

Article 4

**ALASKA PUBLIC OFFICES COMMISSION PROCEDURES**

2 AAC 50.801. Reports; public records

2 AAC 50.806. Inspection and preservation of records

2 AAC 50.811. Filing and service of documents; computation of time

2 AAC 50.816. Electronic filing

2 AAC 50.821. Request for exemption or waiver

2 AAC 50.826. Commission decision on staff recommendation

2 AAC 50.831. Administrative appeal of staff decision

2 AAC 50.835. Disqualification of commission member

2 AAC 50.840. Advisory opinion

2 AAC 50.845. Late or incomplete reports

2 AAC 50.850. Notice of deficiency; remedies

2 AAC 50.855. Penalty assessment procedure

2 AAC 50.860. Procedure for disputing penalty

2 AAC 50.865. Mitigating factors; aggravating factors

2 AAC 50.870. Complaints

2 AAC 50.875. Investigation

2 AAC 50.880. Answer to complaint

2 AAC 50.885. Consent agreement

2 AAC 50.888. Expedited consideration; hearing on expedited consideration

2 AAC 50.891. Hearing; record; decision

2 AAC 50.895. Referral to attorney general

2 AAC 50.899. Definitions

2 AAC 50.990. Definitions

## **2 AAC 50.801. Reports; public records**

(a) A report, record, or other information in the commission's possession may be inspected at the commission's office during regular business hours unless the commission has determined that the report, record, or other information is confidential. The commission will provide a copy of any report, record, or other information in the commission's possession, at cost as provided in AS 40.25.110 - 40.25.120.

(b) A person may request a determination that information in the commission's possession, including discovery the staff obtains in an investigation, is protected by a state or federal statute, privilege, or constitutional right, and must be kept confidential. If the commission determines, on request or on its own motion, that information in the commission's possession is protected by a state or federal statute, privilege, or constitutional right, the commission will keep the information confidential.

(c) While a staff investigation under 2 AAC 50.875 is in progress, the commission's files relating to that investigation are confidential. After the investigation is concluded and the final commission order is issued, any person may view or copy an investigation file, except for documents the commission has determined to keep confidential under (b) of this section.

**History: Eff. 12/22/2011, Register 200**

**Authority:** AS 15.13.020; AS 15.13.030; AS 15.13.110; AS 15.13.111; AS 24.45.021; AS 24.45.031; AS 24.45.091; AS 24.45.101; AS 24.60.131; AS 24.60.220; AS 24.60.230; AS 39.50.050; AS 40.25.110; AS 40.25.120

## **2 AAC 50.806. Inspection and preservation of records**

(a) In an investigation initiated by the staff, or in response to a complaint, the staff may inspect records that a person is required to keep and preserve under AS 15.13, AS 24.45, AS 24.60.200 - 24.60.260, and AS 39.50, and other relevant documents and information.

(b) The staff shall request access to inspect records, documents, or other information by mailing or delivering a letter identifying the requested records, documents, or other information with reasonable specificity. The person requested to provide access shall make the requested records, documents, or other information available to the staff at a reasonably convenient time and place no later than 10 days after the letter requesting access is mailed or delivered, unless the staff agrees to extend the time for making the records available. If the person requested to provide the records is subject to AS 15.13 or AS 24.45, and if the person does not comply or provides an incomplete response, the commission may issue a subpoena requiring production of the records.

(c) A person served with a subpoena may file a written objection to producing any record, document, or other requested information, and may request a hearing before the commission on the objection. If the commission denies the objection, and the person fails or refuses to make the records available for staff inspection, the commission may seek judicial enforcement of the subpoena as provided in AS 15.13.045(d).

(d) A person authorized under AS 15.13.111 (c) to submit records to the commission for preservation must submit the records with the form that the commission prescribes for that purpose, and in the electronic format that the commission requires. The commission may reject any records submitted in a format that is not compatible with the commission's electronic records system.

**History:** Eff. 12/22/2011, Register 200

**Authority:** AS 15.13.030; AS 15.13.045; AS 15.13.111; AS 24.45.031; AS 24.45.111; AS 24.45.131; AS 24.60.220; AS 24.60.230; AS 39.50.050

## **2 AAC 50.811. Filing and service of documents; computation of time**

(a) A document required to be filed with the commission must be electronically filed as provided in 2 AAC 50.816, or mailed or delivered to the commission. A mailed report must be postmarked no later than the due date for that document. A document delivered by hand, by electronic submission, or by facsimile transmission must be received at the commission's office no later than the due date for that document. A filing by a complainant, respondent, or other party to a commission proceeding must be accompanied by a certificate of service showing the date and method of mailing or delivery and each person to whom the document is sent.

(b) The commission will give an initial notice of hearing to any respondent by certified mail, return receipt requested, or other method of personal service. Unless the commission knows that personal service is necessary to give actual notice of a hearing date, the commission will mail or deliver any other document required under this chapter, including any notice, order, or decision, to a person's address on file with the commission. A person subject to reporting requirements under this chapter shall keep an accurate address on file with the commission, and shall promptly give the commission notice of a change of address.

(c) The commission will prepare a certificate of service for any order, notice, investigation report, or staff decision, including a penalty assessment; in the certificate, the commission will show the date and method of personal service, mailing, or delivery, and each person to whom the document is sent.

(d) The time allowed for an act required or permitted under this chapter is computed by excluding the day on which the designated period begins, and including the day on which the performance is due. Except for a disclosure that must be submitted within 24 hours under AS 15.13.110 or 15.13.040, if the day on which the performance is due is a Saturday, Sunday, or state holiday, the due date is the next business day. When a notice or other document requiring or permitting action under this chapter is served on a respondent or other person by mail, three days are added to the time allowed for the act.

**History:** Eff. 12/22/2011, Register 200; am 9/25/2022, Register 243

**Authority:** AS 15.13.030; AS 15.13.040; AS 15.13.045; AS 24.45.021; AS 24.45.041; AS 24.60.210; AS 24.60.220; AS 39.50.050

## **2 AAC 50.816. Electronic filing**

(a) Except as provided in AS 15.13.040 (m) and (b) of this section, a statement and report required to be submitted to the commission must be filed electronically on a form the commission prescribes for the purpose, unless the commission by order suspends the electronic filing requirement and requires a different method of filing. Nothing in this section relieves a person from compliance with submission or format requirements for a statement or report required to be filed with the director of elections, a municipal clerk, or any other designated official.

(b) A representational lobbyist as described in 2 AAC 50.550(d) and the employer of a representational lobbyist are not required to register or file reports electronically under this section, but may file electronically at the option of the representational lobbyist or the employer of the representational lobbyist.

(c) Except for a person required to file electronically under AS 24.45, a person may seek an exemption from the electronic filing requirement by filing a request in compliance with the exemption procedure set out in 2 AAC 50.821. In addition to meeting the requirements of 2 AAC 50.821(a), a person requesting an exemption from the electronic filing requirement must

(1) attach the statement or form that the person seeks to file by means other than electronic filing to the exemption request; and

(2) submit both the exemption request and the statement or report to which it applies by mail, facsimile transmission, or hand delivery no later than the date on which the statement or report is due.

(d) A filing submitted to the commission by electronic mail is delivered when the sender's electronic mail account confirms the electronic mail was sent to the commission. A report or registration required under AS 24.45 is delivered when

(1) electronically signed;

(2) verified by the electronic signature verification system designated by the commissioner of administration and established in 2 AAC 05.200 - 2 AAC 05.295; and

(3) recorded as submitted in the online account of the person required to register or report.

