

<b>TITLE 3 – ELECTION CONTRIBUTIONS AND EXPENSES</b>
--

Chapters

01	Campaign Spending Commission
02	Registration
03	Candidates
04	Election Officials
05	Conduct of Elections
06	Reserved
07	Voting Procedures
08-10	Reserved
11	Absentee Voting
12	Administrative Complaint Procedure

*Editor's Note: 7 Dec 2021.*

*Copies of the American Samoa Administrative Code available to the Office of the Secretary of American Samoa, as indicated above, lists twelve (12) total chapters four of which are reserved. Actual chapters found within the text are Chapters 1, 2, 3, and 11 only. No other records found to date include all of the abovementioned chapters in its entirety. Efforts are ongoing to procure a complete copy of Title 3 that contains all of the abovementioned chapters.*

**TITLE 3 – CHAPTER 01 – CAMPAIGN SPENDING COMMISSION**

Sections:

<i>I.</i>	<i>GENERAL PROVISIONS</i>
3.0101	Scope.
3.0102	Construction of Rules.
3.0103	Definitions.
3.0104	The Commission.
3.0105	Public Information.
3.0106	Proceedings Before the Commission.
<i>II.</i>	<i>CODE OF FAIR CAMPAIGN PRACTICES</i>
3.0110	Scope.
3.0111	Endorsement by Candidates.
3.0112	Violations of The Code.
<i>III.</i>	<i>ADVISORY OPINIONS</i>
3.0120	Policy.
3.0121	Definitions.
3.0122	Request for Advisory Opinion.
3.0123	Disposition of Request.
3.0124	Hearing.
3.0125	Adoption and Issuance of Opinion.
3.0126	Effect of Advisory Opinion:

<i>IV.</i>	<i>ORGANIZATIONAL REPORTS</i>
3.0130	Scope.
3.0131	Organizational Reports.
3.0132	Changes in Information.
3.0133	Discontinuance of Registration.
3.0134	Identification Number.
3.0135	Specific Standards.

<i>V.</i>	<i>RECORDS AND REPORTING</i>
3.0140	Scope.
3.0141	Preliminary Reports.
3.0142	Specific Standards.
3.0143	Final Reports.
3.0144	Supplemental Reports.

<i>VI.</i>	<i>PROCEDURES RELATING TO COMPLAINTS, INVESTIGATIONS, AND HEARINGS CONCERNING ALLEGED VIOLATIONS OF 19 ASC 1601-24</i>
------------	--

3.0150	Scope.
3.0151	Complaints Initiated by A Member of The Public or The Commission.
3.0152	Amendment of Complaint.
3.0153	Withdrawal of Complaint.
3.0154	Investigation.
3.0155	Probable Cause Hearings.
3.0156	Reporting Probable Cause Findings.
3.0157	Defective r Deficient Reports.

<i>VII.</i>	<i>DISPOSITION OF FUNDS</i>
3.0160	Scope.
3.0161	Disposition Report.
3.0162	Specific Standards.

<i>VIII.</i>	<i>ADOPTION, AMENDMENT OR REPEAL OF RULES</i>
--------------	---

3.0170	Scope.
3.0171	Commission Initiation.
3.0172	Conduct of Hearing on Rules.
3.0173	Commission Action.
3.0174	Emergency Rulemaking.
3.0175	Petitions for Adoption, Amendment, Or Repeal of Rules.
3.0201	Scope.
3.0202	Definitions.
3.0210	Registration in Person.
3.0220	Registration in Absentia.
3.0230	Re-Registration.
3.0240	Deadline.

*I. GENERAL PROVISIONS*

**3.0101 Scope.**

The rules set out in this chapter govern procedure before the campaign spending commission and were adopted by the commission under 6.1703(b) 5 A.S.C.A., to carry out the provisions of 6.1701 A.S.C.A., et seq., relating to election campaign contributions and expenditures as now or hereafter amended, and to provide for the efficient administration thereof. They are designed to provide a clear understanding of the standards which the commission will apply.

*History: Rule 1-85, eff 2 May 85, § 1.1.*

**3.0102 Construction of Rules.**

- (a) The rules shall be liberally construed to promote meaningful disclosure of the financial aspects of the campaign process, including the source of contributions and the manner of expenditures, in order to promote public participation and confidence in the electoral process.
- (b) Rule 1 sets forth general provisions applicable to the campaign spending commission and should be read in conjunction with special rules governing the particular proceeding described in the caption of the special rule. In any conflict between a provision in Rule 1 and a special rule, the special rule shall govern.

*History: Rule 1-85, eff 2 May 85, § 1.2.*

**3.0103 Definitions.**

As used in these rules and in proceedings brought under these rules, unless the context clearly requires otherwise:

- (a) The terms “advertisement”, “campaign treasurer”, “candidate”, “commission”, “committee”, “contribution”, “election”, “expenditure”, “house bulletin”, “newspaper”, “office”, and “person” shall have the same meaning as set forth 6.1701 A.S.C.A., for each term.
- (b) “Campaign employee” means any person who, with or withhold compensation, at the request of

the candidate or his representative performs services related to the candidate’s campaign.

