

ARKANSAS REGISTER

Transmittal Sheet

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**For Office
Use Only:**

Effective Date _____ Code Number _____

Name of Agency Arkansas Ethics Commission

Department N/A

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Graham Sloan

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January 21, 2020

Contact Person

E-mail Address

Date

CERTIFICATION OF AUTHORIZED OFFICER

I Hereby Certify That The Attached Rules Were Adopted
In Compliance with the Arkansas Administrative Act. (ACA 25-15-201 et. seq.)


Signature

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Director

Title

January 21, 2020

Date

ARKANSAS ETHICS COMMISSION

RULES OF PRACTICE AND PROCEDURE

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I. DESCRIPTION

The Arkansas Ethics Commission (“Commission”) is composed of five appointed Commissioners who enforce certain ethics, conflicts of interest, lobbying, campaign, campaign finance, and ballot question laws within the State of Arkansas. In accordance with these rules of practice and procedure, the Commission issues advisory opinions and legal interpretations of law, and acts as fact-finder and sanctioning body with respect to allegations of violations of laws under its jurisdiction. Information may be obtained from the Commission by written request. The Commission staff, which may consist of a director, staff attorney(s), director(s) of compliance and others, acts as the administrator and operating entity of the Commission. This staff, or members thereof, may make office administrative procedure, act as spokesman for the Commission, receive correspondence and correspond on behalf of the Commission, provide legal and other research to the Commission, investigate allegations of violations of laws under the Commission’s jurisdiction, and perform such other functions as the Commission deems appropriate. These rules of practice and procedure shall govern all proceedings before the Commission and shall be applicable to any complaints filed or initiated after the effective date hereof. In accordance with Ark. Code Ann. § 25-15-204(d), any person may petition the Commission for the issuance, amendment, or repeal of any rule.

II. COMMISSION & STAFF

A. Commission Organization

(1) The Commission shall consist of five (5) Commissioners who shall be appointed as follows:

- one member by the Governor of the State of Arkansas
- one member by the Lieutenant Governor of the State of Arkansas
- one member by the Attorney General of the State of Arkansas
- one member by the Speaker of the Arkansas House of Representatives
- one member by the President Pro Tempore of the Arkansas Senate

(2) Pursuant to Ark. Code Ann. § 7-6-217(b)(1), the Commission shall, at all times, have among its members:

- one member of a minority race
- one woman
- one member of a minority political party

(3) Each Commissioner has a responsibility to attend all regular and special meetings of the Commission. Any Commissioner who fails to attend three (3) consecutive regular meetings shall be subject to removal from the Commission pursuant to Ark. Code Ann. § 25-17-211.

(4) In accordance with Ark. Code Ann. § 7-6-217, Commissioners shall be appointed for terms of five (5) years and they shall continue to serve until their successors have been appointed and taken the official oath. No person may be appointed to serve consecutive terms on the Commission; provided, however, that any Commissioner who has been appointed to serve two (2) years or less of an unexpired term shall be eligible for an appointment to a subsequent five (5) year term.

(5) The Commission shall annually elect one of its members to serve as chairman for a term of one (1) year. The Commission may elect a vice-chairman and such other officers as a majority of the Commissioners choose. The vice-chairman shall serve as chairman in the absence, disqualification, or disability of the chairman.

(6) The election of officers shall be conducted at the first regular meeting of the Commission following January 1 of each year. The Commission may form such committees or subcommittees as it deems necessary and/or appropriate to accomplish its legal aims and purposes. The Commission may appoint one or more of its members to an unofficial committee or subcommittee and may invite non-Commissioners to participate as unofficial committee or subcommittee members.

(7) At each meeting of the Commission, three (3) members shall constitute a quorum whether in person or by electronic or telephonic means. However, an affirmative vote of at least three (3)

Commissioners physically present at a meeting is required before any sanction(s) can be imposed. The vote of each member voting on any action shall be a public record.

(8) A majority of the members of the Commission present shall vote on any matter before the Commission for any decision of the Commission to become effective. The following matters shall be by motion, followed by a second, in order for a vote of the Commission to be valid:

- a. all matters requiring affirmative action by the full Commission or one of its members;
- b. all decisions on public positions taken by the full Commission;
- c. all decisions on advisory opinions and declaratory orders; and
- d. all decisions regarding findings of fact and conclusions of law or other actions regarding a person accused of violating any laws under the Commission's jurisdiction.

(9) The Commission may, by majority vote, delegate the execution of any official duty or action to its chairman, one of its members, or the director.

(10) A vacancy on the Commission shall not impair the right of the Commission to exercise its statutory powers and authority, subject to the requirement that a quorum be present and participating before any action of the Commission shall be considered valid.

(11) No Commissioner shall be a federal, state or local government official or employee, an elected public official, a candidate for public office, a lobbyist as defined in Ark. Code Ann. § 21-8-402(11), or an officer or paid employee of an organized political party as defined in Ark. Code Ann. § 7-1-101(26).

(12) Each Commissioner, during the entire term of his or her service on the Commission, shall be prohibited from participating in, raising funds for, making contributions to, providing services

to, or lending his or her name in support of any candidate for election to a state, district, county, municipal, or school board office or in support of a ballot issue or issues submitted or intended to be submitted to voters of the State of Arkansas, excluding the exercise of the right to vote or the mere signing of an initiative or referendum petition. This prohibition shall not extend to the spouse or family members of a Commissioner nor to his or her business partners or professional associates.

(13) Unless required for the disposition of *ex parte* matters authorized by law, the Commissioners shall not communicate, directly or indirectly, in connection with any issue of fact with any person, including the complainant and the respondent nor, in connection with any issue of law, with either the complainant or respondent, or their representatives, except upon notice and opportunity for the complainant and respondent to participate.

B. Staff Organization

(1) The Commission shall employ a director who shall serve at the will and pleasure of the Commission.

(2) The director shall employ a staff, with the consent of the Commission, to assist in the administration of the Commission office.

(3) The director shall be responsible to the full Commission and shall not be answerable to any member thereof. The director shall ensure, however, that the chairman of the Commission is advised of the progress and conduct of the employees and operation of the Commission office.

(4) Though the director's hiring of staff shall be with the consent of the Commission, such employees, once approved for employment, shall be the responsibility of the director in matters common to an employer/employee relationship, and the director shall be responsible to the Commission for the actions of employees on the staff.

(5) Each member of the Commission staff, during the entire term of his or her service on the Commission, shall be prohibited from participating in, raising funds for, making contributions to, providing services to, or lending his or her name in support of any candidate for election to a state, district, county, municipal or school board office or in support of a ballot issue or issues submitted or intended to be submitted to the voters of the State of Arkansas, excluding the exercise of the right to vote or the mere signing of an initiative or referendum petition. This prohibition shall not extend to the spouse or family members of the employee.

C. Meeting Times and Sites

(1) Meetings shall be regularly scheduled and held, subject to cancellation or re-scheduling by majority vote of the members. The date, time and place of each regular meeting shall be furnished to anyone who requests the information. Should there fail to be a quorum at a scheduled meeting, then such meeting may be rescheduled by the chairman provided all members are given reasonable notice of the date, time, and place of the rescheduled meeting. Special meetings of the Commission may be called by the chairman, provided that the majority of the members of the Commission so consent. Commissioners may call a meeting by written request to the chairman of any three Commissioners. In the event of a special meeting, notification of the date, time and place of the meeting shall be given, at least two (2) hours before the meeting takes place, to the news media located in the county in which the meeting is to be held and those located elsewhere that cover regular meetings of the Commission and have requested to be so notified.

(2) The Commission may vary its meeting site to accommodate its needs and accomplish its purposes.

(3) The director shall prepare a proposed agenda for each regular meeting, and the proposed agenda shall be distributed to the Commission members prior to any such meeting. Any Commissioner may add items to the agenda by notification to the director twenty-four (24) hours before the scheduled meeting date. Any item may be added to the agenda at any time with the unanimous consent of the Commission.

D. Meeting Procedure

(1) All meetings of the Commission shall be governed by Robert's Rules of Order, except as may be modified by a majority of the Commission members and by these rules of practice and procedure.

(2) Any Commissioner who has an actual conflict of interest in any proceeding before the Commission shall recuse voluntarily from any involvement in the matter. If a majority of the Commissioners determines that one of its members has such a conflict, they may, by affirmative vote, disqualify said member from participation in the matter.

(3) All meetings of the Commission, except as provided in subparagraph (D)(4) of this section or Ark. Code Ann. § 25-19-106(c), shall be open to the public.

(4) Any portion of a Commission meeting at which citizen complaints, including those filed by the Commission, are considered shall be in confidential session and not open to the public. Following any such confidential session, the Commission shall reconvene in public to vote on any matters constituting final action.

(5) All records generated or accepted by the Commission and its staff shall be open to public inspection, except for: (a) matters which are parts of confidential investigations or inquiries, and (b) the advice and opinions of the director or staff attorney(s) when acting as the Commission's counsel on matters which may be considered to have occurred in an attorney-client relationship.

(6) All proceedings, records, and transcripts of any investigations or inquiries shall remain confidential and not subject to disclosure, unless: (a) the respondent requests disclosure of the documents; (b) there is a public hearing before the Commission; or (c) there is judicial review of a Commission decision. Provided, however, that the Commission may, through its members or staff, disclose confidential information to proper law enforcement officials, agencies, and bodies or as may

be required to conduct its investigation. Moreover, thirty (30) days after any final adjudication in which the Commission makes a finding of a violation, all records relevant to the investigation and upon which the Commission based its decision, except working papers of the Commission and its staff, shall be open to public inspection.

III. GENERAL ADMINISTRATION

(1) The Commission shall delegate to the director the authority to operate the Commission office, with his or her duties enumerated by the Commission. Such duties shall include, but not be limited to, the following:

- a. Conducting general administration of the Commission office and its staff in a business-like and efficient manner. The director shall periodically report to the Commission concerning the conduct and operation of the office;
- b. Managing the appropriated budget of the Commission, and ensuring that all expenditures from budgeted money are made within the law and general purposes of the Commission. The director shall periodically report to the Commission concerning the financial status of the office;
- c. Preparing and maintaining files and records on the activities, matters, and persons coming under the authority and responsibility of the Commission. The Director shall be the “custodian” of the Commission’s records as that term is defined in Ark. Code Ann. § 25-19-103;
- d. Preparing reports, studies, opinions, policy statements, legal interpretations, and other matters as required by the Commission;
- e. Receiving and responding to correspondence on behalf of the Commission on matters relating to official Commission business;

f. Managing travel, logistics, expenses, and reimbursement for Commissioners and staff and scheduling seminars and training by or for the Commission; and

g. Ensuring that the Commission office and its employees reflect good character, comply with the law, and carry out other duties as may, from time to time, be enumerated by the Commission.

IV. MATTERS BEFORE THE COMMISSION

A. Advisory Opinions

(1) Advisory opinions, except those issued by the Commission on its own initiative, shall be issued only in response to a written request setting forth an inquiry into matters falling under the jurisdiction of the Commission.

(2) The Commission may, on its own initiative, direct the staff to prepare a draft opinion, or it may accept a draft advisory opinion from the staff without first receiving a request when the Commission determines the subject of the draft opinion is of such public concern that an advisory opinion would benefit the public.

(3) No advisory opinion shall be valid, official, or have any effect unless same has been approved by a vote of a majority of a quorum of the Commission.

(4) Any citizen shall be entitled to request an advisory opinion from the Commission. Any request which meets these procedural guidelines shall be responded to within ninety (90) days, unless good cause be shown.