(e) In this section "electronic signature" has the meaning given in AS 09.80.190 .

(f) A report submitted in accordance with AS 15.13.040 (p) must comply with provisions of AS 15.13.040 (a)(2).

**History: Eff. 12/22/2011, Register 200; am 1/16/2015, Register 213**

**Authority:** AS 15.13.030; AS 15.13.040; AS 15.13.074; AS 24.45.021; AS 24.45.041; AS 24.45.051; AS 24.45.061; AS 24.45.116; AS 24.60.210; AS 24.60.220; AS 39.50.050

## **2 AAC 50.821. Request for exemption or waiver**

(a) To request an exemption allowed under AS 15.13, AS 24.45, AS 24.60.200 - 24.60.260, or AS 39.50, or a waiver of any requirement of this chapter, a person shall file a written request for exemption or waiver. A written request for exemption or waiver must be submitted on or before the due date of any report or filing to which it relates, and must provide the following information:

- (1) the name of the person requesting the exemption or waiver;
- (2) the person's mailing address;
- (3) the electronic mail address or telephone number at which the person may readily be contacted;
- (4) the matter for which the person seeks an exemption or waiver;
- (5) if the exemption or waiver request relates to information for which this chapter provides an exemption, the applicable provision of this chapter;
- (6) a statement whether the requested exemption or waiver is for a single report or filing, or for additional future reports requiring similar information;
- (7) the reasons for the exemption request;
- (8) any other information essential to the particular exemption or waiver request; and
- (9) a certification by the person requesting the exemption or waiver that all facts stated in the request are true.

(b) No later than 30 days after the commission receives a written exemption request that complies with (a) of this section, the staff shall send to the person requesting the exemption or waiver, at the address listed in the request, either a staff recommendation that the commission grant or deny the request, or a decision granting or denying the request. The staff shall issue a recommendation, and the matter will be presented to the commission for decision as provided in 2 AAC 50.826 if the staff determines

- (1) that the exemption request presents a factual or legal issue on which the commission has not previously made a decision in a substantially similar request for an exemption or waiver;
- (2) that the exemption request requires a policy decision by the commission; or
- (3) for other good reason.

(c) If the staff issues a decision granting the request, the decision must specifically describe the scope and duration of the exemption or waiver. If the staff issues a decision denying the request, the decision must state the reasons and notify the person requesting the exemption or waiver of the right to appeal the staff decision to the commission as provided in 2 AAC 50.831. If the

person that requested the exemption or waiver does not file an administrative appeal to the commission within 30 days after the date the staff decision is mailed or delivered to the person,

- (1) the decision is final, and may not be appealed to the commission at a later date; and
- (2) the person shall comply with any requirement of this chapter for which the exemption or waiver request was denied.

(d) A person that has requested an exemption under this section is not required to comply with the requirement from which the exemption request seeks relief if

- (1) the staff issued a recommendation subject to commission review and the commission has not issued a final written order on that recommendation; or
- (2) the commission has not issued a decision after a person appealed a staff decision in compliance with (c) of this section and 2 AAC 50.831.

**History:** Eff. 12/22/2011, Register 200; am 1/16/2015, Register 213

**Authority:** AS 15.13.030; AS 24.45.021; AS 24.60.220; AS 39.50.035; AS 39.50.050

## **2 AAC 50.826. Commission decision on staff recommendation**

(a) The procedure in this section applies when AS 15.13.374 or any provision of this chapter authorizes the staff to prepare a draft advisory opinion or other recommended decision for the commission's review. A staff recommendation must be in writing, set out applicable facts and law, and explain the reasons for the recommendation.

(b) After preparing a recommendation, the staff shall

- (1) submit the recommendation to the commission for decision; and
- (2) send a copy of the recommendation to the person that requested the opinion or exemption, or that is the subject of the matter at issue, along with notice that the recommendation has been submitted to the commission for review as provided in (c) of this section.

(c) When the commission receives a staff recommendation prepared in compliance with this section, the commission will

(1) review the recommendation at the next regularly scheduled meeting of the commission unless, in its discretion, the commission schedules the matter at a different meeting; the commission will give the affected person notice of the date, time, and place the commission will consider the matter, and of the right to present an argument;

(2) accept, reject, or modify the staff recommendation; and

(3) send written notice of the commission's final decision and an order describing specifically any required action to the person that requested the opinion or exemption or is the subject of the matter at issue, at the person's address on file with the commission; in the notice the commission will state that the decision is a final commission decision and may be appealed to the superior court under AS 44.62.560.

**History:** Eff. 12/22/2011, Register 200

**Authority:** AS 15.13.030; AS 24.45.021; AS 24.60.220; AS 39.50.050

## **2 AAC 50.831. Administrative appeal of staff decision**

(a) A person that receives an adverse staff decision, including a penalty assessment under AAC 50.855, may appeal the staff decision to the commission as provided in this section. Unless otherwise provided, a person must appeal from an adverse staff decision by filing a notice of appeal and a written statement explaining the reasons the appellant believes the staff decision should be rejected. The notice of appeal and statement of reasons must be mailed or delivered to the commission no later than 30 days after the date the staff decision was mailed or delivered to the person. The commission will not consider an appeal that is not timely filed.

(b) The commission will consider a notice of appeal and statement of reasons at the next regularly scheduled commission meeting unless, in its discretion, the commission schedules the appeal for a special meeting. The commission will give the appellant advance notice of the date, time, and place the commission will consider the appeal. The appellant may appear in person or telephonically, and may be represented by an agent or an attorney licensed to practice in this state. The commission will determine the order of presentations on the appeal.

(c) After considering the statement of reasons and other relevant evidence, the commission will affirm, reject, or modify the staff decision. No later than 10 days after the date the commission enters its order, the staff shall send written notice of the commission's decision to the appellant at the appellant's address on file with the commission. An adverse decision of the commission may be appealed to the superior court as provided in AS 44.62.560 and Rules 601 - 612 of the Alaska Rules of Appellate Procedure.

**History:** Eff. 12/22/2011, Register 200

**Authority:** AS 15.13.030; AS 24.45.021; AS 24.60.220; AS 39.50.050

## **2 AAC 50.835. Disqualification of commission member**

(a) A commission member who has a conflict of interest or a relationship that creates an appearance of impropriety, or who is otherwise unable to participate in a decision in an unbiased manner so as to reach a fair and impartial decision on a matter before the commission may not participate in a decision on a staff recommendation, an administrative appeal of a staff decision, or a hearing on that matter. A commission member has a conflict of interest in a matter before the commission if

(1) the commission member has a substantial financial relationship with a complainant or respondent in the matter; or

(2) a family member, employer, business associate, or business of a commission member has a substantial financial relationship with a complainant, a respondent, or a family member, business associate, or business of a complainant or a respondent.

(b) A commission member with a conflict of interest or a relationship that creates an appearance of impropriety, or who is otherwise unable to participate in a decision in an unbiased manner, shall state on the record the nature of the conflict or the relationship. Whether the member may participate in the hearing will be determined in accordance with AS 39.52.220, including consideration of the following factors:

- (1) the significance of the member's financial relationship or interest;
- (2) whether the interest held by the member, the member's family member, or the member's business associate or business is similar to that held by a large class of persons; and
- (3) whether a reasonable person would believe a person with the relationship or interest of the commission member to be capable of fair and impartial judgment.