- (c) “Commissioner” means a member of the campaign spending commission.
- (d) “Communications media” means radio and television broadcasting stations intended for direct reception by the general public, including a community antenna television system, newspapers, magazines, outdoor advertising facilities of a type customarily leased to commercial advertisers, and the cost of telephones, paid telephonists, and automatic telephone equipment used to communicate with potential voters.
- (e) “Complainant” means a person who alleges in writing under oath that a violation of the law administered by the commission has occurred. He shall not be a party of record.
- (f) “Defective or deficient report” means a report which is illegible, improperly filed, or a report containing omissions or mistakes which have not been corrected.
- (g) “Financial depository”, “campaign depository”, “registered depository” and similar terms mean any corporation lawfully carrying on business in the territory as a bank, trust, investment company, savings and loan association, or similar institution organized to receive and accumulate funds and reported in accordance with 6.1706 A.S.C.A.
- (h) “Last preceding general election” means the last preceding general election, whether or not the particular office sought by the candidate appeared on the ballot and -taking into consideration any intervening reapportionment.
- (i) “Presiding officer” means the chairman of the commission or other person presiding at any commission meeting or hearing as determined by the commission.
- (j) “Printing” includes any process used to produce campaign materials such as photo offset, multilith, computerized letters and mailing lists, magnetic card typewriters, photocopies, etc.

- (k) “Required report” means any report filed with the commission in accordance with commission Rule 4, 5 and 7.
- (l) “Respondent” means the person allegedly violating the law administered by the commission or any rule adopted by it.
- (m) “Staff investigative attorney” means the attorney general or his attorney designee who shall investigate complaints for the commission and to present evidence in support of a complaint in a contested case.
- (n) “Violation in reporting” means failure to file a required report or to comply with a commission request to complete or correct a deficient report.

Other terms are defined as required in special rules governing particular proceedings and shall have that meaning whenever used or referred to in rules adopted by the commission. Words in the masculine gender signify both masculine and feminine. Those in the singular or plural number signify both the singular and plural.

*History: Rule 1-85, eff 2 May 85, § 1.3.*

**3.0104 The Commission.**

- (a) Office. The offices of the commission are in the Office of the Chief Election Officer, or other address at which the commission may be located from time to time. Unless otherwise specifically directed, all communication to the commission may be sent by mail to the Campaign Spending Commission, Pago Pago, American Samoa, 96799, or may be hand carried to the offices of the commission.
- (b) Hours. The offices of the commission are open from 8:00 a.m. to 4:30 p.m. of each weekday, unless otherwise provided by statute or executive order.
- (c) Meetings. The commission meets and exercises its powers in any part of the territory of American Samoa. Meetings may be called by the chairman or 3 or more members upon notice of the other members of the commission. All of its meetings and hearings, except probable cause hearings under 6.1722 A.S.C.A., are open to the public.

- (d) Quorum. Three commissioners constitute a quorum for the purpose of conducting the commission’s business. When a quorum is in attendance, action may be taken by the commission upon a vote of the majority of all commissioners.
- (e) Action by Commissioners. The commission in the discharge of any of its duties, or the exercise of any of its powers, may act through one or more of its members, agents, or employees designated by the commission for that purpose.
- (f) Manner of Voting. An accurate record of votes and actions taken at any commission meeting shall be set forth in the minutes. Final action on adoption of rules, advisory opinions, disposition of complaints, and commission investigations shall be by roll call.
- (g) Chief Election Officer. The Chief Election Officer shall have charge of the commission’s official records and shall be responsible for the maintenance and custody of the files and records of the commission, including the papers, transcripts of testimony and exhibits filed in proceedings, the minutes of all actions taken by the commission, and all its rulings, advisory opinions, decisions, rules, and approved forms. The Chief Election Officer and any person acting for him under his authority or under the authority of the commission shall receive all documents required to be filed with the commission and shall promptly stamp the time and date upon papers filed with the commission.
- (h) Appearance before the Commission. All parties to a proceeding shall appear in person or by a representative before the commission, provided that an officer or regular employee may appear on behalf of an association or corporation and a general partner may appear on behalf of a partnership.

*History: Rule 1-85, eff 2 May 85, § 1.4.*

**3.0105 Public Information.**

- (a) The term “public record” means any written or printed report, book or paper, map or plan of the territory or its respective subdivisions and boards, which is the property thereof, and in or on which an entry has been made or is required

to be made by law, or which any public officer or employee has received or is required to receive for filing, but shall not include records which invade the right of privacy of an individual, and shall include all rules, written statements of policy, or interpretations formulated, adopted, or used by the commission (not including advisory opinions prior to deletion of identifying information), all final decisions and orders, minutes of commission meetings, and any other material filed with the commission unless accorded confidential treatment under the law or the rules of the commission.

