

1. Unsigned by the contributor;
2. Undated; or
3. That the recorder is unable to verify as matching signature of a person who is registered to vote, on the date specified inside the electoral district the candidate is seeking.

**E.F.** The Secretary of State will notify the candidate and the Commission regarding the approval or denial of Clean Elections funds. A candidate who is denied Clean Elections funding after all of the slips are verified is eligible to submit supplemental qualifying contribution forms for one additional opportunity to be approved for funding pursuant to subsection (G) of this rule.

**F.G.** The amount equal to the sum of the qualifying contributions collected and tendered to the Secretary of State pursuant to A.R.S. § 16-950(B) will be deposited into the fund, and the amount tendered will not be returned to a candidate if a candidate is denied Clean Elections funding.

**G.H.** In accordance with the procedure set forth at A.R.S. § 16-950(C), if the Secretary of State determines that the result of the five percent random sample is less than 110 percent of the slips needed to qualify for funding, then the Secretary of State shall send all of the slips for verification. If the county recorder has verified all of the candidate's signature slips and there is an insufficient number of valid qualifying contribution slips to qualify the candidate for funding, the candidate may make only one supplemental filing of additional qualifying contribution slips and qualifying contributions to the Secretary of State if all of the following apply:

1. The candidate files at least the minimum number of additional slips needed to qualify for funding;
2. The slips are not receipts for duplicate contributions from individuals who have previously contributed to that candidate; and
3. The period for filing qualifying contributions slips has not expired.

**H.I.** The Secretary of State shall forward facsimiles of all of the supplemental qualifying contribution slips to the appropriate county recorders for the county of the contributors' addresses as shown on the contribution slips. The county recorder shall verify all of the supplemental slips within 10 business days after receipt of the facsimiles and shall provide a report to the Secretary of State identifying as disqualified any slips that are unsigned by the contributor or undated or that the recorder is unable to verify as matching the signature of a person who is registered to vote, on the date specified on the slip, inside the electoral district of the office the candidate is seeking. On receipt of the report of the county recorder on all supplemental slips, the Secretary of State shall calculate the candidate's total number of valid qualifying contribution slips and shall approve or deny the candidate for funds.

**I.J.** Pursuant to A.R.S. § 16-956(F), the minimum number of qualifying contributions shall be as follows:

1. Legislature: ~~220~~ 250
2. Mine Inspector: ~~550~~ 650
3. Corporation Commissioner: ~~1,650~~ 1,700
4. Superintendent of Public Instruction: ~~1,650~~ 1,700
5. Treasurer: ~~1,650~~ 1,700
6. Attorney General: ~~2,755~~ 2,800
7. Secretary of State: ~~2,755~~ 2,800
8. Governor: ~~4,410~~ 4,500

NOTICE OF EXEMPT RULEMAKING

TITLE 2. ADMINISTRATION

CHAPTER 20. CITIZENS CLEAN ELECTIONS COMMISSION

[R13-100]

PREAMBLE

1. Article, Part, or Section Affected (as applicable) Rulemaking Action  
R2-20-107 Amend
2. The statutory authority for the rulemaking, including both the authorizing statute (general) and the statutes the

Notices of Exempt Rulemaking

**rules are implementing (specific):**

Authorizing statute: A.R.S. § 16-940, *et seq.*

Implementing statute: A.R.S. § 16-956(C)

**3. The effective date of the rules:**

October 6, 2011

**4. A list of all previous notices appearing in the Register addressing the exempt rule:**

Not applicable

**5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**

Name: Thomas M. Collins, Interim Executive Director

Address: Citizens Clean Elections Commission  
1616 W. Adams St., Suite 110  
Phoenix, AZ 85007

Telephone: (602) 364-3477

Fax: (602) 364-3487

E-mail: thomas.collins@azcleelections.gov

**6. An explanation of the rule, including the agency's reasons for initiating the rule, including the statutory citation to the exemption from regular rulemaking procedures:**

R2-20-107.

Amends R2-20-107(E) to remove a reference to equalizing funds. This reference is no longer necessary after *Arizona Free Enterprise Club v. Bennett*, 131 S. Ct. 2806 (2011).

**7. A reference to any study relevant to the rule that the agency reviewed and either relied on in its evaluation of or justification for the rule or did not rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:**

Not applicable

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

Not applicable

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

Not applicable

**10. A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):**

There were no substantive changes between rules as initially proposed and as finally adopted by the Commission.

**11. A summary of the comments made regarding the rule and the agency response to them:**

The Commissioners solicited public comment throughout the rulemaking process.

The Commissioners considered the rule in open meetings and took actions they deemed appropriate.