(5) The response to opinion requests shall be prepared by the Commission staff and shall be presented by staff to the full Commission for its consideration within the time limit set forth above, unless good cause be shown.

(6) The Commission is not bound by or obligated to release the conclusions or language of the staff's draft opinion but may alter, amend, add to, or strike any portion of the draft opinion, or may order that said draft opinion be tabled for future consideration or that it be rewritten to comply with the Commission's directives, as the Commission shall so decide.

(7) No draft opinion prepared by the Commission staff shall be considered an official opinion until it has received an affirmative vote of a majority of a quorum of the Commission.

(8) The Commission may reconsider, withdraw, or amend prior opinions upon request of a citizen, or on its own motion, on a majority vote of a quorum of the Commission. In such event, written notice shall be mailed to the citizen who originally requested the opinion at the last address which that citizen provided to the Commission.

(9) All advisory opinions issued by the Commission shall be made available for public inspection.

B. Declaratory Orders

(1) The Commission shall, upon the filing of a petition for declaratory order by any person subject to the Commission's jurisdiction, promptly issue a declaratory order as to the applicability of any rule, statute, or order enforced by it. Said petition shall contain the name, mailing address, telephone number, and signature of the person requesting the order and a full and complete statement of the facts or circumstances applicable to that person. Such declaratory orders shall have the same status as final orders of the Commission in cases of adjudication.

(2) No declaratory order shall be valid, official, or have any effect unless same has been approved by a vote of a majority of a quorum of the Commission.

(3) The Commission is not bound by or obligated to release the conclusions or language of the staff's draft order but may alter, amend, add to, or strike any portion of the draft order, or may table said draft order for future consideration or request that it be rewritten to comply with the Commission's directives, as the Commission shall so decide.

(4) No draft order prepared by the Commission staff shall be considered an official order until it has received an affirmative vote of a majority of a quorum of the Commission.

(5) The Commission may reconsider, withdraw, or amend prior orders upon request of a citizen, or on its own motion, on a majority vote of a quorum of the Commission.

(6) All declaratory orders issued by the Commission shall be made available for public inspection.

C. Monitoring Compliance with Ethics and Disclosure Laws-Corrective Action Letters

(1) The Commission, through its staff, shall periodically review documents required to be filed under the laws enforced by the Commission.

(2) Persons who have failed to file, filed late, or filed incomplete, false, or materially misleading documents may be contacted in writing by the Commission or its staff and advised to take corrective action. The contact and advice may be in lieu of, or in addition to, other action(s) by the Commission under Ark. Code Ann. § 7-6-218(b)(4).

(3) If the Commission or its staff determines from a review of documents or is notified by the Secretary of State, a county clerk, or city clerk or recorder that a person required to file documents under the Commission's jurisdiction has failed to file, filed late, or filed incomplete, false, or

materially misleading documents, the Commission may contact the person and advise him or her to take corrective action as to the document(s) required to be filed. The contact and advice may be in lieu of, or in addition to, other action(s) by the Commission under Ark. Code Ann. § 7-6-218(b)(4).

(4) Corrective action letters shall be public records. However, the sending of a corrective action letter is not tantamount to the finding of a violation by the Commission. Instead, such letters are a means of seeking public disclosure. The taking of corrective action is not an admission of a violation and is a factor to be considered by the Commission in determining whether to take other action(s) under Ark. Code Ann. § 7-6-218(b)(4).

V. FILING OF COMPLAINT

A. Citizen Complaint

(1) Any citizen may file a complaint with the Commission against a person alleged to have violated one or more of the laws over which the Commission has jurisdiction. The Commission staff has prepared a citizen complaint form which may be furnished free of cost to any citizen.

(2) A complaint must be filed within four (4) years after the alleged violation occurred. If the alleged violation is the failure to file a report or the filing of an incorrect report, the complaint must be filed within four (4) years after the date the report was due.

(3) A valid complaint to the Commission must:

a. Clearly set forth the name(s) of the person(s) alleged to have violated laws under the Commission's jurisdiction;

b. Clearly set forth the facts the complainant believes constitute a violation of laws under the Commission's jurisdiction; and

c. Be signed under penalty of perjury.

(4) A complaint meeting the foregoing requirements shall be accepted by the staff of the Commission provided it is written on a Commission complaint form or is otherwise reduced to writing.

(5) Any Commissioner who shall receive a written complaint or evidence relevant to an on-going complaint investigation shall immediately transfer same to the director of the Commission for proper handling. If, however, the written complaint is against the director or other staff member, the Commissioner shall not release same to the director, except as provided in these rules.

B. Complaints Against Staff or Commissioners

(1) Complaints against the director or any staff member of the Commission shall be filed with the chairman of the Commission.

(2) Complaints against any Commissioner shall be filed with the director of the Commission, or with any of the remaining Commissioners.

C. Filing of Complaint by Commission

(1) For purposes of filing a citizen complaint, the Commission shall be considered a citizen.

(2) The director, a staff attorney, or a director of compliance may, in his or her official capacity, sign a citizen complaint on behalf of the Commission after:

a. Notifying the chairman of the name of the individual alleged to have committed a violation and the nature of the alleged violation; and

b. Receiving the consent of the chairman to proceed with an investigation.

(3) Once filed, a complaint will be handled in the same manner as any other complaint received from a citizen.

D. Affirmative Defense Concerning Discovery of Unintentional Error in Report Required Under Subchapter 2 of Chapter 6, Title 7 of the Arkansas Code

(1) It is an affirmative defense to prosecution or disciplinary action if a person who is required to file a report under Subchapter 2 of Chapter 6, Title 7 of the Arkansas Code amends the report within thirty (30) days of discovering or learning of an unintentional error in the report. If a complaint alleges a person committed a reporting error, the director shall notify the person who is the subject of the complaint of the existence of this affirmative defense. In addition, the director shall notify the person who is the subject of the complaint of the date, time, and place of the meeting at which the allegation will be considered for a determination of whether or not the alleged error in the report was unintentional and whether or not the filing of an applicable amendment occurred within the required thirty (30) day time period.

(2) In the event the Commission determines that the reporting error was unintentional and the filing of an applicable amendment occurred within the required thirty (30) day time period, the Commission shall not proceed with an investigation of an alleged unintentional error in a report filed under Subchapter 2 of Chapter 6, Title 7 of the Arkansas Code. If the Commission does not proceed with an investigation of an alleged unintentional error in a report, the person shall not be considered to have committed a violation of the applicable statute under Subchapter 2 of Chapter 6, Title 7 of the Arkansas Code. However, assertion of the affirmative defense provision contained herein shall not be construed to (i) remove the duty to file a report required by Subchapter 2 of Chapter 6, Title 7 of the Arkansas Code, or (ii) authorize a person to knowingly fail to file a report required by Subchapter 2 of Chapter 6, Title 7 of the Arkansas Code.

(3) Upon a determination by the Commission that an assertion of the above-described affirmative defense is not valid, the director shall cause an investigation to be commenced concerning the allegation in accordance with the procedure set forth in section VI of these rules.

E. Affirmative Defense Concerning Discovery of Unintentional Error in Statement of Financial Interest Required Under Subchapter 7 of Chapter 8, Title 21 of the Arkansas Code

(1) It is an affirmative defense to prosecution or disciplinary action if a person who is required to file a Statement of Financial Interest (“SFI”) under Subchapter 7 of Chapter 8, Title 21 of the Arkansas Code amends the SFI within thirty (30) days of discovering or learning of an unintentional error in the SFI. If a complaint alleges a person committed a reporting error, the director shall notify the person who is the subject of the complaint of the existence of this affirmative defense. In addition, the director shall notify the person who is the subject of the complaint of the date, time, and place of the meeting at which the allegation will be considered for a determination of whether or not the alleged error in the SFI was unintentional and whether or not the filing of an applicable amendment occurred within the required thirty (30) day time period.

(2) In the event the Commission determines that the reporting error was unintentional and the filing of an applicable amendment occurred within the thirty (30) day time period, the Commission shall not proceed with an investigation of an alleged unintentional error in a SFI filed under Subchapter 7 of Chapter 8, Title 21 of the Arkansas Code. If the Commission does not proceed with an investigation of an alleged unintentional error in a SFI, the person shall not be considered to have committed a violation of the applicable statute under Subchapter 7 of Chapter 8, Title 21 of the Arkansas Code. However, assertion of the affirmative defense provision contained herein shall not be construed to (i) remove the duty to file a SFI required by Subchapter 7 of Chapter 8, Title 21 of the Arkansas Code, or (ii) authorize a person to knowingly fail to file a SFI required by Subchapter 7 of Chapter 8, Title 21 of the Arkansas Code.

(3) Upon a determination by the Commission that an assertion of the above-described affirmative defense is not valid, the director shall cause an investigation to be commenced concerning the allegation in accordance with the procedure set forth in section VI of these rules.

F. Affirmative Defense Concerning Discovery of Unintentional Violation of Gift Prohibition Set Forth in Ark. Const. Art. 19, § 30

(1) It is an affirmative defense to prosecution or disciplinary action if a person elected or appointed to an office under Ark. Const. Art. 19, § 30(a) takes one (1) of the following actions within thirty (30) days of discovering or learning of an unintentional violation of the gift prohibition set forth in Ark. Const. Art. 19, § 30: (i) Returns the gift to the donor; or (ii) If the gift is not returnable, pays the donor consideration that is equal to or greater than the value of the gift. If a complaint alleges a person committed a violation of Ark. Const. Art. 19, § 30, the director shall notify the person who is the subject of the complaint of the existence of this affirmative defense. In addition, the director shall notify the person who is the subject of the complaint of the date, time, and place of the meeting at which the allegation will be considered for a determination of whether or not the alleged violation was unintentional and whether or not the applicable action occurred within the required thirty (30) day time period.

(2) In the event the Commission determines that the violation of Ark. Const. Art. 19, § 30 was unintentional and the aforementioned action is taken within the required thirty (30) day time period, the Commission shall not proceed with an investigation of an alleged violation of the gift prohibition set forth in Ark. Const. Art. 19, § 30. If the Commission does not proceed with an investigation of an alleged unintentional violation, the person shall not be considered to have committed a violation of the gift prohibition set forth in Ark. Const. Art. 19, § 30. However, assertion of the affirmative defense provision contained herein shall not be construed to authorize a person to knowingly or willfully solicit or accept a gift in violation of Ark. Const. Art. 19, § 30.

(3) Upon a determination by the Commission that an assertion of the above-described affirmative defense is not valid, the director shall cause an investigation to be commenced concerning the allegation in accordance with the procedure set forth in section VI of these rules.

VI. INVESTIGATION PROCEDURE

(1) Every document the Commission receives which purports to be a complaint, whether sworn or unsworn, shall, upon receipt, be stamped with the current date, then forwarded to the director.

(2) The director shall determine if the document meets the requirements of a valid complaint set forth in subparagraph A(3) of section V. If the director determines that the document does not constitute a valid complaint, he or she shall advise the complainant in writing specifically why the document fails to meet the requirements of a valid complaint.

(3) Upon a determination that a valid complaint has been received, the director shall cause an investigation to be commenced concerning the allegations of the complaint. As part of that investigation, the director shall request that the complainant submit any and all evidence he or she may have concerning the matter(s) alleged. The Commission's staff (and not the complainant) shall be responsible for conducting the investigation.

(4) Each such investigation must be assigned a case number and, thereafter, all records, documents, and other evidence collected must be maintained in the file to which such case number is assigned.