- (b) Confidential Records. The request for an advisory opinion shall be treated as confidential information. Advisory opinions shall be public records after identifying information is deleted. The filing of the complaint, all investigation and hearing material, and any probable cause hearing shall be confidential in compliance with 6.1622 A.S.C.A., unless the person complained of requests an open session.
- (c) Inspection and Copies of Public Records. All public records shall be available for inspection in the commission's office as provided in 3 ASC 1989. Copies of public records will be furnished to any person upon request and upon payment of the fee of \$0.25 a page.
- (d) The public may obtain information matters relating to the campaign spending commission and the law it administers by inquiring during regular business hours at the offices of the commission or by submitting a written request to the commission.

*History: Rule 1-85, eff 2 May 85. § 1.5.*

### **3.0106 Proceedings Before the Commission.**

#### **(a) Filing of Legal Documents.**

- (1) Place of Filing. All disclosures, complaints, requests for opinion, pleadings, submittals, petitions, briefs, memoranda, and other papers required or permitted to be filed with the commission in any proceeding shall be filed with the Chief Election Officer.

- (2) Service of Documents. The papers may be sent by mail or hand carried to the commission offices within the time limit, if any, for that filing.
- (3) Date of Filing Documents. The date of which the papers are actually received by the commission shall be considered to be the date of filing.
- (4) Form of Documents. All papers filed with the commission shall be plainly legible.
- (5) Signature; Certificate of Truth. All papers must be signed in permanent ink by the party or his duly authorized agent or attorney. The signature of the person signing the document constitutes a certification that he has read the document; that to the best of his knowledge, information and belief, every statement contained in the instrument is true and no statements are misleading; and that it is not interposed for delay.
- (6) Number of Copies. Unless otherwise specifically provided by a particular rule, or order of the commission only an original of all papers shall be filed.
- (7) Name, Address on Documents. The initial document filed by any person in any proceeding shall state on the 1st page the name and mailing address of the person or persons who may be served with any documents filed in the proceeding.

#### **(b) Computation of Time.**

- (1) In computing any period of time prescribed or allowed by these rules, order of the commission, or by any applicable statute, the day of the act, event, or default, after which the designated period time is to run, is not to be included. The last day of the period so computed is to be included unless it is a Saturday, Sunday, or a holiday, in which event the period runs until the next day which is not a Saturday, Sunday, or a holiday. When the period of time prescribed or allowed is less than 7 days intermediate Saturdays, Sundays, and holidays are excluded in the computation. As used in this

rule, "holiday" includes any day designated by 1.0501 A.S.C.A., as modified by 7.1205 A.S.C.A.

- (2) Whenever a party has the right or is required to do some act or take some proceedings within a prescribed period after the service of the notice or other paper upon him and the notice or paper is served upon him by mail, 2 days shall be added to the prescribed period.
- (c) Continuance or Extension of Time. Whenever a party has a right or is required to take action within the period prescribed or allowed by these rules, by notice given thereunder, or by an order of the commission, or the presiding officer may
  - (i) before the expiration of the prescribed period, with or without notice, extend the period; or
  - (ii) upon motion, permit the act to be done after the expiration of a specified period. where the failure to act is clearly shown to be excusable.
- (d) Service of Process.
  - (1) By Whom Served. The commission shall cause to be served all orders, notices, and other papers issued by it, together with any other papers which it is required by law to serve. Answers, pleadings, and memoranda relating to complaints or hearings shall be served by the party filing them.
  - (2) Upon Whom Served. All papers served by either the commission or any party shall be served upon all counsel of record at the time of the filing and upon parties not represented by counsel or upon their agents designated by them or by law. Counsel entering an appearance subsequent to the initiation of the proceedings shall notify all parties of that fact.
  - (3) Service Upon Parties. The final opinion, decision, and any other paper required to be served by the commission upon a party, shall be served upon the counsel of record, if any, or the individual or his agent designated by him or by law to receive service of such papers.
  - (4) Method of Service. Service upon counsel, if any, or upon a party shall be made by

delivering a copy to him or by mailing it to him at his last known address. Service by mail is complete upon mailing. Service by personal delivery or time and place of delivery filed with the commission.

- (e) Subpoenas.
  - (1) Who May Issue. Subpoenas requiring the attendance of witnesses or the production of documentary evidence from any place within the territory of American Samoa at any designated place of hearing, may be issued by the chairman at the direction of the commission.
  - (2) Application. Application for subpoenas shall be made in writing to the commission. The application must be reasonable in scope and specify as clearly as possible documents or data desired, and show their general relevancy.
  - (3) Time of Application. For production of documentary evidence or appearance of witnesses at a hearing, application for subpoenas shall be made at least 3 days prior to the hearing. If application for a subpoena is made at a later time, the commission may, in its discretion, continue the hearing or any part thereof.
  - (4) Enforcement. Enforcement of obedience to subpoenas issued by the commission and served under these rules will be effected by written application of any member of the commission to any justice of the High Court.
- (f) Witnesses; Fees.
  - (1) All witnesses shall appear in person and shall be examined under oath or affirmation.
  - (2) Payment. Summoned witnesses shall be paid by the party in whose instance the witnesses appear. The amount of payment shall be the same fee and mileage as are paid witnesses in the courts of the territory of American Samoa.