**12. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:**

Not applicable

**a. Whether the rule requires a permit, whether a general permit is used and if not, the reasons why a general permit is not used:**

Not applicable

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

Not applicable

**c. Whether a person submitted an analysis to the agency that compares the rule's impact on the competitiveness of business in this state to the impact on business in other states:**

Not applicable

**13. Incorporations by reference and their location in the rules:**

Not applicable

**14. Was this rule previously made as an emergency rule? If so, please indicate the Register citation:**

Notices of Exempt Rulemaking

Not applicable

**15. The full text of the rules follows:**

**TITLE 2. ADMINISTRATION**

**CHAPTER 20. CITIZENS CLEAN ELECTIONS COMMISSION**

**ARTICLE 1. GENERAL PROVISIONS**

Section

R2-20-107. Candidate Debates

**ARTICLE 1. GENERAL PROVISIONS**

**R2-20-107. Candidate Debates**

- A.** The Commission shall sponsor debates among statewide and legislative office candidates prior to the primary and general elections unless there is no participating candidate in the election for a particular office.
- B.** In the primary election period, the Commission shall sponsor political party primary election debates for every office in which:
  - 1. There are at least two candidates of the political party's nomination, and
  - 2. At least one of the candidates is a participating candidate.
- C.** The following candidates will not be invited to participate in debates as follows:
  - 1. In the primary election, write-in candidates for the primary election, independent candidates, no party affiliation or unrecognized party candidates.
  - 2. In the general election, write-in candidates.
- D.** Pursuant to A.R.S. § 16-956(A)(2), all participating candidates certified pursuant to A.R.S. § 16-947 shall attend and participate in the debates sponsored by the Commission. No proxies or representatives are permitted to participate for any candidate and no statements may be read on behalf of an absent candidate.
- E.** Unless exempted, if a participating candidate fails to participate in any Commission-sponsored debate, the participating candidate ~~shall be ineligible to receive any further equalizing funds for that election or~~ shall be fined \$500.00. For purposes of this Section, each primary or general election shall be considered a separate election.
- F.** A participating candidate may request to be exempt from participating in a required debate by doing the following:
  - 1. Submit a written request to the Commission at least one week prior to the scheduled debate, and
  - 2. State the reasons and circumstances justifying the request for exemption.
- G.** After examining the request to be exempt, the Commission will exempt a candidate from participating in a debate if at least three Commissioners determine that the circumstances are:
  - 1. Beyond the control of the candidate;
  - 2. Of such nature that a reasonable person would find the failure to attend justifiable or excusable; or
  - 3. Good cause, as defined in A.R.S. § 16-918(E).
- H.** A participating candidate who fails to participate in a required debate may submit a request for excused absence to the Commission.
  - 1. The candidate's request for excused absence shall:
    - a. State the reason the candidate failed to participate in the debate, and
    - b. State the reason the candidate failed to request an exemption in advance, and
    - c. Be submitted to the Commission no later than five business days after the date of the debate the candidate failed to attend.
  - 2. After examining the request for excused absence, the Commission may excuse a candidate from the penalties imposed if at least three Commissioners determine that the circumstances were:
    - a. Beyond the control of the candidate;
    - b. Of such nature that a reasonable person would find the failure to attend justifiable or excusable; or
    - c. Good cause, as defined in A.R.S. § 16-918(E).
- I.** When a participating candidate is not opposed in the general election, the candidate shall be exempt from participating in a Commission-sponsored debate for the general election.
- J.** In the event that a participating candidate is opposed in the primary election or general election but is the only candidate taking part in a primary election period or general election period debate, as applicable, the debate will be held and will consist of a 30-minute question and answer session for the single participating candidate. If more than one candidate takes part in the debate, regardless of participation status, the debate will be held in accordance with the rules established by the Commission.



**NOTICE OF EXEMPT RULEMAKING**

**TITLE 2. ADMINISTRATION**

**CHAPTER 20. CITIZENS CLEAN ELECTIONS COMMISSION**

[R13-101]