**History:** Eff. 12/22/2011, Register 200

**Authority:** AS 15.13.030; AS 24.45.021; AS 24.60.220; AS 39.50.050

**2 AAC 50.840. Advisory opinion**

- (a) The commission staff shall review any request for an advisory opinion submitted under AS 15.13.374 . If the staff determines that a request for an advisory opinion does not satisfy the requirements of AS 15.13.374(b), the staff shall reject the request and notify the person making the request of any deficiency. A rejected request may be corrected and refiled.
- (b) If the staff determines that a request for an advisory opinion satisfies the requirements of AS 15.13.374(b), the executive director or the executive director's designee shall prepare a recommended advisory opinion for the commission's consideration as provided in AS 15.13.374(c). The commission will consider the recommended opinion as provided in 2 AAC 50.826.
- (c) A commission member who voted with the majority approving an advisory opinion may, no later than 15 days after the vote, move for reconsideration of the opinion based on a showing of substantial procedural error, fraud, misrepresentation, material mistake of fact or law, or new evidence relevant to the advisory opinion. If at least four members vote to reconsider an advisory opinion, the opinion is vacated.
- (d) A person that requested an advisory opinion may act in reliance on the advisory opinion unless that person receives notice that the commission has reconsidered the advisory opinion. A person's good faith reliance on an advisory opinion is a complete defense to any enforcement action based on the conduct that is the subject of the advisory opinion.
- (e) Nothing in this section precludes the commission from revising a previous advisory opinion for good cause.

**History:** Eff. 12/22/2011, Register 200

**Authority:** AS 15.13.030; AS 15.13.374; AS 24.45.021; AS 24.60.220; AS 39.50.050



## **2 AAC 50.845. Late or incomplete reports**

(a) A statement, report, or registration required under AS 15.13, AS 24.45, AS 24.60.200 - 24.60.260, AS 39.50, this chapter, or a commission order requiring the statement, report, or registration is late if not filed electronically or by another method the commission requires on or before the due date prescribed in the statute, regulation, or commission order requiring the statement, report, or registration. A statement, report, or registration that is not required to be filed electronically must be mailed or delivered to the commission's office on or before the date prescribed in the statute, regulation, or commission order requiring the statement, report, or registration. The statement of a municipal officer is late if the municipal clerk or the clerk's designee does not receive the statement on or before the due date for that statement.

(b) A statement, report, or registration required under AS 15.13, AS 24.45, AS 24.60.200 - 24.60.260, AS 39.50, this chapter, or a commission order is incomplete if any material item of information required by the prescribed form is not provided. However, a report is not incomplete and a penalty will not be assessed if the occupation or employer information required in AS 15.13.040 is not provided for a contribution and the treasurer or candidate returns the contribution no later than 10 days after receipt from the contributor. If the staff discovers an obvious deficiency on the face of a statement, the staff shall notify the filer of the deficiency.

**History:** Eff. 12/22/2011, Register 200

**Authority:** AS 15.13.030; AS 15.13.380; AS 15.13.390; AS 24.45.131; AS 24.45.141; AS 24.60.200; AS 24.60.210; AS 24.60.220; AS 24.60.240; AS 39.50.020; AS 39.50.050

## **2 AAC 50.850. Notice of deficiency; remedies**

(a) **Nonreceipt.** A person's failure to receive a notice of deficiency does not excuse that person's failure to mail or deliver each required filing on or before the due date for that filing.

(b) **Notice of deficiency.** Except as provided in (f) and (g) of this section, if a person required to file a registration, disclosure statement, or other report under AS 15.13, AS 24.45, AS 24.60.200 - 24.60.260, or AS 39.50 fails to file the registration, statement, or report within 10 days after the due date for that filing, the staff shall send the person responsible for the filing a written notice stating

(1) that the person's registration, statement, or report has not been filed;

(2) the date on which the registration, statement, or report was due;

(3) the amount of the civil penalty that may be assessed as of the date of the notice, and the amount by which the penalty may increase each day until the registration, statement, or report is filed.

(c) **Second notice.** In addition to the notice of deficiency described in (b) of this section, the staff shall send each public official, candidate, or legislative branch filer a second notice of deficiency in compliance with the applicable provisions of (d) - (h) of this section.

(d) **Public officials.** Except as provided in (e) of this section for a judicial officer or in (f) of this section for a municipal officer, the staff shall send a second written notice to a public official who fails to file a complete initial, annual, or final disclosure statement 25 days after the applicable due date. The second notice must contain the information set out in (b)(1) - (3) of this section and must state that

(1) failure or refusal to file the statement is punishable as a misdemeanor under AS 39.50.060;

(2) if the statement is not received 30 days after the due date, the staff will notify the commission that the public official's statement is overdue by 30 days, and will take other action under the direction of the commission, including

(A) requesting the governor to remove the public official from office under AS 39.50.060 - 39.50.080, unless the official is the governor or lieutenant governor;

(B) requesting the state agency that administers the salary, per diem, and travel expenses of the public official to withhold those payments under AS 39.50.070 , 39.50.080, or 39.50.130;

(C) requesting the attorney general to initiate misdemeanor proceedings under AS 39.50.060 - 39.50.080 or 39.50.130; and

(D) taking other action as appropriate to carry out AS 39.50.060 - 39.50.080 or 39.50.130.

(e) **Judicial officers.** If a judicial officer, except for a person who holds judicial office for less than 30 days, fails to file a complete initial, annual, or final disclosure statement 25 days after the applicable due date, the staff shall send a second written notice containing the information set out in (b)(1) - (3) of this section. The second written notice must also state that

(1) failure or refusal to file the statement is punishable as a misdemeanor under AS 39.50.110;

(2) if the statement is not received 30 days after the due date, the staff will notify the commission that the judicial officer's statement is overdue by 30 days, and will take other action under the direction of the commission, including

(A) requesting the administrator of the court system to withhold salary, per diem, and travel expense payments to the judicial officer under AS 39.50.110;

(B) requesting the Commission on Judicial Conduct to refer the matter to the supreme court with a recommendation that the judicial officer be removed from office under AS 39.50.110;

(C) requesting the attorney general to initiate misdemeanor proceedings under AS 39.50.060 or 39.50.110; and

(D) taking other action as appropriate to carry out AS 39.50.060 or 39.50.110.

(f) **Municipal officers.** A municipal officer's annual disclosure statement is delinquent if not filed with the applicable municipal clerk or the clerk's designee on or before March 15 of each year. No later than five days after March 15 of each year, the municipal clerk or the clerk's designee shall verify that each municipal officer has filed the statement. The municipal clerk or

the clerk's designee shall notify any municipal officer whose statement is delinquent or incomplete of the filing requirement. The municipal clerk or the clerk's designee shall also notify the commission, by telephone, facsimile, or electronic mail, of the name and address of any municipal officer whose statement is delinquent or incomplete. The municipal clerk or the clerk's designee shall promptly notify the commission of the date that any delinquent or corrected statement is received.

**(g) Delinquent or incomplete statements from municipal officers; commission action.** When the commission is notified that a municipal officer's statement is delinquent or incomplete, the staff shall send written notice containing the information set out in (b)(1) - (3) of this section to that municipal officer. If a municipal officer's statement is overdue by 30 days, the commission may

(1) request the attorney general to initiate misdemeanor proceedings; and

(2) take other action as appropriate to carry out AS 39.50.060.