(5) The director shall notify the person accused that he or she is under investigation, and the nature of the investigation pursuant to Ark. Code Ann. § 7-6-218(b)(1)(B). If during the process of the investigation, evidence of other potential violations is discovered, the director shall notify the respondent of same in writing if an investigation of said potential violations is pursued. When notifying the respondent of an investigation, the director shall inform the respondent that he or she has a right to submit any and all evidence which may serve to rebut or mitigate the alleged violation(s).

(6) The Commission's staff shall present a preliminary report of its investigation, including a recommendation that the investigation either be continued or that the complaint be dismissed, to the

Commission within sixty (60) days of the filing of the complaint, unless good cause be shown. After being presented the preliminary report, the Commission shall decide whether to dismiss the complaint or direct the staff to complete the investigation. If the Commission directs staff to complete the investigation, the director shall notify the respondent in writing of this decision.

(7) If, during the course of the investigation, the Commission has reason to believe that any person filed or caused to be filed a complaint against another which he or she knows or should know contains a false material allegation, the Commission may forward all documents and other evidence of same to the appropriate law enforcement authority with such recommendations as it deems appropriate.

(8) In any case in which the Commission has dismissed a complaint, the respondent may request in writing that the Commission make a finding as to whether or not the complaint filed was frivolous (*i.e.*, clearly lacking any basis in fact or law). Upon receipt of such a request, a copy shall be furnished to the complainant and he or she shall have ten (10) calendar days to submit a written response. As part of that response, the complainant may request a hearing on the issue of whether or not the complaint was frivolous. At such a hearing, both the respondent and the complainant shall have the right to be represented by counsel. If no hearing is requested, the question of whether or not the complaint filed was frivolous shall be decided on the written submission(s). In the event the Commission finds that the complaint was frivolous, the respondent may file a complaint seeking sanctions as provided in Ark. Code Ann. § 7-6-218(b)(4).

(9) The director, a staff attorney, or a director of compliance of the Commission may issue subpoenas for documents, persons, books, or other records relevant to complaint investigations and may take sworn statements and administer oaths in connection therewith. The director shall also be empowered to issue subpoenas on behalf of the respondent so as to ensure all relevant evidence may be obtained in any investigation. Any decision by the director to deny the respondent a requested subpoena shall be in consultation with the chairman of the Commission.

(10) When in the course of an investigation the Commission issues subpoenas to financial institutions for records or information regarding a person who is the subject of the investigation, the Commission shall provide the subject of the investigation with reasonable notice of the subpoenas and an opportunity to respond.

(11) All proceedings, records, and transcripts of any investigations or inquiries shall be kept confidential by the Commission, unless: (i) the respondent requests disclosure of documents relating to investigation of the case; or (ii) the respondent requests a public hearing, see subparagraph (1) of section VII; or (iii) there is judicial review of a Commission decision pursuant to Ark. Code Ann. § 25-15-212, see subparagraph (3) of section X. Provided, however, that the Commission may, through its members or staff, disclose confidential information to proper law enforcement officials, agencies and bodies or as may be required to conduct its investigation. Moreover, thirty (30) days after any final adjudication in which the Commission makes a finding of a violation, all records relevant to the investigation and upon which the Commission based its decision, except working papers of the Commission and its staff, shall be open to public inspection.

(12) The Commission's staff shall not detail evidence of an ongoing investigation to the Commissioners after being directed to complete an investigation pursuant to subparagraph 6 of this section.

(13) After completing its investigation, staff shall prepare a final report of the investigation to be submitted to the Commission in connection with determining whether or not probable cause exists for a finding of a violation.

(14) The respondent and the complainant, if applicable, shall be notified in writing by the director, a staff attorney, or a director of compliance of the date, time and place of the meeting at which the complaint will be considered for a probable cause determination. The respondent and the complainant may choose to attend and/or be represented by counsel. The respondent may offer testimony and other evidence at the meeting at which the complaint is considered for a probable cause determination. The complainant may address the Commission but shall not be responsible for

presenting any evidence. Such responsibility rests with the Commission's staff. When the matter comes before the Commission for a probable cause determination, it will be handled in confidential session and not be open to the public. At the meeting at which the complaint is considered for a probable cause determination, staff shall present a final report of its investigation to the Commissioners together with any other information staff deems appropriate.

(15) If the Commission finds that probable cause exists for a finding of a violation, the Commission shall issue a written Offer of Settlement to the respondent stating the finding(s) of the Commission and the proposed sanction(s). The issuance of an Offer of Settlement shall not mean that the Commission has found that the respondent has committed a violation but, rather, that probable cause has been found to exist. If the Commission does not find probable cause, it shall dismiss the complaint.

(16) Any person who wishes to accept the Commission's Offer of Settlement shall do so in writing within ten (10) calendar days from the issuance of the offer. The acceptance of an Offer of Settlement shall be the equivalent of a final adjudication in which the Commission made a finding of a violation and shall constitute final action for purposes of appeal under the Administrative Procedure Act. If accepted, the Offer of Settlement shall be deemed a public record.

(17) If the respondent neither accepts the Offer of Settlement nor requests a public hearing (in accordance with subparagraph (1) of section VII) within ten (10) calendar days from the issuance of the Offer of Settlement, then the Commission shall set the complaint for final adjudication hearing. Said hearing shall be conducted in the same manner as provided for in subparagraphs (4) through (12) of section VII, except that the final adjudication hearing shall be held in confidential session. The respondent and the complainant, if applicable, shall be given written notice of the date, time, and place of the hearing pursuant to Ark. Code Ann. § 25-15-208(a)(2). Once a matter has been scheduled for a final adjudication hearing, the respondent, upon written request, shall be permitted to review the entire investigative file with the exception of working papers of the Commission and its staff. Following the final adjudication hearing, the Commission shall prepare a final order setting forth its findings of fact and conclusions of law based upon the evidence presented at the final adjudication

hearing. The Commission shall not be bound by the terms of the Offer of Settlement in issuing the final order.

(18) (a) Except as provided in subdivision (18)(b), all investigations commenced as a result of any complaint must be completed within two hundred ten (210) days from the date of receipt of the complaint upon which the investigation is based, except that, if a public hearing or other hearing of adjudication is conducted, all action on the complaint by the Commission shall be completed within two hundred forty (240) days. Provided, however, that such time shall be tolled during the pendency of any civil action, civil appeal, or other judicial proceedings, involving those particular Commission proceedings.

(b) If the Commission requires additional time to complete its investigation under subdivision (18)(a) of this section or to complete its hearing or action under subdivision (18)(a) of this section and gives written notice to the person who is under investigation or the subject of the hearing or action, the Commission may extend the time to complete the investigation, hearing, or action by no more than sixty (60) days.

(19) The Commission, in a document, shall advise the complainant and the respondent of the final action taken together with the reasons for the action. Said document shall be a public record.

(20) Nothing herein shall prohibit the Commission from informally disposing of a complaint by stipulation, settlement, consent order, or default pursuant to Ark. Code Ann. § 25-15-208(b). Any settlement agreement entered into between the Commission and a respondent shall be deemed a public record.

VII. PUBLIC HEARING

(1) Any respondent who has received an Offer of Settlement from the Commission shall have the right to request a public hearing pursuant to Ark. Code Ann. § 7-6-218(b)(2). The request must

be in writing and received by the Commission no later than ten (10) calendar days from the issuance of the Commission's Offer of Settlement.

(2) In the event the respondent requests a public hearing, the confidentiality requirements of Ark. Code Ann. § 7-6-218(b)(3)(B) shall not prohibit documents and other evidence gathered in the investigation from being made a part of the record at the hearing.

(3) Upon receiving a request for a public hearing, the director shall set a date, time and place for the hearing, and written notice shall be given to the respondent and complainant, if applicable, pursuant to Ark. Code Ann. § 25-15-208(a)(2). A written notice of public hearing is a public document. Once a matter has been scheduled for a public hearing, the respondent, upon written request, shall be permitted to review the entire investigative file with the exception of working papers of the Commission and its staff.

(4) The respondent shall have the right to appear in person before the Commission at the public hearing, to be represented by counsel, to present such documentary, oral or other evidence as he or she may have in support of his or her position, to cross-examine witnesses, and to present argument on all issues involved. The complainant shall have the right to appear in person before the Commission at the public hearing, to be represented by counsel, and to address the Commission. The complainant shall not be responsible for presenting any evidence. Such responsibility rests with the Commission's staff.

(5) The director, a staff attorney, or a director of compliance shall appear at the public hearing for purposes of presenting evidence concerning the alleged violation(s) of the respondent. Whichever of these individuals presents such evidence shall not be present while the Commissioners conduct their deliberations, nor shall said individual assist the Commission in preparation of the final order. In addition, a staff member who, in his or her official capacity, has signed a citizen complaint form on behalf of the Commission, shall not be present while the Commissioners conduct their deliberations, nor shall said individual assist the Commission in the preparation of the final order.

(6) The chairman of the Commission or, at his or her request, one of the other Commissioners, shall preside at the public hearing and, as the presiding officer, rule on motions and objections, and admit or deny evidence into the record. The presiding officer is charged with maintaining the decorum of the public hearing and may refuse to admit, or may expel, anyone whose conduct is disorderly. The presiding officer shall conduct the public hearing in the following manner:

a. Order of Proceedings.

1. The presiding officer will give an opening statement, briefly describing the nature of the proceedings.
2. The parties are to be given the opportunity to present opening statements.
3. The parties will be allowed to present their cases in the sequence determined by the presiding officer.
4. Each witness shall be sworn or affirmed by the presiding officer and be subject to examination and cross-examination as well as questioning by the Commission. The presiding officer may limit questioning in a manner consistent with law.
5. When all parties and witnesses have been heard, the parties may be given the opportunity to present final arguments.

b. Evidence.

1. The presiding officer shall rule on the admissibility of evidence and may, when appropriate, take official notice of facts in accordance with all applicable requirements of law.
2. Stipulation of facts between the parties is encouraged. The Commission may make a decision based upon stipulated facts.
3. A party seeking admission of an exhibit must provide a copy of each exhibit at the public hearing. The presiding officer must provide the opposing parties with an opportunity to examine the exhibit prior to the ruling on its admissibility. All exhibits admitted into evidence must be appropriately marked and be made part of the record.

4. Any party may object to specific evidence or to request limits on the scope of the examination or cross-examination. A brief statement of the grounds upon which the action is based shall accompany such an objection. The objection, the ruling on the objection, and the reasons for the ruling will be noted in the record. The presiding officer may rule on the objection at the time it is made or may reserve the ruling until the written decision.

5. Whenever evidence is ruled inadmissible, the party offering that evidence may submit an offer of proof on the record. The party making the offer of proof for excluded oral testimony will briefly summarize the testimony or, with permission of the presiding officer, present the testimony. If the excluded evidence consists of a document or exhibit, it shall be marked as part of an offer of proof and inserted in the record.

6. Irrelevant, immaterial, and unduly repetitive evidence will be excluded. Any other oral or documentary evidence, not privileged, may be received if it is of a type commonly relied upon by reasonably prudent men and women in the conduct of their affairs.

(7) If a party fails to appear or participate in an adjudication after proper service of notice, the Commission may proceed with the public hearing and render a decision in the absence of the party.

(8) The hearing will be recorded and a record maintained in accordance with Ark. Code Ann. § 25-15-208(a)(5) in the event judicial review is sought under Ark. Code Ann. § 25-15-212. Following the presentation of all evidence, the Commission may convene to executive session for the purpose of conducting its deliberations, provided that, upon completion of the executive session, the Commission shall convene in public to vote upon the final action.