**PREAMBLE**

- 1. Article, Part, or Section Affected (as applicable) Rulemaking Action**  
R2-20-110 Amend
- 2. The statutory authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**  
Authorizing statute: A.R.S. § 16-940, *et seq.*  
Implementing statute: A.R.S. § 16-956(C).
- 3. The effective date of the rules:**  
May 23, 2013
- 4. A list of all previous notices appearing in the Register addressing the exempt rule:**  
Not applicable
- 5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**  
Name: Thomas M. Collins, Interim Executive Director  
Address: Citizens Clean Elections Commission  
1616 W. Adams St., Suite 110  
Phoenix, AZ 85007  
Telephone: (602) 364-3477  
Fax: (602) 364-3487  
E-mail: thomas.collins @azcleanelections.gov
- 6. An explanation of the rule, including the agency’s reasons for initiating the rule, including the statutory citation to the exemption from regular rulemaking procedures:**  
R2-20-110.  
Amends R2-20-110 to remove a reference to equalizing funds and renumbers to conform. The reference to equalizing funds is unnecessary in light of *Arizona Free Enterprise Club v. Bennett*, 131 S. Ct. 2806 (2011).
- 7. A reference to any study relevant to the rule that the agency reviewed and either relied on in its evaluation of or justification for the rule or did not rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:**  
Not applicable
- 8. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:**  
Not applicable
- 9. The summary of the economic, small business, and consumer impact:**  
Not applicable
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- 12. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:**  
Not applicable

Notices of Exempt Rulemaking

- a. **Whether the rule requires a permit, whether a general permit is used and if not, the reasons why a general permit is not used:**  
Not applicable
- b. **Whether federal law is applicable to the subject of the rule, whether the rule is more stringent than the federal law and if do, citation to the statutory authority to exceed the requirements of federal law:**  
Not applicable
- c. **Whether a person submitted an analysis to the agency that compares the rule's impact on the competitiveness of business in this state to the impact on business in other states:**  
Not applicable

**13. Incorporations by reference and their location in the rules:**

Not applicable

**14. Was this rule previously made as an emergency rule? If so, please indicate the Register citation:**

Not applicable

**15. The full text of the rules follows:**

TITLE 2. ADMINISTRATION

CHAPTER 20. CITIZENS CLEAN ELECTIONS COMMISSION

ARTICLE 1. GENERAL PROVISIONS

Section

R2-20-110. Campaign Accounts

ARTICLE 1. GENERAL PROVISIONS

**R2-20-110. Campaign Accounts**

- A. 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.
- ~~B. If a nonparticipating candidate conducts campaign financial activities for the current election cycle through more than one account, the Commission will consider all campaign financial activities for purposes of equalizing funds.~~
- ~~C.~~ B. A candidate may maintain a campaign account other than the campaign account described in subsection (A) if the other campaign account is for a campaign in a prior election cycle in which the candidate was not a participating candidate.
- ~~D.~~ C. During the exploratory period, a candidate may receive debt-retirement contributions for a campaign during a prior election cycle if the funds are deposited in the account for that prior campaign. A candidate shall not deposit debt-retirement contributions into current campaign accounts.

NOTICE OF EXEMPT RULEMAKING

TITLE 2. ADMINISTRATION

CHAPTER 20. CITIZENS CLEAN ELECTIONS COMMISSION

[R13-102]

PREAMBLE

- 1. **Article, Part, or Section Affected (as applicable)** **Rulemaking Action**  
R2-20-113 Repeal
- 2. **The statutory authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**  
Authorizing statute: A.R.S. § 16-940, *et seq.*  
Implementing statute: A.R.S. § 16-956(C).
- 3. **The effective date of the rules:**  
October 6, 2011
- 4. **A list of all previous notices appearing in the Register addressing the exempt rule:**  
Not applicable

Notices of Exempt Rulemaking

**5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**

Name: Thomas M. Collins, Interim Executive Director  
Address: Citizens Clean Elections Commission  
1616 W. Adams St., Suite 110  
Phoenix, AZ 85007  
Telephone: (602) 364-3477  
Fax: (602) 364-3487  
E-mail: thomas.collins @azcleelections.gov

**6. An explanation of the rule, including the agency's reasons for initiating the rule, including the statutory citation to the exemption from regular rulemaking procedures:**

R2-20-113.

R2-20-113 was repealed after the Supreme Court's decision in *Arizona Free Enterprise Club v. Bennett*, 131 S. Ct. 2806 (2011), resulted in equalizing funds no longer being provided under the Clean Elections Act.

**7. A reference to any study relevant to the rule that the agency reviewed and either relied on in its evaluation of or justification for the rule or did not rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:**

Not applicable

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

Not applicable

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

Not applicable

**10. A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):**

There were no substantive changes between rules as initially proposed and as finally adopted by the Commission.

**11. A summary of the comments made regarding the rule and the agency response to them:**

The Commissioners solicited public comment throughout the rulemaking process.

The Commissioners considered the rule in open meetings and took actions they deemed appropriate.