**(h) Candidates for state or municipal office.** In addition to the applicable procedures in (a) - (c) of this section, seven days before the primary election withdrawal date set in AS 15.25.055, the general election withdrawal date set in AS 15.25.200, and the withdrawal date for a municipal election, the staff shall prepare a list of each candidate for state or municipal elective office who has not filed a complete disclosure statement required under AS 39.50.020 and 39.50.030. The staff shall notify each candidate on the list of the date, time, and place of a meeting at which the commission will consider the list. If the commission determines that a listed candidate has failed to supply required information on a significant source of income, interest in real property, business interest, loan, or trust, the commission will recommend

(1) that the lieutenant governor remove the name of the listed candidate for state elective office from the ballot, or if the candidate's name cannot be removed from the ballot, that the lieutenant governor not certify the candidate's nomination for office or election to office; or

(2) that the appropriate municipal clerk or the clerk's designee refuse a listed municipal elective office candidate's filing for office and filing fees, or return the filing and fees, and remove the candidate's name from the filing records.

**(i) Staff investigations.** If information discovered after the deadline for withdrawal of candidacy indicates that a candidate for state or municipal elective office has failed to comply substantially with the requirements of AS 39.50 or 2 AAC 50.680 - 2 AAC 50.799, the staff shall investigate the matter as set out in 2 AAC 50.875.

**History: Eff. 12/22/2011, Register 200**

**Authority:** AS 15.13.030; AS 15.13.380; AS 15.13.390; AS 24.45.131; AS 24.45.141; AS 24.60.200; AS 24.60.210; AS 24.60.220; AS 24.60.240; AS 24.60.250; AS 24.60.260; AS 39.50.020; AS 39.50.050; AS 39.50.060; AS 39.50.070; AS 39.50.080; AS 39.50.110; AS 39.50.130; AS 39.50.135

## **2 AAC 50.855. Penalty assessment procedure**

(a) If, no later than 30 days after the due date, a person responsible for filing a registration, statement, or report required under AS 15.13, AS 24.45, AS 24.60.200 - 24.60.260, or AS 39.50 that is late or incomplete corrects the deficiency, the commission staff shall assess a penalty. The amount of the penalty must be determined by multiplying the applicable daily maximum penalty set out in AS 15.13.390, AS 24.45.141, AS 24.60.240, or AS 39.50.135 by the number of days the registration, statement, or report was late or incomplete. The number of late or incomplete days includes each day following the due date of the registration, statement, or report through the day a registration, statement, or report that substantially complies with the filing requirement is mailed or delivered to the commission.

(b) Notwithstanding (a) of this section,

(1) for late filing of a statement or report required under AS 24.60.200 - 24.60.260 or AS 39.50, the staff shall document the violation and

(A) shall waive the assessed penalty if

(i) the late filing is an initial report due from a first-time filer who is also a first-time member of a board or commission who was not notified of the required filing by the staff of that board or commission; or

(ii) the late filing is from a member of the national guard or military reserves called to active duty during the period from 60 days before the due date to 60 days after the due date;

(B) shall reduce the assessed penalty to 25 percent of the maximum penalty under AS 24.60.240 or AS 39.50.135 if the person is a first-time filer and the late filing is a candidate disclosure statement;

(C) shall reduce the assessed penalty to 50 percent of the maximum penalty if

(i) the person is not a first-time filer; or

(ii) the late filing is a final statement due after leaving office; and

(D) shall reduce the assessed penalty to 75 percent of the maximum penalty for all other late filings under this paragraph;

(2) for late filing of or an error in a registration, statement, or report required under AS 15.13, the staff shall document the violation and

(A) may not assess a penalty if

(i) the person is a first-time filer;

(ii) there were multiple or multi-day technical issues with the electronic filing system, or a day-long technical issue on the filing due date, that prevented the person from timely filing;

(iii) the late filing is from a member of the national guard or military reserves called to active duty during the period from 60 days before the due date to 60 days after the due date;

(iv) except for a disclosure that must be submitted within 24 hours under [AS 15.13.110](#) or 15.13.040, for a statement of contributions, the reporting error was the person's first error, and the contribution was reported by the recipient of the contribution not later than 30 days after the due date for the statement of contributions; or

(v) for an independent expenditure report, the reporting error was the person's first error, and the filing is not a report required to be filed within 24 hours;

(B) shall reduce the penalty to 25 percent of the maximum penalty if

(i) the election cycle is the person's first election cycle and the report is the person's first late-filed report; or

(ii) the person self-reports the missing information to the staff and discloses the information to the public within seven days after the date of self-reporting; the penalty stops accruing on the date the person self-reported the error by notifying the staff of the error; filing the late or missing information without notifying the staff of the error does not constitute self-reporting; and

(C) shall reduce the penalty to 50 percent of the maximum penalty if

(i) the election cycle is the person's first election cycle; or

(ii) the amount missing or erroneously reported on a filing is under \$100;

(3) for incomplete filings of all types, the staff shall document the violation and

(A) may not assess a penalty if the missing or incomplete information was readily available to the public through another forum;

(B) shall reduce the penalty to 50 percent of the maximum penalty if the missing or incomplete information was not readily available to the public through another forum, but the incomplete report is the first alleged violation against the person; and

(C) shall assess the maximum penalty for all other incomplete reports not addressed under (1) or (2) of this subsection;

(4) the staff may not assess a penalty if the amount of the reporting error or the amount of a transaction missing in a report is less than \$100 and is promptly corrected

(A) without receiving a notice from the staff; or

(B) within the time allowed by any notice of deficiency from the staff; or

(5) for reports required under AS 15.13.110(a)(2) or (b), the staff shall assess a penalty of not more than \$500 per day for each day a deficiency exists before the relevant election and reduce the penalty to \$50 per day for each day a deficiency remains uncorrected after the relevant

election, if the staff has received no evidence of an aggravating factor under 2 AAC 50.865(d); the amount of a penalty assessed under this paragraph is limited to not more than five times the amount of the expenditure or contribution erroneously reported or unreported

(c) When the staff assesses a penalty in compliance with (a) of this section, the staff shall, no later than 14 working days after receiving the materials that correct the deficiency, mail or deliver a written penalty assessment to the person responsible for filing the registration, statement, or report. The written penalty assessment must show the calculation of the penalty, and must state that the person responsible may appeal the penalty assessment as provided in 2 AAC 50.831 and 2 AAC 50.860.

(d) If the commission does not receive a required registration, statement, or report, or material information needed to complete a registration, statement, or report, or receives it later than 30 days after the due date, the staff shall assess a penalty as set out in this section. The written penalty assessment must also inform the person responsible for the registration, statement, or report that the amount of the penalty will continue to increase each day until the registration, statement, or report, and all material information required in the registration, statement, or report, is mailed or delivered to the commission. The staff shall also inform the person responsible for the registration, statement, or report that the staff will initiate action to enforce the remedies described in the applicable provisions of 2 AAC 50.850.

**History:** Eff. 12/22/2011, Register 200; am 1/16/2015, Register 213; am 12/21/2016, Register 220; am 9/25/2022, Register 243

**Authority:** AS 15.13.030; AS 15.13.390; AS 24.45.021; AS 24.45.141; AS 24.60.220; AS 24.60.240; AS 24.60.260; AS 39.50.050; AS 39.50.060; AS 39.50.070; AS 39.50.080; AS 39.50.135

### **2 AAC 50.860. Procedure for disputing penalty**

(a) A person who receives a penalty assessment under 2 AAC 50.855 may appeal the assessment to the commission by submitting a written statement

(1) explaining any reason the person disputes any fact relevant to the assessment;

(2) including an affidavit that states facts to support any mitigating factor listed in 2 AAC 50.865 that is applicable to that person; and

(3) showing that any aggravating factor listed in 2 AAC 50.865(d) does not apply to that person.