(9) The decision of the Commission, after a public hearing, shall be reduced to a final order signed by the chairman of the Commission, containing written findings of fact and conclusions of law, separately stated, in accordance with Ark. Code Ann. § 25-15-210(b)(2). Findings of fact shall

be based exclusively on the evidence and on matters officially noticed. All such decisions of the Commission shall be made available for public inspection.

(10) The respondent shall be served either personally or by mail with a copy of any decision or order.

(11) Any final order of the Commission shall constitute an adjudication for purposes of judicial review under Ark. Code Ann. § 25-15-212.

VIII. RENDERING OF DECISION

(1) The Commission will review the evidence, testimony, documents and any other matters presented at the public hearing and thereafter render a decision. In rendering its decision, the Commission will not be bound by the terms of its Offer of Settlement.

(2) If the Commission finds that the respondent did not commit a violation, it shall issue a final order in which the Commission finds that the respondent did not violate any laws under the jurisdiction of the Commission and that the complaint shall be dismissed.

(3) If the Commission finds that the respondent did commit a violation, it shall do one or more of the following unless good cause be shown for the violation:

a. Issue a final order in which the Commission finds that there is sufficient evidence to show that a violation of law under the jurisdiction of the Commission occurred and that the respondent shall be issued a public LETTER OF CAUTION;

b. Issue a final order in which the Commission finds that there is sufficient evidence to show that a violation of law under the jurisdiction of the Commission occurred and that the respondent shall be issued a public LETTER OF WARNING;

- c. Issue a final order in which the Commission finds that there is sufficient evidence to show that a violation of law under the jurisdiction of the Commission occurred and that the respondent shall be issued a public LETTER OF REPRIMAND;
- d. In a final order in which the Commission finds that there is sufficient evidence to show that a violation of Ark. Code Ann. § 19-11-718 has occurred, the Commission may also declare that the special state employee has been removed from the covered board and a vacancy exists.
- e. Report its findings and other evidence to the proper law enforcement authorities along with recommendations on criminal prosecution (in exercising this power, the Commission is not required to make a finding of a violation of the laws under its jurisdiction);
- f. Impose a fine of not less than fifty dollars (\$50.00) nor more than three thousand five hundred dollars (\$3,500.00) for negligent or intentional violation of a law or laws under the Commission's jurisdiction;
- g. The Commission may impose single or multiple sanctions against a respondent found to have committed multiple violations;
- h. Impose a late filing fee not exceeding fifty dollars (\$50.00) for each day a statement of organization or financial report remains unfiled by a ballot question committee or legislative question committee;
- i. Impose a late filing fee not exceeding twenty-five dollars (\$25.00) for each day a required amendment of the information contained in a statement of organization remains unfiled by a ballot question committee or legislative question committee; and
- j. Order the respondent to file or amend a statutorily required disclosure form.

(4) In determining the type(s) of sanction(s) to impose, if any, after making a finding of a violation, the Commission may consider all of the surrounding circumstances including, but not limited to, the following:

- a. The seriousness of the violation;
- b. The presence or absence of any intention to conceal, deceive or mislead;
- c. Whether the violation was negligent or intentional;
- d. Whether the respondent demonstrated good faith by consulting the Commission staff or any other government agency;
- e. Whether the violation was isolated or part of a pattern;
- f. Whether the respondent has previously been found to have violated a law under the Commission's jurisdiction;
- g. Whether the respondent, upon learning of a reporting violation, voluntarily took corrective action to provide full disclosure; and
- h. Whether the respondent has shown good cause for the violation.

(5) In the event a fine is not paid in a timely fashion, the Commission shall be authorized to file suit in accordance with Ark. Code Ann. § 7-6-217(g)(8)(A) to obtain a judgment for the amount of said fine. The Commission shall also be authorized to file suit in accordance with Ark. Code Ann. § 7-6-217(g)(8)(A) to enforce an order of the Commission requiring the filing or amendment of a statutorily required disclosure form.

IX. DEFINITIONS OF PUBLIC LETTERS

(1) **Caution** is defined as: a written disposition of an allegation against any person which is advisory in nature, clearly giving notice to the respondent that his or her action or lack of action is a violation of law, and further advising the respondent not to engage in the same activity again. A caution may include a requirement that the respondent take corrective action as to the improper activity.

(2) **Warning** is defined as: a written disposition of an allegation against any person which is condemnatory in nature, expressing strong disapproval for the respondent's misconduct and expressing the view that the misconduct undermines public confidence in the integrity of the governmental process. A warning may include a requirement that the respondent take corrective action as to his or her misconduct, and may also include notice to any public official, public agency, professional association or other entity to which the respondent is a member or is employed.

(3) **Reprimand** is defined as: a written disposition of an allegation against any person which is condemnatory in nature, clearly giving notice to the respondent that his or her action or lack of action is a violation of the law and constitutes activity which is below the standard of conduct expected of persons under the jurisdiction of the Commission. The reprimand will require the respondent to refrain from engaging in the same activity again. A **reprimand** may include a requirement that the respondent take corrective action as to his or her misconduct and may also include notice to any public official, public agency, professional association or other entity to which the respondent is a member or is employed. A **reprimand** shall be considered more severe than a **caution or warning**.

X. JUDICIAL REVIEW

(1) Any person who has been sanctioned, fined and/or found to have violated a law under the Commission's jurisdiction shall have the right to file a petition for review, within thirty (30) days of service of the Commission's final order, with an appropriate Circuit Court pursuant to Ark. Code Ann. § 25-15-212.

(2) A person filing a petition for review must serve the Commission with a copy of same in accordance with the Arkansas Rules of Civil Procedure.

(3) Upon receipt of a petition for review, the Commission staff shall prepare and transmit the entire record of the proceeding to the reviewing court within thirty (30) days, or within such further time as the court may allow, but not exceeding an aggregate of ninety (90) days. By stipulation of the parties, the record may be shortened. Once prepared, the record shall be subject to public disclosure.

XI. FORMS AND INSTRUCTIONS

The Commission has prepared or utilizes the following forms and instructions: Ballot Question Financial Report of Individual or Elected Official, Ballot Question Committee Financial Report, Ballot Question Committee (BQC) Statement of Organization, Ballot Question Committee (BQC) Notice of Dissolution, Campaign Contribution and Expenditure Report for County, Municipal and School Board Candidates (form and instructions), Campaign Contribution and Expenditure Report for State and District Candidates (form and instructions), Final Campaign Contribution and Expenditure Report for State and District Candidates (form and instructions), Campaign Contribution and Expenditure Report for Debt Retirement, Carryover Fund Reporting Form (and instructions), Citizen Complaint Form, County Political Party Committee Registration Form, County Political Party Committee Quarterly Reporting Form, County Political Party Committee Notice of Termination, Disclosure by Legislator Pursuant to Ark. Code Ann. § 21-8-803, Disclosure by Member (or Member-Elect) of the Arkansas General Assembly Pursuant to Ark. Code Ann. § 21-8-901, Disclosure by Board Member Pursuant to Ark. Code Ann. § 19-11-718, Exploratory Committee Registration Form, Exploratory Committee Contribution and Expenditure Report, Independent Expenditure Committee Registration, Independent Expenditure Report for Committees, Individuals, and Other Entities, Legislative Question Financial Report of Individual or Elected Official, Legislative Question Committee Financial Report, Legislative Question Committee (LQC) Statement of Organization, Legislative Question Committee (LQC)

Notice of Dissolution, Lobbyist Activity Report, Lobbyist Registration Form, Lobbyist Notice of Termination, Local-Option Ballot Question Financial Report of Individual or Elected Official, Local-Option Ballot Question Committee Financial Report, Local-Option Ballot Question Committee (L-OBQC) Statement of Organization, Local-Option Ballot Question Committee (L-OBQC) Notice of Dissolution, Political Action Committee (PAC) Registration Form, Political Action Committee (PAC) Quarterly Reporting Form, Political Action Committee Notice of Termination, Political Party Quarterly Reporting Form, Quarterly Disclosure Form (certain designated officials), and Statement of Financial Interest (form and instructions). Copies of same are set forth in the appendix hereto. Moreover, the Commission has participated in the publication of the following document(s) prepared by the State Board of Election Commissioners: Running for Office, A “Plain English” Handbook for Candidates.

APPENDIX - Forms Listing

1. Ballot Question Financial Report of Individual or Elected Official
2. Ballot Question Committee Financial Report of Person Meeting the Definition of BQC Set Forth in § 7-9-402(2)(A)
3. Ballot Question Committee Financial Report of Person Meeting the 2%/\$10,000 Test in § 7-9-402(2)(B)
4. Ballot Question Committee (BQC) Statement of Organization
5. Ballot Question Committee (BQC) Notice of Dissolution
6. Campaign Contribution and Expenditure Report - County, Municipal and School Board Candidates (form and instructions) - Instructions changed
7. Campaign Contribution and Expenditure Report - Only for Candidates for State and District Office (Including District Judge) (form and instructions)
8. Final Campaign Contribution and Expenditure Report Only for Candidates for State and District Candidates Office (Including District Judge) (form and instructions)
9. Campaign Contribution and Expenditure Report for Debt Retirement
10. Carryover Fund Reporting Form (and instructions) - Form and Instructions changed
11. Citizen Complaint Form
12. County Political Party Committee Registration Form
13. County Political Party Committee Quarterly Reporting Form
14. County Political Party Committee Notice of Termination
15. Disclosure by Legislator Pursuant to Ark. Code Ann. § 21-8-803
16. Disclosure by Member (or Member-Elect) of the Arkansas General Assembly
17. Pursuant to Ark. Code Ann. § 21-8-901
18. Exploratory Committee Registration Form
19. Exploratory Committee Contribution and Expenditure Report
20. Independent Expenditure Committee Registration
21. Independent Expenditure Report for Committees, Individuals, and Other Entities
22. Legislative Question Financial Report of Individual or Elected Official
23. Legislative Question Committee Financial Report of Person Meeting the Definition of LQC Set Forth in § 7-9-402(10)(A)
24. Legislative Question Committee (“LQC”) Financial Report of Person Meeting the 2%/\$10,000 Test in § 7-9-402(10)(B)
25. Legislative Question Committee (LQC) Statement of Organization
26. Legislative Question Committee (LQC) Notice of Dissolution
27. Lobbyist Activity Report
28. Lobbyist Registration Form
29. Lobbyist Notice of Termination
30. Local-Option Ballot Question Financial Report of Public Servant or Governmental Body Spending Public Funds
31. Local-Option Ballot Question Committee (L-OBQC) Financial Report of Person Meeting the Definition of L-OBQC Set Forth in § 3-8-702(7)(A)
32. Local-Option Ballot Question Committee (L-OBQC) Financial Report of Person Meeting the 2%/\$10,000 Test in § 3-8-702(7)(B)
33. Local-Option Ballot Question Committee (L-OBQC) Statement of Organization
34. Local-Option Ballot Question Committee (L-OBQC) Notice of Dissolution

35. Political Action Committee (PAC) Registration Form
36. Political Action Committee (PAC) Quarterly Reporting Form
37. Political Action Committee Notice of Termination
38. Political Party Quarterly Reporting Form
39. Quarterly Disclosure Form (certain designated officials)
40. Statement of Financial Interest (form and instructions) - Instructions changed

**INSTRUCTIONS FOR COMPLETING THE
CAMPAIGN CONTRIBUTION AND EXPENDITURE REPORT
COUNTY, MUNICIPAL AND SCHOOL BOARD CANDIDATES**

SECTION 1 - Indicate general candidate information and title of office sought. If applicable, include information concerning the candidate's campaign committee. Also, if you are amending a report, the appropriate box at the top of the page should be checked. The law requires that the report be signed under penalty of perjury. The place for the notarized signature is at the bottom of the front page of the report.