(g) Retention of Documents by the Commission. All documents filed with or presented to the commission shall be retained in the files of the commission for the period required by law. The commission may permit the withdrawal of documents at its discretion.

(h) Consolidations. The commission, upon its own initiation or upon motion, may consolidate for hearing or for other purposes or may contemporaneously consider 2 or more proceedings which involve substantially the same parties or issues which are the same or closely related, if it finds that the consolidation or contemporaneous hearing will be conducive to the proper dispatch of its business and to the ends of justice and will not unduly delay the proceedings.

*History: Rule 1-85, eff 2 May 85, § 1.6.*

## II. CODE OF FAIR CAMPAIGN PRACTICES

### 3.0110 Scope.

This rule covers the Code of Fair Campaign Practices adopted by the commission in accordance with 6.1703(b) (4) A.S.C.A.

*History: Rule 1-85, eff 2 May 85, § 2.1.*

### 3.0111 Endorsement by Candidates.

- (a) Copies of the code will be available from the commission at the office of the Chief Election Officer.
- (b) A candidate who elects to conduct his campaign in accordance with the code may furnish the commission 2 signed copies of the code at any time on or after the day he becomes a candidate.
- (c) For the duration of the campaign for which it is applicable, the commission will retain the signed copy of the code on file and check its file against the list of candidates as determined by the Chief Election Officer as provided in 6.0301(d) A.S.C.A. If a candidate has not endorsed the code, the commission will solicit his participation.
- (d) Whether a candidate has endorsed the code will be public information available on request from the commission office. Ten days prior to any

election, the commission shall issue a list of candidates who have not endorsed the code for that campaign; except in the first gubernatorial election 8 Nov 77 the list will be issued 3 days prior to the election.

*History: Rule 1-85, eff 2 May 85, § 2.2.*

### 3.0112 Violations of The Code.

Any candidate, committee, or party on behalf of a candidate, who believes that another candidate is not conducting his campaign in accordance with the code may request the help of the commission. The commission may communicate directly with both candidates in order to eliminate and correct misrepresentations, intentional or otherwise. The role of the commission will be to insure that all the facts about those charges of violations are presented to the public which in the end must judge whether there has been a violation of the code or not. A violation of this code may not be a violation of these rules or of the law.

*History: Rule 1-85, eff 2 May 85, § 2.3.*

## III. ADVISORY OPINIONS

### 3.0120 Policy.

The commission will issue advisory opinions.

*History: Rule 1-85, eff 2 May 85, § 3.1.*

### 3.0121 Definitions.

“Advisory opinions” are opinions on subjects which the commission determines to be of widespread interest. With identification removed, they shall be public records available in the commission office.

*History: Rule 1-85, eff 2 May 85, § 3.2.*

### 3.0122 Request for Advisory Opinion.

- (a) Who May Request. The commission will not issue advisory opinions involving current or proposed activities of someone other than the inquirer.
- (b) Form; Content. All requests for advisory opinions shall be in writing and shall contain:
  - (1) The identity of the person requesting the opinion.

- (2) A complete statement of the facts and circumstances upon which the commission is to base its opinion.
- (3) The signature of the person requesting the opinion.

*History: Rule 1-85, eff 2 May 85, § 3.3.*

**3.0123 Disposition of Request.**

- (a) Any request which does not conform to the foregoing, or where the facts presented are considered by the commission to be inadequate for the purpose, shall be rejected.
- (b) A request for an advisory opinion is considered filed with the commission when all the information considered necessary has been furnished.
- (c) At its discretion, the commission may refuse to issue an advisory opinion. The commission will not issue opinions where:
  - (1) The issue is the subject of pending litigation.
  - (2) The question is speculative and does not involve existing facts or facts which can reasonably be expected to exist in the near future.
  - (3) The inquirer's current or proposed action would not subject him to any penalty under the laws or rules administered by the commission.
- (d) Within a reasonable time after the submission of a completed request, the commission shall consider the request and either deny it in writing, stating the commission's reason for the denial, or issue an advisory opinion on the matters contained in the petition.

*History: Rule 1-85, eff 2 May 85, § 3.4.*

**3.0124 Hearing.**

- (a) Generally, an advisory opinion will be rendered only upon facts submitted in writing. The inquirer, however, may request a hearing in writing, stating the reason he is making the request and may request to have persons attend with him. The commission in its discretion may grant a hearing. The commission at any time,

with notice to the person requesting the opinion, may interview persons who may have information desired by the commission in the consideration of a request for an advisory opinion.

*History: Rule 1-85, eff 2 May 85, § 3.5.*

**3.0125 Adoption and Issuance of Opinion.**

- (a) Except as provided in Section 3.0126, all opinions shall be adopted at a called meeting by majority vote of all the members of the commission.
- (b) The opinions may be issued over the signature of any commissioner, or chairman, as authorized by the commission.
- (c) A copy of the opinion will be delivered to the inquirer. After identifying information is deleted, a copy of each advisory opinion will be mailed to each person or party affected.