**12. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:**

Not applicable

**a. Whether the rule requires a permit, whether a general permit is used and if not, the reasons why a general permit is not used:**

Not applicable

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

Not applicable

**c. Whether a person submitted an analysis to the agency that compares the rule's impact on the competitiveness of business in this state to the impact on business in other states:**

Not applicable

**13. Incorporations by reference and their location in the rules:**

Not applicable

**14. Was this rule previously made as an emergency rule? If so, please indicate the Register citation:**

Not applicable

**15. The full text of the rules follows:**

TITLE 2. ADMINISTRATION

CHAPTER 20. CITIZENS CLEAN ELECTIONS COMMISSION

ARTICLE 1. GENERAL PROVISIONS

Section

R2-20-113. ~~Calculation of Equalizing Funds~~ Repealed

ARTICLE 1. GENERAL PROVISIONS

**R2-20-113. ~~Calculation of Equalizing Funds~~ Repealed**

- A.** During the primary election period, the Commission shall pay any participating candidate in the same party primary of a nonparticipating candidate, the amount of the nonparticipating candidate's expenditures in excess of the amount over the primary election spending limit, not to exceed three times the original primary election spending limit, as follows:
1. ~~The nonparticipating candidates' expenditures, made before any coordinated or joint expenditure between the participating candidate and the nonparticipating candidate, which are defined as:~~
    - a. 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;
    - b. A promise or agreement to make an expenditure resulting in an extension of credit; and
    - c. The value of any in-kind contribution received.
  2. ~~If an independent expenditure is made against one or more participating candidates for a single office, each participating candidate will be eligible to receive equalizing funds, if applicable, for the amount of the independent expenditure. The participating candidates who were the subject of the expenditure will be the only candidates eligible to receive the equalizing funds, if applicable, for the cost of that independent expenditure. If so required by this subsection, the Commission may issue equalizing funds based on an independent expenditure in an amount greater than the amount of such independent expenditure.~~
  3. ~~If an independent expenditure is made in favor of one or more nonparticipating candidates, all participating candidates in the party primary of the candidate favored by the independent expenditure will be eligible to receive equalizing funds, if applicable, for the amount of the independent expenditure. If so required by this subsection, the Commission may issue equalizing funds based on an independent expenditure in an amount greater than the amount of such independent expenditure.~~
  4. ~~If an independent expenditure is made in favor of a single participating candidate, all of the other participating candidates in that party primary will be eligible to receive equalizing funds, if applicable, for the cost of that independent expenditure. If so required by this subsection, the Commission may issue equalizing funds based on an independent expenditure in an amount greater than the amount of such independent expenditure.~~
- B.** During the general election period, a participating candidate who has not engaged in a joint or coordinated expenditure with the opposing nonparticipating candidate during the general election period, will receive equalizing funds when the opposing nonparticipating candidate has received in contributions to date, less the amount of expenditures the nonparticipating candidate made through the end of the primary election period, an amount that exceeds the general election spending limit. The Commission shall pay any participating candidate seeking the same office an amount equal to any excess over the general election spending limit, not to exceed three times the original general election spending limit, as follows:
1. ~~The nonparticipating candidate's contributions include:~~
    - a. Surplus funds transferred from previous campaign accounts and deposited into the current campaign account;
    - b. Individual contributions;
    - c. \$25 or less contributions;
    - d. In-kind contributions;
    - e. Political committee contributions;
    - f. Personal monies;
    - g. Candidate or family loans;
    - h. Other loans; and
    - i. Contributions to retire campaign debt, irrespective of whether placed in a prior, current or future campaign account. Contributions to retire debt from the immediately preceding election cycle and received within 51 days following the general election shall be disregarded for purposes of calculating equalizing funds in the subsequent election cycle.
  2. In accordance with A.R.S. § 16-952, the nonparticipating candidate's contributions shall not include offsets to contributions, including a refund of a contribution to an individual contributor or to a political committee contributor.
  3. In accordance with A.R.S. § 16-952(C)(4), when a participating candidate is opposed in the general election by an independent candidate or nonparticipating candidate who was not opposed in the party primary, expenditures made during the primary election period by the nonparticipating candidate or independent candidate will not be included in

Notices of Exempt Rulemaking

the calculation of equalizing funds.