(b) The staff shall review any facts disputed in an appeal, including facts relevant to mitigating and aggravating factors. For any appeal of a penalty less than \$250, if the staff has no evidence of an aggravating factor, the staff may determine that facts shown in mitigation under 2 AAC 50.865(b)(1) - (4) justify reducing the penalty by 50 percent, and may calculate the reduced penalty. If the person who appealed the penalty assessment agrees to the revised penalty assessment and pays the amount due no later than 30 days after receiving the revised penalty assessment, the appeal will be considered withdrawn, and the matter resolved. If, after applying the mitigating factors in 2 AAC 50.865(a) or (b), the staff reduces the assessed penalty to \$100 or less and the person who appealed pays the revised penalty no later than 30 days after receiving the revised penalty assessment, the appeal will be considered withdrawn, and the matter resolved. If the person who appealed does not agree to the revised penalty, the staff shall provide a written recommendation to the commission and serve a copy on the person who appealed.

(c) The commission will hear a penalty assessment appeal in compliance with the procedure for administrative appeals set out in 2 AAC 50.831. After considering the statement of reasons, the affidavit, and other relevant evidence, the commission may

(1) affirm the civil penalty if the commission determines that the penalty is computed in compliance with 2 AAC 50.855 and justified either because

(A) no mitigating factors have been shown; or

(B) aggravating factors under 2 AAC 50.865(d) require imposition of the maximum penalties allowed under the relevant statutes;

(2) reduce or waive the civil penalty if the commission finds that mitigating factors justify a reduction in the amount of the assessed penalty; or

(3) reject the penalty assessment, or remand to the staff if the commission finds the penalty assessment is based on incomplete or inaccurate facts or application of the law.

(d) If the commission determines to impose part or all of a civil penalty assessed under 2 AAC 50.855, the penalty is due no later than 30 days after the date the notice of the commission's decision is mailed or delivered.

(e) A decision of the commission to impose any civil penalty may be appealed to the superior court as provided in AS 44.62.560 and Rules 601 - 612 of the Alaska Rules of Appellate Procedure. The commission will stay an obligation to pay the penalty as provided in (d) of this section when the commission decision is appealed to the superior court, but the stay terminates if the superior court affirms the commission's decision or if the appeal is withdrawn. A penalty imposed by the commission must be paid within 30 days after the superior court affirms the commission's decision or if the appeal is withdrawn.

**History:** Eff. 12/22/2011, Register 200; am 1/16/2016, Register 213; am 12/21/2016, Register 220

**Authority:** AS 15.13.030; AS 24.45.021; AS 24.60.220; AS 39.50.050

**2 AAC 50.865. Mitigating factors; aggravating factors**

(a) A civil penalty determined under 2 AAC 50.855 may be reduced by up to 50 percent if

(1) a person required to file a statement or other filing

(A) has a good filing history; in this subparagraph, "good filing history" means

(i) no late filings in the immediately preceding five years; and

(ii) for groups, no more than \$500 in non-administrative activity shown on the group's overdue report; or

(B) is an inexperienced filer; in this subparagraph, "inexperienced filer" means a person required to file reports under this chapter if that person has been subject to a registration or reporting requirement for less than 365 days, or a person engaged in the person's first election cycle;

(2) a technical error at the commission, including a communication, facsimile machine, computer program, electronic filing system, or other equipment problem may have contributed to the late or incomplete filing;

(3) any unreported or mistakenly reported information had a value of \$100 or less; or

(4) any unreported or mistakenly reported information had a value higher than \$100 but no more than \$1,000, and a factor listed in (b) of this section also applies.

(b) A civil penalty determined under 2 AAC 50.855 may be reduced by a percentage greater than 50 percent, or waived entirely based on the following factors:

(1) the person required to file, or a family member of the person required to file, experienced a personal emergency, including a call for military service, a natural disaster, a civil disturbance, or an incapacitating illness that prevented the person from filing on or before the due date; this mitigating factor is only available to a natural person;

(2) a significant cause of the late filing is commission staff error, including

(A) furnishing reporting materials too late for filing on or before the due date;

(B) giving incorrect oral or written information to a person required to submit a statement or other filing; or

(C) failing to deliver required notices when due;

(3) a late or erroneous report included only administrative costs;

(4) a late or incomplete report did not cause significant harm to the public, and aggravating factors under (d) of this section do not exist; for purposes of this paragraph, a late or incomplete report did not cause significant harm to the public if

(A) the dollar amount missing from a form or disclosure is \$100 or less;

(B) the dollar amount for the information missing from a form or disclosure is more than \$100 but no more than \$1,000, and the person required to file self-reported the error; for purposes of this subparagraph, the error is self-reported if the person notified the staff of the error, but filing the late or missing information without notifying the staff does not constitute self-reporting; or

(C) except for a disclosure that must be submitted within 24 hours under [AS 15.13.110](#) or 15.13.040, the missing or incomplete information is readily available to the public through another forum;

(5) the civil penalty assessment is significantly out of proportion to the degree of harm to the public for not having the information; for purposes of this paragraph, absent the presence of aggravating factors in (d) of this section, an assessed penalty is significantly out of proportion if it exceeds the value of the transactions that were not reported or were reported late, or, in the



case of seven-day or 24-hour reports, exceeds twice the value of the transactions that were not reported or were reported late; or

(6) a unique circumstance justifies reducing or waiving the penalty.

(c) The commission will not accept any of the following as mitigating factors to reduce the amount of a penalty:

(1) relying on another person or mailroom to mail, postmark, or submit the statement on or before a due date;

(2) forgetting to file;

(3) being a volunteer;

(4) having no change in reportable information from previous filed statements;

(5) relying on the responsible person's staff to remind the person of the filing deadline or to complete or file the report;

(6) being too busy to file;

(7) absence caused by travel, unless the travel was unplanned or unavoidable, including travel for a personal emergency, or weather-related travel problems.

(d) A civil penalty determined under 2 AAC 50.855 may be increased to the maximum amount allowed under the applicable statute if a person required to file a statement or other filing has

(1) failed to substantially comply with financial disclosure requirements by omitting a significant source of income, interest in real property, business interest, loan, trust, or other substantial financial interest; in this paragraph, "substantial financial interest" means an interest with a value greater than \$1,000; or

(2) a poor reporting history; indicators of a poor reporting history include any of the following:

(A) more than one late filing in the immediately preceding five years;

(B) evidence suggesting deliberate non-reporting;

(C) failure to cooperate with the staff;

(D) a violation of any provision of AS 15.13, AS 24.45, AS 24.60.200 - 24.60.260, AS 39.50, or this chapter in the preceding five years.

**History:** Eff. 12/22/2011, Register 200; am 12/21/2016, Register 220; am 9/25/2022, Register 243

**Authority:** AS 15.13.030; AS 24.45.141; AS 39.50.050; AS 15.13.390; AS 24.60.220; AS 39.50.135; AS 24.45.021; AS 24.60.240

## **2 AAC 50.870. Complaints**

(a) A person, including a member of the commission or the staff, may file a complaint alleging a violation of AS 15.13, AS 24.45, AS 24.60.200 - 24.60 260, AS 39.50, or this chapter.