*History: Rule 1-85, eff 2 May 85, § 3.6.*

**3.0126 Effect of Advisory Opinion.**

- (a) A later formal opinion overrules earlier formal opinions or informal opinions with which it is necessarily in conflict. A later informal opinion overrules earlier informal opinions with which it is necessarily in conflict but does not overrule an earlier formal opinion.
- (b) An advisory opinion shall be applicable only to the factual situation contained in the request or set forth in the opinion. It shall not be applicable to different factual situations or where additional facts not considered in the opinion exist.
- (c) An advisory opinion, until amended or revoked, is binding on the commission in any subsequent proceedings concerning the inquirer who sought the opinion and acted in reliance on it in good faith, unless material facts were omitted or misstated by the inquirer in the request for an advisory opinion.

*History: Rule 1-85, eff 2 May 85, § 3.7.*

**IV. ORGANIZATIONAL REPORTS**

**3.0130      Scope.**

The rule covers the general procedure for filing organizational reports to meet the requirements of 17 ASC 1605-06.

*History: Rule 1-85, eff 2 May 85, § 4.1.*

**3.0131      Organizational Reports.**

- (a) Who Must File. Each candidate, authorized person in the case of a party, or campaign treasurer who is authorized to sign the organizational report in the case of a committee shall register with the commission in accordance with 6.1605 A.S.C.A., by filing an organizational report for each and every election or office sought, or both.
- (b) Form; Filing; Time; Copies. The organizational report shall be filed with the commission in duplicate on a form furnished by the commission at the time set forth in 6.1605 A.S.C.A. However, when an expenditure is made, incurred, or authorized by a person or contributions in an aggregate amount of more than \$100 are accepted prior to 1 July of the year the person runs for election, an organizational report must be filed within 10 days after 1 July of that year if not previously filed.
- (c) Contents. The report shall include:
  - (1) The information required by 6.1706 A.S.C.A.
  - (2) A statement of whether the committee is a continuing one.
  - (3) If the committee is organized independently of any candidate, a statement of the expected relationship to the candidate and other committees directly associated with the candidate.
  - (4) Any other information as required by the commission from time to time.
  - (5) The signature of the person authorized to sign the report for a party or committee. All reports filed by a committee with a campaign treasurer named by a candidate shall also be signed by the candidate.

*History: Rule 1-85, eff 2 May 85, § 4.2.*

**3.0132      Changes in Information.**

- (a) Any change in information previously submitted in an organizational report shall be reported to the commission within 10 days following the date of the change and shall be signed and sworn to in the same manner as the original filing.
- (b) If the change to be reported is minor, for example, only a change in the name of the campaign chairman or a deputy treasurer, it may be reported by letter. The notification must identify the organizational report to be corrected, the old information to be removed, and the new information to be recorded. If the changes are extensive, revised organizational report forms shall be filed.

*History: Rule 1-85, eff 2 May 85, § 4.3.*

**3.0133      Discontinuance of Registration.**

Any candidate who ceases to be a candidate after filing 1 or more organizational report forms with the commission or any committee or party which discontinues or determines that it will no longer receive contributions or make expenditures reportable to the commission shall so notify the commission. The notification shall include a statement as to the disposition of residual funds if the candidate, committee, or party is discontinuing.

*History: Rule 1-85, eff 2 May 85, § 44.*

**3.0134      Identification Number.**

Upon receipt of an organizational report, the commission shall acknowledge receipt thereof and notify the candidate, committee, or party filing the report of the number assigned. The identification number shall be assigned after the last day for the filing of nomination papers and shall be entered by the candidate, committee, or party on all subsequent reports or statements filed with the commission under the act, as well as on all communications concerning those reports or statements.

*History: Rule 1-85, eff 2 May 85, § 4.5.*

**3.0135      Specific Standards.**

- (a) An organization or association established and operated exclusively for the purpose of influencing the outcome of ballot issues or the nomination and election of individuals to public office is required to file an organizational report.



An organization or association established and operated for other purposes, but which also makes or receives contributions or makes expenditures, or both, to influence the outcome of ballot issues or the nomination and election of individuals to public office is also required to file an organizational report. The report shall cover those activities engaged in for the purpose of influencing the nomination and election of individuals to public office or influencing the outcome of any question or issue on the ballot or sought to be placed on the ballot at the next applicable election.

- (b) At the time of filing the organizational report a committee organized without the direct participation of the candidate shall certify to the commission whether or not it has on file the candidate's authorization or consent to accept contributions raise or hold funds or anything of value.
- (c) No contribution and no expenditure shall be accepted or made by or on behalf of a committee at a time when there is a vacancy in both the office of the chairman and the campaign treasurer.

*History: Rule 1-85, eff 2 May 85, § 4, 6.*

## V. RECORDS AND REPORTING

### **3.0140 Scope.**

This rule covers the general procedure relating to records to be maintained and reports to be supplied to meet the requirements of 6.1718-6.1719 A.S.C.A.