4. If an independent expenditure is made against one or more participating candidates for a single office, each participating candidate will be eligible to receive equalizing funds, if applicable, for the amount of the independent expenditure. The participating candidates who were the subject of the expenditure will be the only candidates eligible to receive the equalizing funds, if applicable, for the cost of that independent expenditure. If so required by this subsection, the Commission may issue equalizing funds based on an independent expenditure in an amount greater than the amount of such independent expenditure.
  5. If an independent expenditure is made in favor of one or more nonparticipating candidates, all participating candidates in the election(s) for the same office(s) will be eligible to receive equalizing funds, if applicable, for the amount of the independent expenditure. If so required by this subsection, the Commission may issue equalizing funds based on an independent expenditure in an amount greater than the amount of such independent expenditure.
  6. If an independent expenditure is made in favor of a single participating candidate, all of the other participating candidates in the election for that office will be eligible to receive the equalizing funds, if applicable, for the cost of that independent expenditure. If so required by this subsection, the Commission may issue equalizing funds based on an independent expenditure in an amount greater than the amount of such independent expenditure.
- ~~C. Independent expenditures made against a nonparticipating candidate during the primary or general election periods will not be considered in the calculation of equalizing funds for a participating candidate.~~
  - ~~D. In accordance with A.R.S. § 16-952(C)(6), during the primary and general election periods, expenditures promoting or opposing candidates for more than one office shall be allocated by the Commission among candidates for different offices based on the relative size or length and relative prominence of the reference to candidates for different offices. Equalizing funds shall be issued to each participating candidate, if applicable, in an amount equal to the proportion of the expenditure that is targeted at the office sought by such participating candidate. If so required by this rule, the Commission may issue equalizing funds based on an expenditure in an amount greater than the amount of such expenditure.~~
  - ~~E. The Commission shall cease to disburse equalizing funds for an election period after the Wednesday following the primary or general election day.~~
  - ~~F. The Commission may decline to issue equalizing funds on the basis of expenditures that the Commission determines to be of de minimis value, and shall decline to issue equalizing funds during the primary or general election period after the participating candidate and the nonparticipating candidate triggering the match made a joint campaign expenditure during that primary or general election period, on account of expenditures by or contributions to the non-participating candidate with whom the participating candidate made the joint expenditure during the period.~~

**NOTICE OF EXEMPT RULEMAKING**

**TITLE 2. ADMINISTRATION**

**CHAPTER 20. CITIZENS CLEAN ELECTIONS COMMISSION**

[R13-103]

**PREAMBLE**

1. **Article, Part, or Section Affected (as applicable)**    **Rulemaking Action**  
       R2-20-222    Amend
2. **The statutory authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**  
       Authorizing statute: A.R.S. § 16-940, *et seq.*  
       Implementing statute: A.R.S. § 16-956(C)
3. **The effective date of the rules:**  
       May 23, 2013
4. **A list of all previous notices appearing in the Register addressing the exempt rule:**  
       Not applicable
5. **The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**

Name:	Thomas M. Collins, Interim Executive Director
Address:	Citizens Clean Elections Commission 1616 W. Adams St., Suite 110 Phoenix, AZ 85007
Telephone:	(602) 364-3477

Notices of Exempt Rulemaking

Fax: (602) 364-3487  
E-mail: thomas.collins @azcleanelections.gov

- 6. An explanation of the rule, including the agency's reasons for initiating the rule, including the statutory citation to the exemption from regular rulemaking procedures:**  
R2-20-222.  
Amends R2-20-222 to increase the range of penalties applicable to persons who violate the Citizens Clean Elections Act or the rules of the Commission.
- 7. A reference to any study relevant to the rule that the agency reviewed and either relied on in its evaluation of or justification for the rule or did not rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:**  
Not applicable
- 8. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:**  
Not applicable
- 9. The summary of the economic, small business, and consumer impact:**  
Not applicable
- 10. A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):**  
There were no substantive changes between rules as initially proposed and as finally adopted by the Commission.
- 11. A summary of the comments made regarding the rule and the agency response to them:**  
The Commissioners solicited public comment throughout the rulemaking process.  
The Commissioners considered the rule in open meetings and took actions they deemed appropriate.
- 12. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:**  
Not applicable

  - a. Whether the rule requires a permit, whether a general permit is used and if not, the reasons why a general permit is not used:**  
Not applicable
  - b. Whether federal law is applicable to the subject of the rule, whether the rule is more stringent than the federal law and if do, citation to the statutory authority to exceed the requirements of federal law:**  
Not applicable
  - c. Whether a person submitted an analysis to the agency that compares the rule's impact on the competitiveness of business in this state to the impact on business in other states:**  
Not applicable
- 13. Incorporations by reference and their location in the rules:**  
Not applicable
- 14. Was this rule previously made as an emergency rule? If so, please indicate the Register citation:**  
Not applicable
- 15. The full text of the rules follows:**