(b) A complaint under this section must be in writing, and must be signed, under oath and upon penalty of perjury, before a notary public, municipal clerk, court clerk, postmaster, or other person authorized to administer oaths. The complaint may be on a form provided by the commission or in any other form that provides the following information:

- (1) the full name, mailing address, and telephone number of the complainant;
  - (2) the name of the person alleged to be in violation;
  - (3) the statute or regulation alleged to be violated;
  - (4) a clear and concise description of facts that, if true, would violate a provision of AS 15.13, AS 24.45, AS 24.60.200 - 24.60 260, AS 39.50, or this chapter;
  - (5) the basis of the complainant's knowledge of the facts alleged, including those based on personal knowledge and those based upon other sources of information and belief;
  - (6) relevant documentation or other evidence that is available to the complainant; and
  - (7) proof that a copy of the complaint and documentation was mailed or delivered to the person alleged to be in violation.
- (c) No later than one day after receiving a complaint, the staff shall determine if the complaint
- (1) is signed and notarized under oath;
  - (2) contains the information required in (b) of this section;
  - (3) alleges facts that, if true, would be a violation of AS 15.13, AS 24.45, AS 24.60.200 - 24.60 260, AS 39.50, or this chapter; and
  - (4) alleges a violation that occurred within the last five years.

(d) If the staff determines that the complaint does not meet all the criteria of (c) of this section, the staff shall, no later than one day after receiving the complaint, reject the complaint, and notify the complainant, the person alleged to be in violation, and the commission of the rejection and the reason. A person that filed a complaint rejected by the staff may file a written request asking the commission to review the rejection. The commission will review the complaint and the reasons for the staff's rejection of the complaint at the next regularly scheduled commission meeting unless, in its discretion, the commission schedules the matter for a special meeting. The commission will

- (1) affirm the staff's rejection of the complaint; or

(2) find that the complaint meets the criteria in (c) of this section, and either set a hearing for expedited consideration or direct the staff to conduct an investigation.

(e) If the staff determines that the complaint meets all the criteria of (c) of this section, the staff shall, no later than seven days after receiving the complaint, notify the complainant, the person alleged to be in violation, and the commission. The notice must include the statement that the person alleged to be in violation may file a written answer no later than 15 days after the date of the notice. The staff shall investigate the complaint as set out in 2 AAC 50.875.

(f) After accepting a complaint and before issuance of an investigation report under 2 AAC 50.875, the complainant, the executive director, and the respondent may agree in writing to withdraw the complaint. The executive director shall notify the commission that the complaint has been withdrawn by agreement. Further action on the withdrawn complaint will not be taken except upon subsequent order of the commission.

**History: Eff. 12/22/2011, Register 200; am 1/16/2015, Register 213**

**Authority:** AS 15.13.030; AS 15.13.045; AS 15.13.380; AS 15.13.390; AS 24.45.021; AS 24.45.031; AS 24.45.131; AS 24.45.135; AS 24.60.220; AS 24.60.225; AS 39.50.050; AS 39.50.055

### **2 AAC 50.875. Investigation**

(a) The staff shall undertake an investigation of a complaint that the staff or the commission determines meets the criteria in 2 AAC 50.870(c). The staff shall initiate an investigation if the commission or staff obtains information that, if true, would constitute a substantial violation of AS 15.13, AS 24.45, AS 24.60.200 - 24.60.260, AS 39.50, or this chapter. If the staff initiates an investigation, the staff shall promptly

(1) prepare a written notice, setting out the facts, allegations, and law involved; and

(2) provide the written notice and a copy of the complaint and supporting documentation to the respondent and the commission.

(b) The staff may conduct an investigation as provided in AS 15.13.045, and may

(1) request written and sworn statements from a party, witness, or other person;

(2) request the assistance of the Alaska State Troopers; and

(3) contract with a private investigator.

(c) When the staff completes an investigation, but no later than 30 days after accepting a complaint, staff shall prepare an investigation report. The investigation report must include a summary of the staff's findings, and a recommendation

(1) that a hearing be held and penalties assessed if the staff concludes that the evidence shows a violation of the law;

(2) that the matter be dismissed if the staff concludes that the evidence does not support a violation; or

(3) that the commission approve a consent agreement, if the respondent and the staff have agreed to a resolution in compliance with 2 AAC50.885.

(d) The staff shall provide a copy of the investigation report to the complainant, the respondent, and the commission. No later than 10 days after the staff mails or delivers the investigation report to the respondent, the respondent may file an answer or an amended answer to the investigation report.

(e) The commission will consider an investigation report at its next regularly scheduled meeting unless, in its discretion, the commission schedules the matter for a special meeting. The commission will give notice of the date, time, and place of the meeting to the complainant and the respondent. After considering the recommendation, the commission will

(1) schedule the matter for hearing;

(2) dismiss the complaint or investigation; or

(3) consider any consent agreement as provided in 2 AAC 50.885.

**History: Eff. 12/22/2011, Register 200**

**Authority:** AS 15.13.030; AS 15.13.045; AS 15.13.380; AS 15.13.390; AS 24.45.021; AS 24.45.031; AS 24.45.131; AS 24.60.220; AS 24.60.250; AS 39.50.050

**2 AAC 50.880. Answer to complaint**

(a) A person alleged to be in violation may file an answer

(1) to the complaint not later than 15 days after receiving notice that the complaint satisfies the requirements in 2 AAC 50.870(a) ; or

(2) to the investigation report not later than 10 days after receiving the investigation report under 2 AAC 50.875;

(b) An answer to a complaint must

(1) admit or deny the allegations in the complaint;

(2) be signed by the respondent, under oath and upon penalty of perjury, before a notary public, municipal clerk, court clerk, postmaster, or other person authorized to administer oaths;

(3) include the mailing address and telephone number of the respondent; and

(4) be accompanied by proof that a copy of the answer and supporting documentation was mailed or delivered to the complainant.

(c) An answer to a complaint or investigation report may

- (1) respond to the allegations in the complaint;
- (2) state any defense to the allegations;
- (3) object to the complaint as so indefinite or uncertain that the respondent cannot prepare a defense; and
- (4) include relevant documentation.

**History:** Eff. 12/22/2011, Register 200; am 1/16/2015, Register 213

**Authority:** AS 15.13.030; AS 15.13.045; AS 15.13.380; AS 24.45.021; AS 24.45.131; AS 24.60.220; AS 39.50.050

## **2 AAC 50.885. Consent agreement**

(a) At any time after a complaint is filed or after the staff initiates an investigation, the respondent may enter into a consent agreement with the staff. Notwithstanding 2 AAC 50.875, the staff may suspend an investigation if the respondent enters into a consent agreement before staff completes an investigation and report. A consent agreement must be in writing, must state that it is subject to commission approval, and must include an agreement regarding the assessment of civil penalties, the commission's costs of investigation and adjudication, and reasonable attorney fees, as provided in AS 15.13.390 (b). The parties may present a statement of the facts supporting the consent agreement.

(b) The commission may require evidence to support a finding that the consent agreement is in the public interest and consistent with controlling law. If the commission rejects a consent agreement, the commission will provide an explanation of the reasons for rejection, and may, as appropriate under the circumstances, proceed with a hearing on the matter under investigation, consider a revised consent agreement, or allow additional evidence or argument in support of the rejected consent agreement. If the commission accepts a consent agreement, the staff and the respondent are bound by it.