<p>NOTE: County, Municipal and School Board candidates are required to file a copy of this report with the County Clerk of the county in which the election is held.</p>

SECTION 2 - Check the box for the type of election and write in the year in which the election will be held.

SECTION 3 - Check the appropriate box to indicate which type of report you are completing. Please note each type of report included here. Also, please complete the blanks indicating the dates covered by this report. It is noted that, when filing a final report, a candidate must indicate the method in which surplus funds are disposed. When a candidate's campaign has ended, the final report is required to indicate which option under Ark. Code Ann. § 7-6-203(g) was used to dispose of any surplus funds and the amount of such funds disposed of by the candidate. In addition, the amount of funds retained by the candidate as carryover funds is also required to be disclosed. However, if the candidate's campaign has not ended, disposal of campaign funds is not required and the candidate may carry forward any remaining campaign funds to the general primary election, general election, or general runoff election for that same office.

LINE 4 - This line, along with lines 5-10, contains SUMMARY information regarding campaign finance activity during the reporting period and cumulatively for the election. Line 4 reflects the balance of campaign funds as of the beginning of the reporting period which should be the same as the ending balance on your last report (found on line 9 of your last report). Your report will normally reflect a positive balance indicating the amount of funds on hand. However, a report may reflect a debt if prior expenditures have exceeded the amount of contributions received.

LINE 5 - This line reflects the amount of interest earned by your campaign account. Interest earned is not treated as a contribution for reporting purposes, but is considered in calculating the balance of campaign funds at the close of the reporting period. In the first column ("For Reporting Period") you list the amount of interest earned since the last reporting period. In the second column ("Cumulative Total"), you list the cumulative total of all interest earned by your campaign account for the election thus far.

LINE 6 - This line reflects the total amount of loans made by you from your own personal funds to your campaign, or personal loans made by financial institutions to you and applied to your campaign. In the first column ("For Reporting Period") you list the amount of loans which you received during the reporting period. This figure can be found on line 13 and should be entered on line 6. In the second column ("Cumulative Total") you should enter the total amount of all loans to

your campaign to date, which should be calculated by adding the figure reported in the first column of this report to the figure reported in the second column of the last report.

LINE 7 - This line reflects the total amount of monetary contributions for your campaign. In the first column (“For Reporting Period”) you list the amount of contributions, itemized and nonitemized, you received during this reporting period.¹ This figure can be found on line 19 and should be entered on line 7. In the second column (“Cumulative Total”) you should enter the total amount of all contributions to your campaign to date, which should be calculated by adding the figure reported in the first column of this report to the figure reported in the second column of the last report. Non-money or “in-kind” contributions, as reflected on line 15, are not included in the figure for line 7.

LINE 8 - This line reflects the total amount of expenditures made by your campaign. In the first column (“For Reporting Period”) you list the amount of expenditures, itemized and nonitemized, you made during this reporting period. This figure can be found on line 28 and should be entered on line 8. In the second column (“Cumulative Total”) you should list the total amount of all expenditures to your campaign to date, which should be calculated by adding the figure reported in the first column of this report to the figure reported in the second column in the last report.

LINE 9 - This line should reflect the balance of your campaign funds or “cash on hand” at the close of the reporting period. This figure is calculated by adding the amounts on lines 4, 5, 6 and 7 and subtracting from that total the figure listed on line 8.

LINE 10 - When filing a final report for a particular election, the candidate should indicate either the balance of funds remaining after the payment of all debts or the amount of all debts (including loans) which remain unpaid. Line 10 of a candidate’s final report should either reflect “cash on hand” or debts (but not both).

LINE 11 - This line should be checked only if you have not received any contributions, made any expenditures, or otherwise had any campaign financial activity during this particular reporting period. If this is true, you should check this box, and complete only the items on page 1 of the Contribution and Expenditure Report. When filing a “no activity” report, the candidate should only sign and file the front page of the report.

SECTION 12 - The limit on campaign contributions does not apply to loans or contributions made by a candidate from his or her own personal funds to the campaign or to personal loans made by financial institutions to the candidate and applied to his campaign. Any personal loan made by a financial institution to a candidate and applied to his campaign should be reported in Section 12.

If a candidate desires to use or raise campaign funds to repay himself for personal funds which he contributed to the campaign, then he would need to report those personal funds as a loan in Section 12.

If a candidate does not desire to use or raise campaign funds to repay himself for personal funds which he contributed to the campaign, then those personal funds would not be reported in Section 12. Instead, they would be reported as a campaign contribution either in Section 16 or on line 18,

¹ If contributions for a general election are received during the reporting period for the primary election, those contributions should be reported in a separate but concurrent report designated for the general election. For more information on this subject, please see Ethics Commission Advisory Opinion No. 97-EC-015.

depending upon the amount.

If a candidate has unpaid loans at the end of a primary, runoff, special, or general election, the source, description and amount of each such loan should be itemized in Section 29. Candidates ending their campaign in debt are permitted to raise funds to retire the debt subject to the restrictions contained in Ark. Code Ann. § 7-6-219.

LINE 13 - This line reflects the total amount of loans you received during this reporting period.

SECTION 14 - This section is for itemization of non-money or “in-kind” contributions. Contributions to candidates may not exceed the maximum amount per election from a contributor. The campaign contribution limit applies to “in-kind” contributions as well. Examples of non-money or “in-kind” contributions are donations of equipment, furniture, office space, advertising or some other item of value. The fair market value should be listed. Noncompensated, nonreimbursed, volunteer personal services or travel are **not** considered “in-kind” contributions.

LINE 15 - This line reflects the total amount of non-money or “in-kind” contributions listed in Section 14.

SECTION 16 - This section is for itemization of money or cash contributions over \$50. Contributions to candidates for county, municipal, or school board office may not exceed the maximum amount per election from any contributor. The limit applies to all contributions. The law requires the candidate to list each **contributor**, his/her **address**, **place of business**, **employer**, **occupation** and the **date** and **amount** of each contribution during this reporting period. The candidate must also designate for **which election** the contribution was received by checking the applicable box in column 4. If additional pages are necessary to report all of the contributions received, this page of the Contribution and Expenditure Report may be photocopied and attached to the report when the report is filed. (NOTE: When a person having carryover funds from a prior campaign files as a candidate for public office, such carryover funds must be transferred to the person’s active campaign fund. Although technically not a contribution, the transfer of such funds should be reported in this section.)

LINE 17 - This line should reflect the total of the itemized contributions listed in Section 16.

LINE 18 - Disclose the total amount of monetary contributions of \$50 or less received during this reporting period. A monetary contribution of \$50 or less from any contributor need not be itemized, but is considered a contribution for the particular contributor and is credited against the maximum amount the contributor may contribute to the campaign. Once a contributor exceeds the \$50 threshold for a particular election, all subsequent contributions must be itemized.

LINE 19 - This line reflects the totals from lines 17 (itemized contributions) and 18 (nonitemized contributions). While a non-money contribution is considered as a contribution from the contributor and applies toward that contributor’s maximum limit, non-money contributions are not included in the amount entered on this line. Line 19 reflects the total amount of monetary contributions and is used in computing the balance of campaign funds at the close of the reporting period. This figure should also be entered on line 7 on the front page of the report.

SECTION 20 - This section requires disclosure by category of all expenditures made during the reporting period. The expenditures disclosed here include both the itemized expenditures, listed in Section 24, and the non-itemized expenditures which comprise the total found on line 26. The total

amount for each category should be included. If an expenditure is made which does not fall within one of the listed categories, the candidate should include and list the expenditure as “Other” and provide a description in the appropriate space. Expenditures for salaries and wages of campaign workers should be totaled and listed in the applicable category here. Additionally, expenditures for any paid campaign workers must be itemized in Section 22.

LINE 21 - This line should reflect the total of the expenditures as categorized in Section 20. The total should reflect the combination of the figures on lines 25, 26 and 27 and should be the same as the figure on line 28.

SECTION 22 - The law also requires each candidate to list **any person paid to work on a candidate’s campaign**. This is true whether the person is a full-time employee or a part-time employee and whether the amount paid exceeds \$100 or not. The candidate should list the name of each person paid to work on the campaign along with the amount paid. Payments to campaign workers reported in this section should not be repeated in section 24 or on line 26.

LINE 23 - This line should reflect the total amount paid during the reporting period for all campaign workers. This figure should also be entered on line 27.

SECTION 24 - This section is for itemization of expenditures over \$100 made during the reporting period. For each expenditure over \$100, the candidate must disclose the **date**, the **amount**, and the **description** of the expenditure made during this reporting period, and the name and address of any person, including the candidate, to whom the expenditure was made. If additional pages are necessary to report all of the expenditures made, this page of the Contribution and Expenditure Report may be photocopied and attached to the report when the report is filed.

LINE 25 - This line should reflect the total of the itemized expenditures listed in Section 24.

LINE 26 - Disclose the total amount of expenditures of \$100 or less made during this reporting period. An expenditure of \$100 or less need not be itemized, but must be included in the total amount of expenditures made during the reporting period.

LINE 27 - This line should reflect the total amount paid during the reporting period for all campaign workers. This figure should be the same as the one entered on line 23.

LINE 28 - This line reflects the totals from lines 25 (itemized expenditures), 26 (nonitemized expenditures) and 27 (paid campaign workers). This figure should also be the same as the one entered on line 8 on the front page of the report and on line 21.

SECTION 29 - This section should only be completed if the candidate has outstanding debts (including unpaid loans) after an election. The amount entered on line 30 should also be entered on line 10 of the report. If the campaign has ended with a debt, the candidate must detail each item which constitutes a part of the total campaign debt. For each creditor, the candidate should list the name and address of the creditor, the description of the debt (e.g. “consultant services”), and the balance of the debt as of the time of filing the final report. If additional pages are necessary to report all of the campaign debt, this page of the Contribution and Expenditure Report may be photocopied and attached to the report when the report is filed.

LINE 30 - This line reflects the total of all debt reflected in Section 29. This figure should also be the same as the one entered on line 9 of the front page of the report.

CARRYOVER FUND REPORTING FORM

Year of Election: _____

NOTE: The carryover fund reports of a person who ran for school district, township, municipal, or county office are required to be filed with the **county clerk** of the county in which the election was held. The carryover fund reports of a person who ran for state or district office are required to be filed with:

John Thurston, Secretary of State
 State Capitol, Room 026
 Little Rock, AR 72201
 Phone (501) 682-5070
 Fax (501) 682-3408

For assistance in completing this form contact:
 Arkansas Ethics Commission
 Post Office Box 1917
 Little Rock, AR 72203-1917
 Phone (501) 324-9600
 Toll Free (800) 422-7773

Check if this report is an amendment

Officeholder/Candidate Information	(file stamp)
1. Name of Officeholder/Candidate	
Address	
City, State, and Zip	
Office	
2. Type of Report: (check only one) This report covers what period? (___/___/___) through (___/___/___)	
<input type="checkbox"/> First Quarter (due April 15) <input type="checkbox"/> Fourth Quarter (due January 15)	
<input type="checkbox"/> Second Quarter (due July 15) <input type="checkbox"/> Annual Report for Calendar Year _____ (due January 31)	
<input type="checkbox"/> Third Quarter (due October 15) <input type="checkbox"/> Closing Out of Carryover Account	
A quarterly report is due if you have expended in excess of \$500 since your last report concerning carryover funds. No report is required in any calendar quarter in which you have not exceeded the cumulative expenditure limit of \$500 since your last report. An annual report is not required if you have filed at least one quarterly report during the calendar year. A person is required to file a report for the calendar quarter in which he or she transfers carryover funds to his or her active campaign fund.	