TITLE 2. ADMINISTRATION

CHAPTER 20. CITIZENS CLEAN ELECTIONS COMMISSION

ARTICLE 2. COMPLIANCE AND ENFORCEMENT PROCEDURES

Section  
R2-20-222. Civil Penalties

Notices of Exempt Rulemaking

ARTICLE 2. COMPLIANCE AND ENFORCEMENT PROCEDURES

R2-20-222. Civil Penalties

- A. If the Commission has reason to believe by a preponderance of the evidence that a participating candidate is not in compliance with the Act or Commission rules, then in addition to other penalties under law, the Commission may decertify a candidate, deny or suspend funding, order repayment of funds, or impose a penalty not to exceed ~~\$500~~ \$1,000 for a participating candidate for the legislature and ~~\$2500~~ \$5,000 for a participating candidate for statewide office.
- B. If the Commission has reason to believe by a preponderance of the evidence that a person other than a participating candidate is not in compliance with the Act or Commission rules, then in addition to other penalties under law, the Commission may impose a penalty not to exceed ~~\$500~~ \$1,000.
- C. A civil penalty negotiated by the Commission or imposed by a court for a violation of the Act shall not 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 shall not exceed the greater of \$15,000 or an amount equal to 200 percent of any contribution or expenditure involved in the violation

NOTICE OF EXEMPT RULEMAKING

TITLE 2. ADMINISTRATION

CHAPTER 20. CITIZENS CLEAN ELECTIONS COMMISSION

[R13-105]

PREAMBLE

- Article, Part, or Section Affected (as applicable)** **Rulemaking Action**  
R2-20-401 Amend
- The statutory authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**  
Authorizing statute: A.R.S. § 16-940, *et seq.*  
Implementing statute: A.R.S. § 16-956(C)
- The effective date of the rules:**  
October 6, 2011
- A list of all previous notices appearing in the Register addressing the exempt rule:**  
Not applicable
- The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**  
Name: Thomas M. Collins, Interim Executive Director  
Address: Citizens Clean Elections Commission  
1616 W. Adams St., Suite 110  
Phoenix, AZ 85007  
Telephone: (602) 364-3477  
Fax: (602) 364-3487  
E-mail: thomas.collins @azcleaselections.gov
- An explanation of the rule, including the agency’s reasons for initiating the rule, including the statutory citation to the exemption from regular rulemaking procedures:**  
R2-20-401.  
Amends R2-20-401 to eliminate nonparticipating candidates from campaign finance examinations and audits.
- A reference to any study relevant to the rule that the agency reviewed and either relied on in its evaluation of or justification for the rule or did not rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:**  
Not applicable
- A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:**  
Not applicable

Notices of Exempt Rulemaking

- 9. The summary of the economic, small business, and consumer impact:**  
Not applicable
- 10. A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):**  
There were no substantive changes between rules as initially proposed and as finally adopted by the Commission.
- 11. A summary of the comments made regarding the rule and the agency response to them:**  
The Commissioners solicited public comment throughout the rulemaking process.  
The Commissioners considered the rule in open meetings and took actions they deemed appropriate.
- 12. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:**  
Not applicable
- a. Whether the rule requires a permit, whether a general permit is used and if not, the reasons why a general permit is not used:**  
Not applicable
- b. Whether federal law is applicable to the subject of the rule, whether the rule is more stringent than the federal law and if do, citation to the statutory authority to exceed the requirements of federal law:**  
Not applicable
- c. Whether a person submitted an analysis to the agency that compares the rule's impact on the competitiveness of business in this state to the impact on business in other states:**  
Not applicable
- 13. Incorporations by reference and their location in the rules:**  
Not applicable
- 14. Was this rule previously made as an emergency rule? If so, please indicate the Register citation:**  
Not applicable
- 15. The full text of the rules follows:**

TITLE 2. ADMINISTRATION

CHAPTER 20. CITIZENS CLEAN ELECTIONS COMMISSION

ARTICLE 4. AUDITS

Section  
R2-20-401. Purpose and Scope

ARTICLE 4. AUDITS

**R2-20-401. Purpose and Scope**

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

NOTICE OF EXEMPT RULEMAKING

TITLE 2. ADMINISTRATION

CHAPTER 20. CITIZENS CLEAN ELECTIONS COMMISSION

[R13-106]

PREAMBLE

- 1. Article, Part, or Section Affected (as applicable) Rulemaking Action**  
R2-20-402.01 Amend
- 2. The statutory authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**  
Authorizing statute: A.R.S. § 16-940, *et seq.*



Notices of Exempt Rulemaking

Implementing statute: A.R.S. § 16-956(C)

**3. The effective date of the rules:**

October 6, 2011

**4. A list of all previous notices appearing in the Register addressing the exempt rule:**

Not applicable

**5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**

Name: Thomas M. Collins, Interim Executive Director

Address: Citizens Clean Elections Commission  
1616 W. Adams St., Suite 110  
Phoenix, AZ 85007

Telephone: (602) 364-3477

Fax: (602) 364-3487

E-mail: thomas.collins @azcleelections.gov

**6. An explanation of the rule, including the agency's reasons for initiating the rule, including the statutory citation to the exemption from regular rulemaking procedures:**

R2-20-402.01.