*History: Rule 1-85, Eff 2 May 85. § 5.1.*

### **3.0141 Preliminary Reports.**

- (a) Who Must File. Each candidate who expends his own funds, authorized person in the case of a party, or campaign treasurer in the case of a committee shall file a preliminary report.
- (b) Form; Filing; Time; Copies. The report shall be filed on a form furnished by the commission. The report shall be filed in duplicate with the commission on the earlier of: (1) the 10th calendar day preceding each election or (2) the last working day prior to the 10th calendar day.
- (c) Content. The report shall include:

- (1) The information required by 6.1718 A.S.C.A., and additional information as the commission may reasonably require as reflected in the campaign financing report forms adopted by the commission from time to time.
- (2) A description of any adjustments or other explanatory information relevant to the contributions and expenditures reported.
- (3) The signature of the person authorized to sign the report by a party or committee. All reports filed by a committee with a campaign treasurer named by a candidate shall also be signed by the candidate.

*History: Rule 1-85, eff 2 May 85. § 5.2.*

### **3.0142 Specific Standards.**

- (a) It is the responsibility of each candidate to maintain accurate and complete current records of contributions and expenditures by him or on his behalf. The manner of maintaining such records is the choice of each candidate, but records- should be maintained in sufficient detail to substantiate any challenge to the summary information reported to the commission in required reports.
  - (1) The candidate shall require that any person accepting contributions on his behalf keep a record of the source of such contributions, including ticket sales. Any unidentified ticket sales and calabash collections at coffee tours and other functions are to be treated as anonymous contributions unless obtained through multiple contributions made by 10 or more persons at the same event aggregating less than 5250 (6.1711(e) A.S.C.A.). Each of these aggregate contributions shall be reported accompanied by a description of the means, method, place, and date of receipt. Any person contributing more than \$100 in the aggregate to any one candidate by way of the cash collection provided for in this rule, in order to remain anonymous, in order to evade the recordation and reporting of contributions in excess of \$100 in the aggregate for any 1 candidate, or both, is subject to prosecution as provided under

6.1722-6.1724 A.S.C.A. Any person contributing money, cash or any valuable consideration of another person to any candidate by way of the cash collection provided for in this rule, with the intent to keep the name of such contributor anonymous or in order to evade the recordation and reporting of contributions in excess of \$100 in the aggregate for any 1 candidate, or both, is subject to prosecution under 6.1722-6.1724 A.S.C.A. No candidate, committee, or party may accept a contribution in excess of \$100 by way of the cash collection provided for in this rule without recording the name and address of that contributor.

- (2) If several contributions of less than \$100 are received from a contributor, the amounts should be totaled and the contributor's name and address and other required information should be reported when the cash and non-monetary contributions aggregate more than \$100.
- (3) The purpose of the contributions report is to disclose the source of funding. Therefore, the name of the contributor should be the name usually used for business purposes and the address should be his usual address where he may be found. A business address should be identified by the full name of the contributor's business if he is self-employed or of the contributor's employer. If any of the identifying items change from 1 July through the day of any election, the name and address previously used should be shown in any subsequent entry as well as the new information.
- (4) A record of all cash contributions which exceed \$100 shall be kept by the candidate, committee, or party which shall also issue a receipt to the donor.
- (5) Contributions received by a committee or party on the condition that the funds be contributed to or expended only on certain candidates, issues, or questions are "earmarked funds". Each committee or party receiving these funds shall disclose

the original source, ultimate recipient, and the fact that the funds are "earmarked".

- (b) Reports by candidates, political committees, and parties must be cumulative and cover the period from the closing date of the previous report filed. An ongoing committee must continue reporting its debts and obligations until extinguished.
- (c) The reports due on the 10th day before an election must be complete as of midnight of the 15th day before the election.
- (d) For reporting purposes, an expenditure is considered to be made or incurred at the time of delivery of the products, goods, or services. Where products, goods, or services are delivered for use during the election year, the expense shall be reported during the period or periods of use.
- (e) Promises to make contributions need not be reported in advance of actual payment unless they, are made in writing and exceed the amount of \$ 100.
- (f) Donations by candidates to community organizations or youth, recreation, or social groups shall be presumed to be campaign expenditures for reporting purposes if donated during the election year. This presumption may be rebutted by clear evidence showing otherwise.
- (g) Advances made by a candidate, committee, or party to provide ready cash to someone for the performance of a political campaign function can be treated as a regular expenditure. Adjustments may be made to the expenditure accounts if warranted when the accounting is made of the use of the advanced funds.
- (h) The dollar value of nonmonetary contributions should be determined by the contributor. It may be: (1) the fair market value of the item if it were to be purchased or sold; (2) the cost of the item to the contributor; or (3) the contributor's estimated value of the item if, due to extraordinary circumstances neither (1) nor (2) above would be appropriate. Any valuation other than fair market value should discount the value of the contributor's own time and labor if voluntarily given. In the event of a challenge, the burden of proof will be on the contributor to substantiate and justify the use of any valuation

of nonmonetary contributions other than fair market value or his cost. The candidate, committee or party receiving the contribution, however, should question the value of an item if it appears unreasonably low. Nonmonetary contributions should be appropriately labeled and must be reported on the schedule of contributions in the same manner as cash contributions.