SUMMARY	FOR REPORTING PERIOD	YEAR-TO-DATE
3. Balance of carryover funds at beginning of reporting period		
4. Interest (if any) earned on carryover account		
5. Reimbursement(s) of conference expenses (enter amount from line 9)		
6. Total expenditures (enter amount from line 13)		
7. Balance of carryover funds at close of reporting period		

I certify that I have examined this Report, and that to the best of my knowledge and belief it is true, correct, and complete.

Signature of Officeholder/Candidate

Sworn to and subscribed before me, a Notary Public, in and for _____ County, Arkansas, on this _____ day of _____, 20_____.

Signature of Notary

My Commission Expires: _____

Note: If faxed, notary seal must be legible (i.e., either stamped or raised and inked) and the original must follow within ten (10) days.

Ark. Code Ann. § 7-6-202 provides that a person who knowingly fails to comply with the provisions of subchapter 2 of chapter 6, Title 7 of the Arkansas Code shall upon conviction be guilty of a Class A misdemeanor.

INSTRUCTIONS FOR COMPLETING THE CARRYOVER FUND REPORTING FORM

Section 1 – Provide the general information sought, including the name, address, and telephone number of the officeholder or candidate filing the report and the public office for which he or she sought election. In addition, the year of the election should be indicated at the top of the report. Also, if an amended report is being filed, the appropriate box at the top of the report should be checked. The law requires that the report be signed under penalty of perjury. The place for the notarized signature is at the bottom of the front page of the report.

Section 2 – Check the box for the type of report. If the report is an annual report, provide the year. (NOTE: A person who retains carryover funds from a general election held in November or a runoff election held in November is not required to file an annual report for the year of the general election or runoff election from which carryover funds were retained.)

Line 3 – This line, along with lines 4-7, contains SUMMARY information concerning the person's carryover funds during the reporting period and cumulatively for the year. Line 3 reflects the balance of carryover funds as of the beginning of the reporting period which should be the same as the ending balance of the previous report (found on line 6 of the last report).

Line 4 – This line reflects the amount of interest, if any, earned by the carryover fund account. In the first column ("For Reporting Period"), list the amount of interest earned since the last report. In the second column ("Year to Date"), list the cumulative total of all interest earned during the calendar year.

Line 5 – This line reflects the total amount reimbursed to the carryover account for the elected candidate's own personal expenses for food, lodging, conference fees, or travel to attend a conference related to the performance of his or her responsibilities as an elected official. This figure can be found on line 9 and should be entered on line 5.

Line 6 – This line reflects the total amount of carryover funds which have been expended. In the first column ("For Reporting Period"), list the amount of expenditures, itemized and nonitemized, made since the last report. This figure can be found on line 13 and should be entered on line 6. In the second column ("Year to Date"), list the total amount of all expenditures made during the calendar year, which should be calculated by adding the figure reported in the first column to the figure reported in the second column of the last report.

Line 7 – This line should reflect the balance of carryover funds at the close of the reporting period. This figure can be calculated by adding the amounts on lines 3, 4 and 5 and subtracting from that total the figure entered on line 6.

Section 8 – This section requires disclosure of each reimbursement of expenses paid by an elected candidate with carryover funds for his or her own personal expenses for food, lodging, conference fees, or travel to attend a conference related to the performance of his or her responsibilities as an elected official. For each such reimbursement, provide the name, location, and date(s) of the conference, the source of the reimbursement, the date of the reimbursement, and the amount of the reimbursement.

Line 9 – This line should reflect the total of the reimbursements listed in section 8. This figure should be the same as the one entered on line 5 of the front page of the report.

Section 10 – This section requires disclosure of each expenditure in excess of \$100 which has been made since the last report. For each expenditure over \$100, provide the name and address of the supplier or payee, the date of the expenditure, the amount of the expenditure, and a description of the expenditure.

Line 11 – This line should reflect the total of the itemized expenditures listed in section 10.

Line 12 – Disclose the total amount of expenditures of \$100 or less made since the last report. An expenditure of \$100 or less need not be itemized, but must be included in the total amount of expenditures made since the last report.

Line 13 – This line reflects the sum of the amounts entered on lines 11 (“Itemized Expenditures”) and 12 (“Nonitemized Expenditures”). This figure should be the same as the one entered on line 6 on the front page of the report.

FREQUENTLY ASKED QUESTIONS

Question No. 1: *What are carryover funds?*

- A person who was a candidate and has campaign funds remaining from an election that has ended may retain as “carryover funds” an amount not exceeding the annual salary, excluding expense allowances, set by Arkansas law for the office sought. “Carryover funds” do not include campaign signs, campaign literature, and other printed materials that were: (i) purchased by the campaign; (ii) reported on the appropriate contribution and expenditure report for the campaign at the time of the purchase; and (iii) retained for use in a future campaign by the same candidate.¹
- The use of carryover funds is only available for those candidates or officeholders who ended their campaigns with funds remaining. Candidates or officeholders who end their campaigns either with no carryover or in debt may not use or raise

¹ Ark. Code Ann. § 7-6-201(3).

campaign funds for travel associated with attending conferences or seminars on general political issues.²

Question No. 2: *Where are carryover funds kept?*

- If carryover funds are retained, a candidate must establish an office account, separate from any personal or other account. Any carryover funds transferred to this account shall be used only for future campaigns involving the candidate in a non-federal office and/or legitimate expenses in connection with the candidate's public office.³
- Carryover funds may be deposited in an interest-bearing account. At no time, however, may the total amount in the carryover account exceed the annual salary, excluding expense allowances, for the office sought or held.⁴

Question No. 3: *What are the permissible uses for carryover funds?*

- Generally, officeholders are free to expend carryover funds on any purpose designed to further their office as long as it is not for personal income or otherwise prohibited by law.⁵
- Legitimate office expenses include transportation incurred by the officeholder or a member of his or her staff incurred in the operation of the office.⁶
- Carryover funds may be used to purchase office supplies and/or equipment for use in the office or in future campaigns.⁷
- Carryover funds may be used to reimburse the officeholder or his or her staff for meals or lodging in connection with the operation of the office or future campaigns.⁸
- Carryover funds may be used to purchase invitations or notices to political events, as well as to purchase gifts or commemorative items for staff members or their families in times of sickness or death, or family emergency.⁹
- Carryover funds may be used to offset any reasonable and legitimate office expense which is otherwise not reimbursable from public funding.¹⁰

² § 215(c) of the Commission's Rules on Campaign Finance & Disclosure.

³ § 227(b) of the Commission's Rules on Campaign Finance & Disclosure.

⁴ § 227(d) of the Commission's Rules on Campaign Finance & Disclosure.

⁵ § 223(a) of the Commission's Rules on Campaign Finance & Disclosure.

⁶ § 227(c) of the Commission's Rules on Campaign Finance & Disclosure.

⁷ § 227(c) of the Commission's Rules on Campaign Finance & Disclosure.

⁸ § 227(c) of the Commission's Rules on Campaign Finance & Disclosure.

⁹ § 227(c) of the Commission's Rules on Campaign Finance & Disclosure.

- Officeholders may use carryover funds to purchase advertisements in publications of charitable, civic and educational organizations.¹¹
- Carryover funds may be used to buy items such as ads in school yearbooks as these purchases serve to increase public visibility for the officeholders.¹²
- Carryover funds may be used to purchase items given as awards in recognition of accomplishments where they are presented by a current officeholder in person. Such items include the purchase of American and State flags flown at the State Capitol and given to schools in subsequent ceremonies.¹³
- Officeholders may use carryover funds to purchase tickets from charities, civic organizations and political parties for banquets or other similar special social events. The presence of officeholders increases the public visibility of officeholders and, for that reason, officeholders who purchase tickets should make all reasonable efforts to attend the banquet. Officeholders may use carryover funds to purchase a ticket for a spouse but carryover funds should not be used to purchase tickets for State Capitol staff, current staff or former campaign workers.¹⁴
- Officeholders may use carryover funds for lease, rental or use charges of any ordinary and necessary office equipment such as copy machines, telephones, postage meters, facsimile machines, computer hardware and software, printers and video equipment for use in the office or in future campaigns.¹⁵
- Carryover funds may be used by an officeholder to pay for an inaugural event.¹⁶
- Examples of other miscellaneous expenses on which officeholders may lawfully expend carryover funds include, but are not limited to:
 - (a) Flowers, sympathy gifts or other nominal memorial items to a constituent's funeral or family;
 - (b) Hiring public halls and music for political meetings, furnishing music, uniforms, banners or fireworks for political clubs or parades or like events and for related advertising of same;
 - (c) Printing and circulating political communications, sample ballots or ballot labels; and

¹⁰ § 227(c) of the Commission's Rules on Campaign Finance & Disclosure.

¹¹ § 220(a) of the Commission's Rules on Campaign Finance & Disclosure.

¹² § 220(a) of the Commission's Rules on Campaign Finance & Disclosure.

¹³ § 220(b) of the Commission's Rules on Campaign Finance & Disclosure.

¹⁴ § 221(b) of the Commission's Rules on Campaign Finance & Disclosure.

¹⁵ § 222(a) of the Commission's Rules on Campaign Finance & Disclosure.

¹⁶ Advisory Opinion No. 98-EC-020.

- (d) Sponsorship of a sports team.¹⁷
- A person with carryover funds may, at any time, dispose of such funds in the same manner as surplus campaign funds.¹⁸ In that regard, Ark. Code Ann. § 7-6-203(g)(1) provides that surplus funds may be turned over to either:
 - (a) The Treasurer of State for the benefit of the General Revenue Fund Account of the State Apportionment Fund;
 - (b) A political party as defined in Ark. Code Ann. § 7-1-101 or a political party caucus of the General Assembly, the Senate, or the House of Representatives;
 - (c) A nonprofit organization which is exempt from taxation under Section 501(c)(3) of the Internal Revenue Code;
 - (d) Cities of the first class, cities of the second class, or incorporated towns; or
 - (e) The contributors to the candidate's campaign.

Question No. 4: *What are the prohibited uses of carryover funds?*

- A candidate may not take carryover funds as personal income or as income for his or her spouse or dependent children.¹⁹
- Carryover funds may not be used to reimburse campaign workers, staff or spouses of either the candidate or the workers for attendance at conferences or seminars. Officeholders are permitted to use carryover funds to reimburse only themselves for travel associated with attending conferences or seminars on general political issues.²⁰
- Carryover funds may not be used to purchase tickets for State Capitol staff, current staff or former campaign workers to attend banquets or social events held by charities, civic organizations or political parties.²¹

¹⁷ § 223(a) of the Commission's Rules on Campaign Finance & Disclosure.

¹⁸ § 227(a) of the Commission's Rules on Campaign Finance & Disclosure.

¹⁹ Ark. Code Ann. § 7-6-203(g)(4)(A).

²⁰ § 215(a) of the Commission's Rules on Campaign Finance & Disclosure.

²¹ § 221(b) of the Commission's Rules on Campaign Finance & Disclosure.