Amends R2-20-402.01 to eliminate nonparticipating candidates from random campaign finance audits.

**7. A reference to any study relevant to the rule that the agency reviewed and either relied on in its evaluation of or justification for the rule or did not rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:**

Not applicable

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

Not applicable

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

Not applicable

**10. A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):**

There were no substantive changes between rules as initially proposed and as finally adopted by the Commission.

**11. A summary of the comments made regarding the rule and the agency response to them:**

The Commissioners solicited public comment throughout the rulemaking process.

The Commissioners considered the rule in open meetings and took actions they deemed appropriate.

**12. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:**

Not applicable

**a. Whether the rule requires a permit, whether a general permit is used and if not, the reasons why a general permit is not used:**

Not applicable

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

Not applicable

**c. Whether a person submitted an analysis to the agency that compares the rule's impact on the competitiveness of business in this state to the impact on business in other states:**

Not applicable

**13. Incorporations by reference and their location in the rules:**

Not applicable

**14. Was this rule previously made as an emergency rule? If so, please indicate the Register citation:**

Not applicable

**15. The full text of the rules follows:**

Notices of Exempt Rulemaking

TITLE 2. ADMINISTRATION

CHAPTER 20. CITIZENS CLEAN ELECTIONS COMMISSION

ARTICLE 4. AUDITS

Section

R2-20-402.01. Random Audits

ARTICLE 4. AUDITS

**R2-20-402.01. Random audits**

To ensure compliance with the Act and Commission rules, the Commission shall conduct random audits of ~~both~~ participating and non-participating candidates after each primary election period and each general election period. Random audits shall include the review of campaign finance reports and related documentation in accordance with procedures established by the Commission. The Commission may hire independent accounting firms to carry out the random audits. The selection of state-wide offices and legislative districts for audit shall be determined by random lot at a Commission meeting. All candidates who appeared on the ballot for the selected offices or districts will be audited. Candidates for the following offices and districts shall not be subject to selection for random audit:

1. For the primary election period and the general election period, candidates for statewide offices and for legislative offices from districts in which no participating candidates were on the ballot; and
2. For the general election period, candidates for statewide offices and for legislative offices from districts that were selected for random audit following the primary election period.

**NOTICE OF EXEMPT RULEMAKING**

TITLE 2. ADMINISTRATION

CHAPTER 20. CITIZENS CLEAN ELECTIONS COMMISSION

[R13-104]

**PREAMBLE**

- 1. Article, Part, or Section Affected (as applicable) Rulemaking Action**  
R2-20-702 Amend
- 2. The statutory authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**  
Authorizing statute: A.R.S. § 16-940, *et seq.*  
Implementing statute: A.R.S. § 16-956(C).
- 3. The effective date of the rules:**  
October 6, 2011, except the amendment and recodification of R2-20-702(C)(6), which was effective May 23, 2013.
- 4. A list of all previous notices appearing in the Register addressing the exempt rule:**  
Not applicable
- 5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**  
Name: Thomas M. Collins, Interim Executive Director  
Address: Citizens Clean Elections Commission  
1616 W. Adams St., Suite 110  
Phoenix, AZ 85007  
Telephone: (602) 364-3477  
Fax: (602) 364-3487  
E-mail: thomas.collins @azcleaselections.gov
- 6. An explanation of the rule, including the agency's reasons for initiating the rule, including the statutory citation to the exemption from regular rulemaking procedures:**  
R2-20-702.

Notices of Exempt Rulemaking

Amends R2-20-702(C)(1) to clarify the legal expenses for which participating candidates may spend monies from the Clean Elections Fund.

Recodifies R2-20-702(4) and (5) as R2-20-702(C)(3)(d)(i) and (ii). No substantive change.

Amends R2-20-702(4) to address payments made by participating candidates to candidates or their family members.

Amends and recodifies R2-20-702(C)(6) as R2-20-702(D) to decrease the amount of time a candidate has to return fixed assets and increase the amount of the cost of the item the candidate must reimburse the Commission in the event that the candidate retains the item.

Amends R2-20-702(C)(2) because the statute implemented by that rule has been repealed.

**7. A reference to any study relevant to the rule that the agency reviewed and either relied on in its evaluation of or justification for the rule or did not rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:**

Not applicable

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

Not applicable

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

Not applicable

**10. A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):**

There were no substantive changes between rules as initially proposed and as finally adopted by the Commission.

**11. A summary of the comments made regarding the rule and the agency response to them:**

The Commissioners solicited public comment throughout the rulemaking process.

The Commissioners considered the rule in open meetings and took actions they deemed appropriate.