- (i) The dollar value of nonmonetary contributions received by a candidate or political committee must be reported on the schedule of expenditures in the same manner as cash expenditures. The valuation of an item for reporting expenditures must be the same valuation assigned to it on the contributions schedule.
- (j) An expenditure authorized by a candidate, his authorized representative, or a campaign treasurer named by the candidate shall be attributed to the candidate for reporting purposes. A party or committee organized without the direct participation of a candidate shall maintain complete records of transactions made in behalf of a candidate, including the candidate's authorization of consent to the expenditure.
- (k) In no event shall the costs of preparing, printing, and circulating house bulletins as defined in 6.1701(i) A.S.C.A., give rise to a reporting requirement on the part of any person sponsoring the communication or those persons receiving the benefits of the publication. However, the definition of "house bulletin" shall be construed narrowly by the commission to exclude special edition publications out of the ordinary publishing cycle and communications for general distribution to the public. The exemption shall be construed to favor intraorganization communications of whatever nature.
- (l) Each candidate, campaign treasurer of a committee and any other person who is required to report expenditures shall- maintain records for at least 1 year after the filing deadline for each report on the matters required to be reported including vouchers, worksheets, and receipts which will provide in sufficient, detail the necessary information and data from which the

reports and statements may be verified, explained, or clarified, and checked for accuracy and completeness.

- (m) Any apportionment of expenditures may be made by the candidate or committee or other person making the expenditure as a part of the reports required under 19 ASC 1618-19. The method of apportionment or the amount attributable to any candidate shall be agreed upon by the candidate involved in advance of the use. The reasonableness of any apportionment or allocation formula may be challenged by the commission or by any candidate.
- (n) Each authorization by a candidate to another person or persons to raise funds or to make expenditures on behalf of the candidate shall state the name, address, and organizational affiliation of each authorized individual, the name of the candidate, the office sought and the election involved, and any limitation or restriction imposed, and it shall be signed and dated by the candidate.
- (o) All disbursements and uses of campaign funds and political contributions authorized by any candidate, committee, or party will be considered to be for the election next following the period in which the expenditure is reportable to the commission unless the person filing the required report hereunder furnishes information to justify an allocation to a later date.
- (p) Legislative Newsletter, Reports, Surveys, and Polls.
  - (1) Payment of costs incurred in the preparation, publication, and distribution of reports (i.e., legislative newsletters, reports, surveys, or polls) which influence the nomination for election, or election, to office of any candidate shall be considered an expenditure required to be reported under 6.1718-6.1719 A.S.C.A., unless specifically excepted hereafter.
    - (A) Use of campaign funds to pay for costs of such reports, surveys, or polls are always reportable expenditures.
    - (B) Use of personal funds or funds other than contributed funds for costs of such

- reports, surveys, or polls are considered reportable expenditures if: (i) expended by a person found to be a candidate as defined at 6.1701(c) A.S.C.A; or, (ii) expended by any committee as defined at 6.1701(e) A.S.C.A.
- (2) The payment of costs for the following reports, surveys, or polls are specifically excepted as reportable expenditures:
- (A) Reports, surveys, or polls of independent organizations not affiliated with any candidate and who have not received or expended any money in behalf of any candidate, whether with or without the authorization of the candidate, and whose report, survey, or poll is either available to all candidates as well as the general public or is confidential and not distributed or publicized at any time prior to an election in which the report, survey, or poll would have an influence.
  - (B) Reports, surveys, or polls required by law to be made by any governmental agency and for which funds have been appropriated by law.
  - (C) Reports, surveys, or polls of incumbent officeholders, not candidates, who pay for costs of publication and distribution from funds which have been specifically appropriated by law
  - (D) Reports, survey, or polls of any news reporting agencies or communications media who have neither received nor contributed any monies in behalf of any candidate.
- (3) The exceptions before stated may be disallowed and found to be reportable expenditures where the report, survey, or poll directly identifies a person who is a candidate, advocates or supports his nomination for election, or election, or defeat, or is published within 90 days prior to any election day.
- (q) No person or committee authorized by the person to receive contributions or make expenditures shall hold more than 1 testimonial affair, as defined in 6.1713(a) A.S.C.A. between elections unless that person seeks election to territory wide office or shows a deficit on his last final report filed with the commission under 6.1719 A.S.C.A. In the former case, a person or his authorized committee may hold up to 1 testimonial affair in each county. In the latter case, only 1 testimonial may be held and it must be held before the end of May in the year following the election. Testimonial affairs sponsored by a party for apolitical purpose for the general benefit of the party are exempt from the limits of this rule.
  - (r) There shall be a limit on the number of functions designed to raise funds .for political purposes for which the total cost of attending is \$15 a person or less of 2 functions in each representative district.
- History: Rule 1-85, eff 2 May 85. , § 5.3.*
- 3.0143 Final Reports.**
- (a) Who Must File. Any person who has filed a preliminary report shall file a final report.
  - (b) Time. The final report for a candidate, question, or issue on the general, special, or runoff election ballot shall be filed on or before the 20th calendar day after the general election. The final general report shall contain all information detailed in 6,1719(a) A.S.C.A., from the day after the closing date of the applicable preliminary general report through the day of the general, special, or runoff election.
  - (c) Form; Filing; Copies. The final report shall be filed in duplicate with the commission on a form furnished by the commission.
  - (d) Content. The report shall include:
    - (1) The information required by 6.1719 A.S.C.A., and additional information as the commission may reasonably require as reflected in the campaign financing report forms adopted by the commission from time to time.