Question No. 5: *How long may carryover funds be retained?*

- Carryover funds may be retained by a person for not more than ten (10) years after the last election at which he or she was a candidate or, if applicable, not more than ten (10) years after the last day that the person held office, and any remaining carryover funds shall be disposed of in the same manner as for surplus campaign funds.²²
- When a person having carryover funds from an election held after July 1, 1997, files as a candidate for public office, his or her carryover funds shall be transferred to the person's active campaign fund. Once transferred, the funds will no longer be treated as carryover funds.²³

Question No. 6: *What are the record keeping and reporting requirements concerning carryover funds?*

- If a candidate ends a campaign with carryover funds, he or she must maintain records of such carryover fund for no less than ten (10) years or until such time as the funds are expended completely or disposed of, whichever occurs first.²⁴
- A person shall file an expenditure report concerning carryover funds if since the last report concerning the carryover funds, the person has expended in excess of five hundred dollars (\$500). The report shall be filed at the office in which the candidate was required to file his or her campaign contribution and expenditure reports for the previous campaign not later than fifteen (15) days after a calendar quarter in which a report becomes required. No report is required in any calendar quarter in which the cumulative expenditure limit has not been exceeded since the person's last report.²⁵
- A person who retains carryover funds is required to file an annual report outlining the status of the carryover fund account as of December 31st unless the person has made a quarterly report during the calendar year pursuant to Ark. Code Ann. § 7-6-203(h)(4)(C)(i) and (ii). The annual report for a particular year shall be due by January 31st of the following year. A person who retains carryover funds from a general election held in November or a runoff election held in November is not required to file an annual report for the year of the general election or runoff election from which carryover funds were retained.²⁶ The carryover fund reports of a person who ran for school district, township, municipal, or county office must be filed with the **county clerk** of the county in which the election was held.²⁷ The

²² Ark. Code Ann. § 7-6-203(g)(4)(D).

²³ Ark. Code Ann. § 7-6-203(g)(4)(B).

²⁴ § 233(c) of the Commission's Rules on Campaign Finance & Disclosure.

²⁵ Ark. Code Ann. § 7-6-203(g)(4)(C)(i).

²⁶ Ark. Code Ann. § 7-6-203(g)(4)(C)(iii).

²⁷ Ark. Code Ann. § 7-6-203(g)(4)(C)(iv).

carryover fund reports of a candidate for state or district office must be filed with the **Secretary of State**.²⁸

- A person shall also file an expenditure report for the calendar quarter in which he or she transfers the carryover funds to an active campaign fund.²⁹
- There is a separate carryover fund reporting form.³⁰

²⁸ Ark. Code Ann. § 7-6-203(g)(4)(C)(v).

²⁹ Ark. Code Ann. § 7-6-203(g)(4)(C)(ii).

³⁰ § 228 of the Commission's Rules on Campaign Finance & Disclosure.

INSTRUCTIONS FOR STATEMENT OF FINANCIAL INTEREST

INTRODUCTION/WHO MUST FILE

Ark. Code Ann. § 21-8-701(a) requires that the following persons file a written Statement of Financial Interest on an annual basis:

- A public official, as defined by Ark. Code Ann. § 21-8-402(17);
- A candidate for elective office;
- A district judge; or city attorney, whether elected or appointed;
- Any agency head, department director, or division director of state government;
- Any chief of staff or chief deputy of a constitutional officer, the Senate, or the House of Representatives;
- Any public appointee to any state board or commission (who possesses regulatory authority or is authorized to receive or disburse state or federal funds);¹
- All persons who are elected members of a school board or who are candidates for a position on a school board;
- All public and charter school superintendents;
- All executive directors of education service cooperatives;
- Any person appointed to a municipal, county or regional (i) planning board or commission, (ii) airport board or commission, (iii) water or sewer board or commission, (iv) utility board or commission, or (v) civil service commission;
- Any member of an advertising and promotion commission; and
- Any member of a research park authority board under Ark. Code Ann. § 14-144-201 et seq.

The Arkansas Ethics Commission, which enforces this statute, has prepared these instructions, along with the office of the Secretary of State, whose office maintains the records, to assist persons required to file these statements. If you have any questions concerning the reporting requirements or how to fill out your Statement of Financial Interest, call or write either the **Arkansas Ethics Commission**, Post Office Box 1917, Little Rock, Arkansas 72203-1917, telephone (501) 324-9600 or the **Secretary of State, Elections Division**, State Capitol, Room 026, Little Rock, Arkansas 72201, telephone (501) 682-5070.

When preparing the Statement of Financial Interest, please **print or type the information**. You must also sign the Statement in Section 13 and your signature must be attested to before a Notary Public.

¹ Pursuant to Ark. Code Ann. § 21-8-701(a)(5)(B), a public appointee to a state board or commission which is not charged by law with the exercise of regulatory authority and which receives or disburses state or federal funds only in the form of mileage reimbursement for members attending meetings of the board or commission is not required file a written Statement of Financial Interest.

TIME FOR FILING/PERIOD COVERED

Pursuant to Ark. Code Ann. § 21-8-701(c)(1)(A), a Statement of Financial Interest for the previous calendar year “shall be filed by January 31, of each year, except that a candidate for elective office shall file the Statement of Financial Interest for the previous calendar year on the first Monday following the close of the period to file as a candidate for elective office.” Pursuant to Ark. Code Ann. § 21-8-705, if the party filing period under Ark. Code Ann. § 7-7-203 ends before January 1 of the year of the general election, a candidate for elective office shall file a Statement of Financial Interest for the previous calendar year no later than January 31 of the year of the general election in addition to the Statement of Financial Interest required under Ark. Code Ann. § 12-8-701.

Moreover, an agency head, department director, or division director of state government and any public appointee to a state board or commission authorized or charged by law with the exercise of regulatory authority or authorized to receive or disburse state or federal funds shall file a Statement of Financial Interest for the previous calendar year within thirty (30) days after appointment or employment. Incumbent officeholders who filed a Statement of Financial Interest for the previous calendar year by January 31 of the year in which an election is held are not required to file an additional Statement of Financial Interest upon becoming a candidate for reelection or election to another office during the year. Ark. Code Ann. § 21-8-701(c)(2). If a person required to file a Statement of Financial Interest leaves his or her office or position during a particular calendar year, he or she shall still be required to file a Statement of Financial Interest covering that part of the year which he or she held the office or position. Ark. Code Ann. § 21-8-701(c)(1)(B).

WHERE TO FILE

Pursuant to Ark. Code Ann. § 21-8-703, the Statement of Financial Interest shall be filed as follows:

- (1) State or district public servants (including appointees to state boards/ commissions) and candidates for state or district public office are required to file the statement with the Secretary of State;
- (2) County, township, or school district public servants and candidates for county, township, or school district public office are required to file the statement with the county clerks;
- (3) Municipal public servants and candidates for municipal office are required to file the statement with the city clerk or recorder;
- (4) City attorneys, whether elected or appointed, are required to file the statement with the city clerk of the municipality within which they serve;
- (5) Members of regional boards or commissions are required to file the statement with the county clerk of the county in which they reside; and
- (6) District judges are required to file the statement with the Secretary of State.

SPECIFIC REPORTING INSTRUCTIONS

SECTION 1 (Name and Address)

Answer each of these questions or indicate “Not Applicable”. List all names under which you and/or your spouse do business.

SECTION 2 (Reason for Filing)

Check the box applicable to you and provide the office/position held or name of the board, commission or school district in the appropriate space.

SECTION 3 (Sources of Income)

The term “gross income” is intended to be comprehensive. It refers to all income from whatever source derived, including but not limited to compensation for services, fees, commissions, and income derived from business interests. Report each employer and/or each other source of income from which you, your spouse, or any other person for the use or benefit of you or your spouse receives gross income exceeding \$1,000 on an annual basis. Include your governmental income from the office or position which requires your filing of this form. You are required to use the gross amount received as income. Thus, you must compute your total income from any particular source without first deducting expenses.

You are not required to list the individual items of gross income that constitute a portion of the income of the business or profession from which you or your spouse derives income. (For example: Accountants, attorneys, farmers, contractors, etc. do not have to list their individual clients.) If more than one source/employer/entity compensated you during the past year, you are required to list each source of income greater than \$1,000. If you or your spouse received speaking honoraria, you must report, under the request for “source”, the sponsor of each event for which a payment was made for your speech or appearance, as well as the date and dollar category (“more than \$1,000.00” or “more than \$12,500.00”). The term “honoraria”, as used herein, means a payment of money or any thing of value for an appearance, speech, or article. NOTE: Food, lodging, and travel provided to a public servant in connection with an appearance would not constitute honoraria if the public servant is appearing in his or her official capacity and the appearance bears a relationship to the public servant’s office or position. Section 10 of the Statement of Financial Interest addresses the reporting of payment for such food, lodging, and travel.

You must also provide a brief description of the nature of the services for which the income was received, as well as the name under which the income was received. For example:

Source	Description	Amount
State of Arkansas (address) John Doe	Executive Dir.	More than \$12,500.00
University of Arkansas (address) John M. Doe	Teaching	More than \$12,500.00
450 Main Street, Little Rock, Arkansas John M. Doe	Rent Income	More than \$12,500.00
Ark. Med. Society Annual Meeting (address) John Doe	Speaking fee Oct. 2, Little Rock	More than \$1,000.00
Star National Bank Star, Arkansas John or Jane Doe	Interest Income	More than \$1,000.00
City of Mayberry (address) Jane Doe	Spouse income	More than \$12,500.00
Ark. Bar Association Annual Meeting (address) Jane Doe	Speaking Fee Spouse, June 12 Hot Springs	More than \$1,000.00

Section 4 (Business or Holdings)

In this section, list the name of every business in which you, your spouse or any other person for the use or benefit of you or your spouse have an investment or holding. Stocks, bonds, stock options and other securities held by you or your spouse must be reported. Figures for these items, as well as all other holdings or accounts, should be based on fair market value at the end of the reporting period.

For **securities, stocks, or bonds**, you must disclose each security held in your portfolio which exceeds the \$1,000.00 threshold. If securities are held through an investment firm, the firm will normally provide periodic statements from which you may obtain the information required to be disclosed. If you own different types of securities issued by the same authority, such as U. S. Treasury obligations or bonds, it is not necessary to provide an itemized list of each security worth

over \$1,000.00. Rather, you may simply report the aggregate value of the securities issued by the same authority and identify the type of securities.

In the case of **mutual funds or similar investments**, you need not disclose specific stocks held in a widely diversified investment trust or mutual fund as long as the holdings of the trust or fund are a matter of public record and you have no ability to exercise control over the specific holdings. If you have such control, you must disclose each holding exceeding the threshold level of \$1,000.00, whether or not you exercise the control. Otherwise, you may simply disclose the name, address, etc. of the authority through which your mutual fund is invested (e.g., IDS), the category of the fund and the category of the appropriate amount (e.g., “more than \$1,000.00”).

In the case of **bank accounts**, if the total of accounts (including certificates of deposit) deposited in a particular bank exceeds \$1,000.00, list each institution holding more than \$1,000.00. If no particular bank holds more than \$1,000.00, you need not report any bank accounts. All accounts at one institution, including those for your spouse, may be combined as one entry. Thus, for example, you may report a checking account, savings account, certificate of deposit, and IRA in Smith First National Bank of Arkansas by checking the gross total of the accounts (e.g., “more than \$1,000.00”) and stating “Smith First National Bank of Arkansas” with its address. You need not list each account. If you are listed on an account purely for custodial reasons, and you do not assert any ownership rights to the assets in the account (for example, if you are a joint tenant with an elderly relative), you need not list the account.