**12. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:**

Not applicable

**a. Whether the rule requires a permit, whether a general permit is used and if not, the reasons why a general permit is not used:**

Not applicable

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

Not applicable

**c. Whether a person submitted an analysis to the agency that compares the rule's impact on the competitiveness of business in this state to the impact on business in other states:**

Not applicable

**13. Incorporations by reference and their location in the rules:**

Not applicable

**14. Was this rule previously made as an emergency rule? If so, please indicate the Register citation:**

Not applicable

**15. The full text of the rules follows:**

TITLE 2. ADMINISTRATION

CHAPTER 20. CITIZENS CLEAN ELECTIONS COMMISSION

ARTICLE 7. USE OF FUNDS AND REPAYMENT

Section

R2-20-702. Use of Campaign Funds

Notices of Exempt Rulemaking

ARTICLE 7. USE OF FUNDS AND REPAYMENT

**R2-20-702. Use of Campaign Funds**

- A. A participating candidate shall use funds in the candidate's current campaign account to pay for goods and services for direct campaign purposes only. Funds shall be disbursed and reported in accordance with A.R.S. § 16-948(C).
- B. A participating candidate's payment from a campaign account to a political committee or civic organization is not a contribution if the payment is reasonable in relation to the value received. Payment of customary charges for services rendered, such as for printing voter or telephone lists, and payment of not more than \$200 per person to attend a political event open to the public or to party members shall be considered reasonable in relation to the value received.
- C. A participating candidate shall not use funds in the candidate's campaign account for:
1. Costs of legal defense in any campaign law enforcement proceeding or for any affirmative claim or litigation in court or before the Commission regarding a campaign. This prohibition does not bar use of campaign funds for payments to attorneys or certified accountants for proactive compliance advice and assistance.
  2. Food and beverages for staff and volunteers exceeding \$11 for breakfast, \$16 for lunch, and \$27 for dinner, per person.
  3. Personal use, which includes, but is not limited to, any item listed below:
    - a. Household food items or supplies.
    - b. Clothing, other than items of de minimis value that are used in the campaign, such as campaign "t-shirts" or caps with campaign slogans.
    - c. Tuition payments, other than those associated with training campaign staff.
    - d. Mortgage, loan, rent, lease or utility payments:
      - i. For any part of any personal residence of the candidate or a member of the candidate's family; or
      - ii. For real or personal property that is owned or leased by the candidate or a member of the candidate's family and used for campaign purposes, to the extent the payments exceed the fair market value of the property usage.
    - e. Admission to a sporting event, concert, theater or other form of entertainment, unless part of a specific campaign activity.
    - f. Dues, fees or gratuities at a country club, health club, recreational facility or other nonpolitical organization, unless they are part of the costs of a specific fundraising event that takes place on the organization's premises.
    - g. Gifts or donations.
    - h. Extended warranties or other similar purchase options that extend beyond the campaign.
  4. ~~For any part of any personal residence of the candidate or a member of the candidate's family; or~~
  5. ~~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.~~
  4. Payment to a candidate or a candidate's family member, as defined in R2-20-101(13), or an enterprise owned in whole or part by a candidate or family member, for the provisions of goods or services to the extent the payments exceed the fair market value of the goods or services. All payments made to family members or to enterprises owned in whole or part by the candidate or a family member shall be clearly itemized and indicated as such in all campaign finance reports.
- ~~6.D.~~ Participating candidates may purchase Fixed fixed assets with a value not to exceed in excess of \$800, provided the item is for a sufficient campaign use. Fixed assets, including accessories, purchased with campaign funds that can be used for non-campaign purposes with a value of \$200 or more shall be turned into the Commission no later than 30 14 days after the primary election or the general election if the candidate was successful in the primary. For purposes of determining whether a fixed asset is valued at \$200 or more, the value shall include any accessories purchased for use with the fixed asset in question. A candidate may elect to keep an item by reimburse reimbursing the Commission for 50% 80 percent of the original purchase price of the item instead of returning the item including the cost of accessories.
7. ~~A joint expenditure with a nonparticipating candidate who has previously triggered matching funds for the participating candidate during the primary or general election cycle in which the proposed expenditure is to take place.~~
- ~~D.E.~~ During the primary election period, a participating candidate shall not make any expenditure greater than the difference between:
1. The sum of early contributions received plus public funds disbursed through the primary election period; less
  2. All other expenditures made during and for the exploratory, qualifying and primary election periods.
- ~~E.F.~~ During the general election period, a participating candidate shall not make any expenditure greater than the difference between:
1. The amount of public funds disbursed during and for the general election period; less
  2. All other expenditures made during and for the general election period.