**History:** Eff. 12/22/2011, Register 200

**Authority:** AS 15.13.030; AS 24.45.021; AS 24.60.220; AS 39.50.050

## **2 AAC 50.888. Expedited consideration; hearing on expedited consideration**

(a) A complainant, the staff, or a respondent may request expedited consideration when a complaint is filed or any time before the date for an answer as provided in 2 AAC 50.880. A request for expedited consideration must be submitted as a separate document from any other filing, and must include

- (1) proof that the opposing party actually received the request for expedited consideration; and

(2) evidence showing reasonable cause to believe a violation of law has occurred or will occur, and that the violation, if not immediately restrained, could

(A) materially affect the outcome of an election or other impending event; or

(B) cause irreparable harm that penalties could not adequately remedy.

(b) The commission will consider a request for expedited consideration as provided in AS 15.13.380 (c) and (d). The commission will give the complainant, the staff, and the respondent notice of the date, time, and place of the hearing at which the commission will decide a request for expedited consideration. The notice will be posted on the commission's website and in a prominent place, visible to the general public, at the commission's offices. In the notice, the commission will state that, if the commission grants expedited consideration, the commission may hear the complaint immediately after issuing its order to expedite consideration.

(c) At the hearing on the request for expedited consideration, the commission will consider the argument and evidence in support of the request for expedited consideration and will allow the party opposing the request an opportunity to respond with argument and evidence. The commission may allow an opportunity to rebut the response. The person that requested expedited consideration has the burden of proof to demonstrate the need for expedited consideration.

(d) The commission will announce its decision on a request to expedite consideration on the record at the hearing. The commission will expedite consideration of a complaint if substantial evidence supports expediting consideration under the factors set out in AS 15.13.380 (c). If the commission denies expedited consideration, the commission will refer the complaint for investigation as provided in 2 AAC 50.875. If the commission expedites consideration, the commission will either commence the hearing immediately, or provide notice of the date, time, and location of the hearing to be held in compliance with AS 15.13.380(d).

(e) A hearing on expedited consideration will be conducted as provided in 2 AAC 50.891 except that the commission may, for good cause and consistent with due process, modify any procedure in order to expedite the proceeding. The commission will issue an order as provided in AS 15.13.380 (d).

**History: Eff. 12/22/2011, Register 200**

**Authority:** AS 15.13.030; AS 15.13.045; AS 15.13.380; AS 24.45.021; AS 24.60.220; AS 39.50.050

**2 AAC 50.891. Hearing; record; decision**

(a) The commission will conduct a hearing on a complaint, an investigation report, or a consent decree, in compliance with AS 44.62.330- 44.62.630.

(b) The commission will give the complainant and respondent reasonable notice of the date, time, and place of the hearing. In addition, the commission will post the notice on the commission's website and in a prominent place, visible to the public, at the commission's offices. If the hearing is conducted by telephone, audio or video teleconferencing, or other electronic means, the commission will, in the notice, designate at least one place for public access. The

complainant or a party may request a change in the date, time, or place of a hearing. The commission may grant a change in the date, time, or place of a hearing for good cause and with reasonable notice to the complainant, the parties, and the public.

(c) Before a hearing, a respondent may inspect the staff case file, and may obtain copies at cost. However, internal staff memoranda and any privileged information may not be inspected or copied.

(d) Except as provided in 2 AAC 50.888 for a hearing on a request for expedited consideration, the staff and the respondent are parties to a hearing. For good cause, the commission may also designate the complainant as a party. A party to a hearing may be represented by an agent or an attorney licensed in this state, and may call witnesses and present evidence. A complainant that is not designated as a party to the proceeding may present argument, but may not call witnesses or present evidence. The staff shall present the investigation report, and bears the burden of proving a violation by a preponderance of the evidence.

(e) The hearing will be recorded and open to the public. A complainant or respondent may arrange for preparation of a transcript at the complainant's or respondent's own expense. A copy of any transcript prepared from the recording must be filed with the commission.

(f) No later than 10 days after the record closes, the commission will issue an order in compliance with AS 44.62.510.

(g) The commission may reconsider an order as provided in AS 44.62.540. A request for reconsideration must be filed no later than 15 days after the commission delivers or mails an order as provided in (f) of this section. A request for reconsideration must state specific grounds for reconsideration. The commission will reconsider its decision only if

(1) a substantial procedural error occurred;

(2) the order was based on fraud, misrepresentation, or material mistake of fact or law;

(3) new evidence has been discovered that could not have been discovered before the hearing using reasonable diligence.

(h) If a final order of the commission determines that a violation has occurred, the commission may assess appropriate civil penalties, the commission's costs of investigation and adjudication, and reasonable attorney's fees against the respondent. Costs of investigation and adjudication include costs of serving subpoenas, witness fees, database searches, deposition costs, staff travel costs, witness travel costs, transcription costs paid to outside firms, expert or consultant fees, overtime pay for hourly staff employees, copying costs, materials, costs of preparing hearing materials and display, costs of publishing hearing notices, hearing officer fees, and honoraria and travel costs of commissioners.

**History: Eff. 12/22/2011, Register 200**

**Authority:** AS 15.13.030; AS 15.13.045; AS 15.13.380; AS 24.45.021; AS 24.45.131; AS 24.60.220; AS 24.60.240; AS 24.60.250; AS 39.50.050; AS 39.50.135

## **2 AAC 50.895. Referral to attorney general**

(a) If a person that is assessed a civil penalty for a violation of this chapter refuses or fails to appeal or pay the penalty, the commission will refer the matter to the attorney general for appropriate action.

(b) If, before the commission concludes action on a complaint, the attorney general or a federal agency

(1) files a civil complaint addressing the subject matter of the administrative complaint, the commission will dismiss the administrative complaint without prejudice; or

(2) initiates a criminal investigation or proceeding addressing the subject matter of the administrative complaint, the commission may suspend action until the criminal proceeding concludes.

**History:** Eff. 12/22/2011, Register 200

**Authority:** AS 15.13.030; AS 15.13.380; AS 15.13.385; AS 24.45.031; AS 24.45.131

## **2 AAC 50.899. Definitions**

In 2 AAC 50.801 - 2 AAC 50.899, unless the context requires otherwise,

(1) "delivered" means conveyed by hand-delivery, electronic submission, or facsimile transmission;

(2) "mailed" means sent by first class or higher priority service using the United States Postal Service.

**History:** Eff. 12/22/2011, Register 200

**Authority:** AS 15.13.030; AS 24.45.021; AS 24.45.031; AS 24.60.220; AS 24.60.240; AS 39.50.050

## **2 AAC 50.990. Definitions**

In this chapter, unless the context requires otherwise:

(1) "agent"

(A) means a representative or one who is authorized to act for another;

(B) includes a contractor or subcontractor;

(2) "anything of value"

(A) except as provided in (B) of this paragraph, means any item, property, or services, tangible or intangible, that could reasonably be considered to be a material advantage, or of material worth, use, or service to a person receiving the item, property, or services;



(B) for a legislative branch filer, has the meaning given in AS 24.60.990;

(C) includes any facility, equipment, polling information, supplies, advertising service, membership list, mailing list, and the service of distributing information by means of electronic mail, unless the cost of doing so is minimal;

(3) except as provided in 2 AAC 50.405, "candidate"

(A) means a candidate for state or municipal elective office;

(B) includes an individual who

(i) submits a letter of intent to the commission under 2 AAC 50.274; or

(ii) has publicly announced an intent to run as a write-in candidate;

(4) "child" has the meaning given in AS 39.50.200;

