



City Clerk Policy

SUBJECT CAMPAIGN FINANCE ADMINISTRATION (CFA) Reporting Potential Election Law Violations	APPROVAL DATE ISSUED / REVISED October 20, 2010
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I. PURPOSE

To provide an outline of the process to be followed for reporting potential campaign finance violations of election laws.

II. POLICY

The City Clerk focuses on compliance, not punishment, whenever possible.

Whenever possible, the City Clerk's response to complaints will focus on compliance with the law, not punishment. The City Clerk operates from the premise that the City and State election provisions, and particularly their campaign finance component, form a complex web of regulations that are not always easy to understand. Accordingly, the City Clerk's fundamental goal is not to punish, but rather to assist candidates and campaigns to achieving a common understanding of, and compliance with, these provisions.

Following is an outline of the process to be followed for reporting potential violations of election laws.

III. PROCEDURE

A. Complaints to the City Clerk must be signed under oath by persons with knowledge.

Persons wishing to report violations that are within the City Clerk's jurisdiction must file a complaint, signed under oath by a person who witnessed the activity, indicating specific facts that lead that person to believe that a violation has occurred. The City Clerk will not act on emailed, phoned, or anonymous reports, hypothetical complaints, or those that generalize as to the person(s) or misconduct involved.

B. The City Clerk will handle complaints within the City Clerk's jurisdiction as required or permitted by law.

1. The City Clerk will apply the penalties fixed in the Charter to violations of the City's public matching funds requirements. For example, in addition to any other penalties provided by law:

a) Any public funds candidate who fails to comply with the requirements of Sub-Chapters A and B of Chapter XVI of the Tucson Charter or the conditions of a properly executed campaign contract is ineligible for further funds until in compliance [Tucson Charter, Chapter XVI, Sub-Chapter B, § 9(b)].



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- b) Any public funds candidate who exceeds the contract expenditure limitation must immediately return to the appropriate city account three dollars for each dollar overspent in that election [Tucson Charter, Chapter XVI, Sub-Chapter B, § 9(b)].
 2. Where the City Clerk has reasonable cause to believe there has been a violation of A.R.S. Title 16, Article 1 (§§16-901 to 16-925):
 - a) The City Clerk's priority and focus will be obtaining compliance with the law as quickly and efficiently as possible so as to assure a fair election process to all candidates and voters.
 - b) A.R.S. § 16-924 empowers the City Clerk to notify the City Attorney, who may serve compliance orders and assess civil penalties where necessary to assure compliance with state election laws.
 3. Occasionally, the City Clerk may conclude that what has been reported to the City Clerk requires police investigation to determine if there exists:
 - a) Reasonable cause to believe A.R.S. Title 16, Article 1 has been violated [A.R.S. § 16-924]; or
 - b) A knowing or intentional failure or refusal to comply with the requirements of Tucson Charter, Chapter XVI, Sub-Chapters A and B, resulting in a misdemeanor [Charter Chapter XVI, Sub Chapter B, Section 9(a)] ; or
 - c) Any other criminal violation(s).
 4. In those cases, the City Clerk will refer the matter to the Tucson Police Department for investigation. Referral for police investigation does not mean the City Clerk has decided there in fact has been a violation of Title 16, Article 1 or any criminal statute(s).
 5. Where the police referral is pursuant to B(3)(a) above, any police finding of reasonable cause will be referred back to the City Clerk for action.
 6. Where the referral is pursuant to B(3)(b) or B(3)(c) above, and the police investigation concludes that a criminal violation has occurred, the police will refer the matter to the appropriate prosecuting agency for review.
- C. Some violations are not within the jurisdiction of the City Clerk and should be reported to other agencies.

NOTE: The City Clerk is not an agent of any of the following agencies for reporting or enforcement purposes. However, we will provide assistance in identifying the appropriate reporting agency.



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1. All violations of A.R.S. § 16-905's contribution limitations that are not related to a candidate's use of personal monies (A.R.S. § 16-905 (F) and (G)) must be reported to the Attorney General or the Pima County Attorney. State law (A.R.S. § 16-905 (M)) makes the Attorney General or Pima County Attorney responsible for investigating all violations of A.R.S. § 16-905's contribution limitations except those related to a candidate's use of personal monies [A.R.S. §§ 16-905 (F), (G)] which should be reported to the City Clerk [A.R.S. § 16-905 (P)].
2. When a qualified elector files a sworn complaint, the Attorney General or Pima County Attorney investigates it (A.R.S. § 16-905 (M)). If the Attorney General or Pima County Attorney fails to institute an action within 45 days after receiving the complaint, the individual filing the complaint may bring a civil action in his own name and at his own expense (A.R.S. § 16-905 (N)).
3. Criminal violations must be reported to the Tucson Police Department.
 - a) Arizona statutes and the City's Charter make certain violations criminal in nature. An individual who has personal knowledge that an intentional or knowing violation of a criminal statute has occurred must file a long-form complaint with the Tucson Police Department (TPD) for investigation by that agency.
 - b) The City Clerk has no legal authority to receive reports of crimes, conduct criminal investigations, or act as a surrogate criminal complainant.
4. Sign Code violations must be reported to the City's Environmental and General Services Department (EGSD)/Code Enforcement Division.

Persons wishing to report election-related Sign Code violations must contact the EGSD, Code Enforcement Division at 791-5843.

IV. REVIEW

This policy will be reviewed annually or as needed.