For any business interest, if you or your spouse has an interest in a proprietorship, partnership, or corporation that is actively engaged in a trade or business, you must disclose the name and address of each interest. It is not necessary to provide an itemized list of the assets of the business. For example, you need only categorize the total value of your interest (e.g., “more than \$12,500.00”) and not items such as “office equipment.” This includes each asset held in trust for you or your spouse which has a value greater than \$1,000.00. Holdings of a trust for which you or your spouse are merely an administrator and for which you have no beneficial interest need not be reported.

Section 5 (Office or Directorship)

You must report your nongovernmental offices and directorships held by you or your spouse in any business, corporation, firm, or enterprise subject to the jurisdiction of a regulatory agency of this State, or any of its political subdivisions. For each such business, provide the name of the business, its address, the office or directorship held and the name of the person (either you or your spouse) who holds the office or directorship. A “regulatory agency”, as defined by Ark. Code Ann. § 21-8-301(1), means any “state board, commission, department, or officer authorized by law to make rules or to adjudicate contested cases except those in the legislative or judicial branches.”

Section 6 (Creditors)

You must report the name and address of each creditor to whom the value of \$5,000.00 or more is personally owed and outstanding at the end of the reporting period. All information regarding a single creditor may be reported in a single entry. If you have more than one liability owed to the same creditor, add up the items of credit to determine if the \$5,000.00 threshold has

been met. The identity of the creditor is the name of the person or organization to which the liability is owed (e.g., “Bob Smith, 1000 Elm Street, Little Rock, Arkansas”).

You do not need to include debts owed to members of your family. You may also exclude loans made in the ordinary course of business by either a financial institution or a person who regularly and customarily extends credit. This exclusion applies to such items as a mortgage secured by real property which is your personal residence, credit extended to purchase personal items such as furniture or appliances, credit card debts, and car loans, provided the credit does not exceed the value of the item purchased.

Debts not incurred in the ordinary course of business include, but are not limited to, such items as legal judgments, judgment liens, money borrowed from individuals, other than family members, who are not normally in the business of lending money, and tax liens owed to any governmental agency.

Section 7 (Past-Due Amounts Owed to Government)

You must report the name and address of each governmental body to which you are legally obligated to pay a past-due amount and a description of the nature and amount of the obligation. Such debts include, but are not limited to tax liens owed to any governmental agency or other legally obligated debts in which you may be in default to a governmental body.

Section 8 (Guarantor, Co-Maker)

The law requires you to provide the name and address of each guarantor or co-maker, other than a member of your family, who has guaranteed a debt which is still outstanding. The \$5,000.00 threshold of Section 6 does not apply here. To the extent that you have a guarantor or co-maker of any of your outstanding debts, the guarantor or co-maker must be disclosed. There is no exception for debts incurred in the ordinary course of business. This requirement also includes debts arising, extended or refinanced after January 1, 1989.

This requirement extends to situations where you have co-signed a loan to assist another person in obtaining credit, unless the person is a member of your family.

Section 9 (Gifts)

The law requires you to identify the source, date, description, and a reasonable estimate of the fair market value of each gift of more than one hundred dollars (\$100.00) received by you or your spouse during the reporting period or more than two hundred and fifty dollars (\$250.00) received by your dependent children during the reporting period. A gift is any “payment, entertainment, advance, services, or anything of value” unless consideration of equal or greater value has been given therefor. The value of an item shall be considered to be less than one hundred dollars (\$100) if the public servant reimburses the person from whom the item was received any amount over one hundred dollars (\$100) and the reimbursement occurs within ten (10) days from the date the item was received. All types of gifts must be reported. Items such as food, lodging, and travel are considered gifts unless they are received when you are appearing in your official capacity and the appearance bears a relationship to your office or position. [Note: The reporting of food, lodging,

and travel received by a public servant who is appearing in his or her official capacity at an event which bears a relationship to his or her office or position is addressed in Section 11 below.]

A gift can be a tangible item, such as a watch, or an intangible item, such as a hunting or fishing trip. A gift does not include (1) informational material; (2) receiving food, lodging, or travel which bears a relationship to the public servant's office and when appearing in an official capacity; (3) gifts which are not used and returned to the donor within 30 days; (4) gifts from a family member listed in Ark. Code Ann. § 21-8-402(5)(B)(iv), unless the family member is acting as an agent for a person not covered by the exception; (5) campaign contributions; (6) devises or inheritances; (7) anything with a value of \$100 or less; (8) wedding presents and engagement gifts; (9) a monetary or other award presented to an employee of a public school district, the Arkansas School for the Blind, the Arkansas School for the Deaf, the Arkansas School for Mathematics, Sciences, and the Arts, a university, a college, a technical college, a technical institute, a comprehensive life-long learning center, or a community college in recognition of the employee's contribution to education; (10) tickets to charitable fundraising events held within this state by a non-profit organization which is exempt from taxation under Section 501(c)(3) of the Internal Revenue Code; (11) a personalized award, plaque, or trophy with a value of one hundred fifty dollars (\$150) or less; (12) an item which appointed or elected members of a specific governmental body purchase with their own personal funds and present to a fellow member of that governmental body in recognition of public service; (13) food or beverages provided at a conference scheduled event that is part of the program of the conference; (14) food or beverages provided in return for participation in a bona fide panel, seminar, speaking engagement at which the audience is a civic, social, or cultural organization or group; (15) a monetary or other award publicly presented to an employee of state government in recognition of his or her contributions to the community and State of Arkansas when the presentation is made by the employee's supervisor or peers, individually or through a non-profit organization which is exempt from taxation under Section 501(c) of the Internal Revenue Code, and the employee's receipt of the award would not result in or create the appearance of the employee using his or her position for private gain, giving preferential treatment to any person, or losing independence or impartiality (This exception shall not apply to an award presented to an employee of state government by a person having economic interests which may be affected by the performance or nonperformance of the employee's duties or responsibilities.); and (16) anything of value provided by a political party under Ark. Code Ann. § 7-1-101 or § 7-7-205 when serving as the host of the following events to all attendees as part of attendance at the event: (A) the official swearing-in, inaugural, and recognition events of constitutional officers and members of the general assembly; and (B) an official event of a recognized political party so long as all members of either house of the General Assembly affiliated with the recognized political party are invited to the official event.

In reporting a gift, you must report the source, the date it was received, a reasonable estimate of its fair market value, and a brief description. In that regard, the Ethics Commission has issued opinions concerning the "fair market value" of such items as transportation on a private aircraft. A group of items received from the same source at the same time would be considered one gift and the separate values should be added together. As an example, if you receive a tie and tie clip (valued \$50.00) along with a pair of golf shoes (valued at \$75) from one donor, this should be reported and described in Section 9, as the receipt of a gift, "tie, tie clip and shoes." The value would be \$125.00. Similarly, food and beverages provided you in connection with lodging should be aggregated to ascertain if the threshold reporting level has been reached. If you are unsure if the value should be

aggregated for purposes of reporting, you may wish to contact the Arkansas Ethics Commission for an opinion.

In accordance with Ark. Code Ann. § 21-8-804, certain designated officials are authorized to accept gifts, grants, and donations of money or property on behalf of the State of Arkansas, the Arkansas Senate, the Arkansas House of Representatives, and the Arkansas Supreme Court. In addition, the designated officials are authorized to accept donations of money for the purpose of hosting official swearing-in and inaugural events of the constitutional officers, Senate, House of Representatives, and Supreme Court justices, the official recognition event for the President Pro Tempore, and the official recognition event for the Speaker of the House. The public official accepting the gift, grant, or donation of money or property on behalf of an appropriate entity is not required to disclose same on his or her Statement of Financial Interest. Instead, public servants are required to report such gifts, grants, or donations of money or property to the Ethics Commission on a quarterly basis on a separate disclosure form prepared for such purposes.

Section 10 (Awards)

If you are an employee of a public school district, the Arkansas School for the Blind, the Arkansas School for the Deaf, the Arkansas School for Mathematics, Sciences, and the Arts, a university, a college, a technical college, a technical institute, a comprehensive life-long learning center, or a community college, the law requires you to disclose each monetary or other award over one hundred dollars (\$100) which you have received in recognition of your contributions to education. The information disclosed with respect to each such award should include the source, date, description, and a reasonable estimate of the fair market value.

Section 11 (Nongovernmental Sources of Payment)

Payments for food, lodging, or travel are not considered a gift in situations where a public servant is appearing in his or her official capacity and the appearance bears a relationship to the public servant's office or position. However, Section 11 requires that each nongovernmental source of payment of expenses for such food, lodging, or travel be listed when the expenses paid by that source exceed \$150.00. [Note: The reporting of money or things of value received when you are not appearing in an official capacity or the appearance does not bear a relationship to your office or position is addressed in Section 3 ("Sources of Income") or Section 9 ("Gifts).] In this regard, you must list the name and business address of the person or organization which has paid your expenses, the date, nature, and amount of the expenses unless such person or organization was compensated by the governmental body for which the public servant serves. Thus, you must disclose in this section, lodging or travel received in connection with such activities as speaking engagements, conferences, or fact finding events related to your official duties.

Section 11 requires the disclosure of each nongovernmental source of payment when the expenses paid in connection with a particular appearance exceed \$150.00. Thus, if one source provides lodging and food and the total amount paid exceeds \$150.00, that source must be reported in this section.

The **organization** is the source of payment. It should be the name of the sponsor actually paying or providing the expenses. The **date of expenses** should be the inclusive dates of all travel provided. If the travel all occurred on one day, report that day. Otherwise, list the starting and ending dates of each trip provided (i.e., “May 1 - 5, 1997”).

It is permissible to extend the duration of a trip at your own expense, accepting return travel from the sponsor. However, to avoid suggesting that travel was accepted for a longer period of time than was actually the case, you should indicate any time not spent at the sponsor’s expense on either the line requesting the “date” or “nature” of expenses. For example, using the dates listed above, you could report “May 1 - 5, 1997. May 3 - 4 on personal business, expenses paid by me.”

Section 12 (Direct Regulation of Business)

The law requires you to list any business by whom you are employed if the business is under direct regulation or subject to direct control by the governmental body which you serve. You must report the employment by listing the name of this business/employer and provide the governmental body which regulates or controls aspects of the business. Such a business relationship typically exists if your private employer is subject to any rules or regulations of a governmental body or if a governmental body adjudicates contested cases of fact involving your private employer. For example, if you work as a licensed dentist, the appropriate regulatory governing body may be the State Board of Dental Examiners.

Whether your business is under direct regulation or subject to direct control by a governing body is often a question of fact. If you are unsure, you should contact the Arkansas Ethics Commission or, if you know, the agency you suspect may regulate part or all of your activities.

Section 13 (Sales to Governmental Body)

The law requires you to report certain business relationships with the government if a significant sale of goods or services occurs. Specifically, you must set out in detail the goods or services sold having a total annual value in excess of \$1,000.00 sold to the governmental body for which you serve or are employed and the compensation paid for each category of goods or services by you or any business in which you or your spouse is an officer, director, stockholder owning more than ten percent (10%) of the stock, owner, trustee, or partner.

Section 14 (Signature)

Under the law, each person, required to file a Statement of Financial Interest must prepare the statement under penalty of false swearing and sign such form attesting to the truth and accuracy of the information set forth on the form. Ark. Code Ann. § 21-8-702. If a person who is required to file a Statement of Financial Interest is called to active duty in the armed forces of the United States, the statement may be completed by the spouse of the person. If the Statement of Financial Interest is completed by the spouse, under this exception, the spouse’s signature shall be sufficient for the requirement of Ark. Code Ann. § 21-8-702.