(5) "commission" means the Alaska Public Offices Commission;

(6) "complainant" means a person who files a complaint with the commission under 2 AAC 50.870;

(7) "contribution"

(A) has the meaning given in AS 15.13.400;

(B) includes

(i) a subscription, advance, transfer, forgiveness of all or part of a debt, relaxation of credit, or anything of value made for or provided to a candidate or campaign by a person, group, or nongroup entity for the purpose set out in AS 15.13.400 (4)(A); and

(ii) a personal contribution as provided in 2 AAC 50.254;

(C) does not include

(i) costs that a media organization, including a broadcasting station, newspaper, or periodical of regular publication, incurs in covering or carrying a news story, editorial, or commentary; however, if the media organization is owned or controlled by a political party, group, or candidate, the cost of the news story, editorial, or commentary is a contribution, unless the media organization carries a bona fide news account as part of a general pattern of campaign-related news accounts that gives reasonably equal coverage to all opposing candidates in the circulation or listening area;

(ii) a non-monetary contribution or in-kind donation of a single item with a normal cost of \$50 or less;

(iii) a payment by an individual for the individual's own travel expenses, if the payment is voluntary and is made without an understanding that the payment will be directly or indirectly repaid;

(iv) costs that a business, corporation, trade association, labor union, or other organization not organized primarily to influence elections incurs to communicate directly with the organization's members, employees, or the families of members or employees, on any subject, if

the communication is in the same format the organization has used in the past for communications on nonpolitical subjects, and does not solicit contributions or any action other than voting for or against a candidate or ballot proposition or question;

(v) a gift, loan, advance, or deposit of money or anything of value made with respect to a recount of a state or municipal election;

(vi) costs incurred to provide necessary administrative services associated with a payroll withholding plan, if the costs do not include expenses associated with soliciting contributions;

(vii) provision of a service or facility to a candidate, group, or nongroup entity if the entity providing the service or facility is paid at a commercially reasonable rate within a commercially reasonable time or makes the service or facility available to all candidates for a particular office;

(viii) provision of an organization's membership or mailing list to the group or nongroup entity affiliated with the organization;

(ix) the use of personal money or credit by a campaign treasurer or deputy treasurer for an expenditure allowable under AS 15.13.112, if the amount does not exceed \$500 and is repaid before the end of the report cycle in which the expenditure was made; or

(x) the use of personal money or credit by a candidate for an authorized campaign expenditure, if the amount is repaid no later than three days after the date of the expenditure;

(8) "creditor" includes a government authority that has a right by law to demand and recover money from a person or a person's family member;

(9) "deferred income" means money or anything of value that is earned in a reporting period, but is to be paid after the end of that reporting period;

(10) "disclosure statement" or "statement" means a disclosure statement required under AS 24.60.200 or AS 39.50.020;

(11) "domestic partner" has the meaning given in AS 39.50.200;

(12) "family member" means

(A) a spouse;

(B) a domestic partner;

(C) a dependent child; in this subparagraph, "dependent child" means an unmarried child of a person subject to this chapter who is dependent upon that person and who is either

(i) under 19 years of age; or

(ii) under 23 years of age and registered at and attending on a full-time basis an accredited educational or technical institution recognized by the Department of Education and Early Development; age restrictions set out in this subparagraph do not apply to a child who is totally and permanently disabled;

(13) "gift"

(A) means a payment or item received without consideration of equal or greater value;

(B) for a person subject to AS 24.45, has the meaning given in AS 24.45.171;

(C) includes

(i) satisfaction of a loan or debt by forgiveness or payment by a third party, or a third party's enforceable promise to pay the loan or satisfy the debt obligation if the person obligated does not give full and adequate consideration;

(ii) accommodations, including housing, a hotel room, and a vacation rental;

(iii) a ticket for travel or an entertainment event;

(iv) food or beverages not intended for immediate consumption;

(v) a discount or rebate for goods and services if the discount or rebate is not available to the public generally;

(vi) goods or services provided or loaned for personal or professional use, including office expenses connected with holding public office;

(vii) a scholarship to pay costs of an educational or recreational program;

(D) does not include

(i) a political contribution;

(ii) a commercially reasonable loan made in the ordinary course of business in exchange for consideration of equal or greater value;

(iii) an inheritance;

(iv) an item of value received without consideration from a family member or a parent, nondependent child, sibling, grandparent, aunt, uncle, niece, or nephew;

(14) "income"

(A) has the meaning given in AS 24.60.990;

(B) includes money or anything of value, including deferred income, earned or received

(i) in exchange for labor or services;

(ii) from the sale of goods or property;

(iii) as profit from a financial investment;

(iv) as alimony;

(v) as child support;

(vi) as a government entitlement; or

(vii) as an honorarium;

(15) "individual" means a natural person;

- (16) "judicial officer" has the meaning given in AS 39.50.200;
- (17) "labor union" means a local, national, or international union, a labor council, or any other labor organization recognized under state or federal law;
- (18) "legislative branch filer" means
- (A) a legislator;
  - (B) a legislative director;
  - (C) a member of the Select Committee on Legislative Ethics;
- (19) "loan or loan guarantee" means a business or personal
- (A) loan signed or co-signed by the legislative branch filer, public official, or candidate, or a family member of the legislative branch filer, public official or candidate;
  - (B) loan guarantee made on behalf of the legislative branch filer, public official, or candidate, or a family member of the legislative branch filer, public official, or candidate;
- (20) "lobbyist" has the meaning given in AS 24.45.171;
- (21) "minor" means an individual who is under 18 years of age;
- (22) "money" means currency of the United States or of a foreign nation, checks, money orders, or negotiable instruments payable on demand;
- (23) "municipality" has the meaning given in AS 01.10.060;
- (24) "municipal officer" has the meaning given in AS 39.50.200;
- (25) "nondependent child" is a child that is not a dependent for purposes of the definition of "family member" in this section;
- (26) "person"
- (A) has the meaning given in AS 15.13.400;
  - (B) includes an initiative committee that is designated as provided in AS 15.45.030;
- (27) "political action" has the meaning given in AS 24.60.990;
- (28) "public official" or "public officer" has the meaning given in AS 39.50.200;
- (29) "resident of the state" or "resident of this state"
- (A) means an individual who meets the requirements of AS 01.10.055; and
  - (B) includes each individual who is registered to vote in the state;

(30) "respondent" means a person against whom a complaint has been made or an investigation has been initiated under 2 AAC 50.870 - 2 AAC50.875;

(31) "sibling" means a brother or sister, including a stepbrother, stepsister, and adopted brother or sister;

(32) "source of income" has the meaning given in AS 39.50.200;

(33) "staff"

(A) means the staff of the Alaska Public Offices Commission, employed under AS 15.13.020 (i);

(B) includes any individual hired as a contractor to provide specific services to the commission;

(C) does not include a member of the commission;

(34) "taking office" means the earlier of

(A) the day on which the public official first earns compensation for work; or

(B) the day on which the public official takes the oath of office;

(35) "working day" means a day other than Saturday, Sunday, or a state holiday;

(36) "zero report" means a report filed under AS 15.13, AS 24.45, AS 24.60.200 - 24.60.260, or AS 39.50 that shows the person filing the report had no reportable activity during the period of time covered by the report.

**History:** Eff. 12/22/2011, Register 200; am 1/16/2015, Register 213

**Authority:** AS 15.13.030; AS 24.45.021; AS 24.60.220; AS 39.50.050