- (2) A description of any adjustments or other explanatory information relevant to the contributions and expenditures reported.
- (3) The signature of the person authorized to sign the report by a party or committee. All reports filed by a committee with a campaign treasurer named by a candidate shall also be signed by the candidate.

*History: Rule 1-83, eff 2 May 85, § 3.4.*

**3.0144 Supplemental Reports.**

- (a) Unless the commission is requested to terminate a registration, as provided in Rule 4 relating to organizational reports, a candidate is required to file supplemental reports. For the purpose of this subsection, the term “candidate” includes ‘an elected official.
- (b) Filing Dates. Reports are due every 3 months in the event of a deficit and every 6 months in the event of a surplus. Reports filed on the 5th of the month as shown below must be completed as of midnight of the 5th day before the filing date.
 

Deficit	Surplus
January	January
April	July
July	January
October	
January	
- (1) Supplemental reports for all candidates, committees, and parties must be filed on or before the 5th day of:
- (2) Supplemental reports following the final report filed after a special election or special general election, in the event of a deficit shall be filed every 3 months subsequent to the previous report. In the event of a surplus, filings are required every 6 months after the final report.
- (c) Form; Filing; Copies; Content. The supplemental reports shall follow the form, filing requirements where applicable, number of copies, and content of Section 3.0143.

*History: Rule 1-85, eff 2 May 85, § 5.5.*

**VI. PROCEDURES RELATING TO COMPLAINTS, INVESTIGATIONS,**

**AND HEARINGS CONCERNING ALLEGED VIOLATIONS OF 19 ASC 1601-24**

**3.0150 Scope.**

This rule covers the general procedure relating to complaints, investigations, and hearings with respect to alleged violations of the election campaign contributions and expenditures law as reflected in 6.1701 - 6.1724 A.S.C.A. and in the rules administered by the commission.

*History: Rule 1-85, eff 2 May 83, § 6.1.*

**3.0151 Complaints Initiated by A Member**

- (a) Any person who believes a violation of the law administered by the commission has occurred may file a complaint in person or by mail with the commission. Complaints may be initiated by the commission under the signature of a commissioner. Information concerning the filing or status of a complaint shall be treated as confidential by the complainant, the respondent, and the commission and its staff.
- (b) Form; Time. There is no prescribed form for a complaint, but it shall be legible and signed.
- (c) Contents. The complaint may be simply worded but shall specify:
  - (1) The identity of the party complaining and, if the complaint is made by an organization on behalf of a candidate, the organization shall allege that it has the right to represent the candidate.
  - (2) The particular ground(s) upon which the complaint is based, the specific issues involved, the name and public position of the respondent, the contentions of the complainant, and a description of the evidence he intends to introduce in support of those contentions.
  - (3) A clear and concise statement of any other relevant facts.
  - (4) The action requested.
  - (5) The complaint shall be signed by the person making the complaint, under oath taken

before any person authorized by law to administer oaths.

- (d) Upon receipt of a document which does not comply with the requirements of subsection c of this section or which does not in form or substance constitute a complaint, the commission shall notify the person signing the document and the respondent of the insufficiency.
- (e) After receipt of a complaint, the commission may:
  - (1) Cause an investigation to be made of the allegations of the complaint;
  - (2) Dismiss the complaint on the grounds that the complaint fails to state a violation as a matter of law or that the allegations alleged are contrary to information known to the commission;
  - (3) Dismiss the complaint on the grounds that the allegations are not substantiated by the investigation caused by the commission; or
  - (4) Issue a notice of hearing on the complaint, which shall specify the time, place, and date of the hearing and the alleged violation.

For the purposes of notice, all persons registered with the commission including candidates, committees, and parties, are required to inform the commission in writing of their current residence address immediately after any change thereof.

The person's most recent current address shall constitute the place of personal service upon the person by the commission of any complaint, notice of hearing, or notice of other proceedings pertaining to the person's campaign activities.

Where a person registered with the commission elects to supply the commission with a mail or post office address in lieu of his residence, then in that event that person is considered to have elected to receive all communications and personal service through the United States mails and to have thereby chosen the United States Postal Service as his agent for service of process, so that service of a complaint or other notice of proceedings shall be effective on that person upon the depositing of the complaint or

communication in the United States mails with first-class postage pre-paid thereon.

The respondent shall appear before the commission at the time and place specified in the notice of hearing. If the respondent desires to file an answer to the complaint, he shall file the original and 9 copies thereof with the commission before the time of hearing.

*History: Rule 1-85, eff 2 May 85, § 6.2.*

**3.0152 Amendment of complaint.**

Any complainant may amend the complaint at the discretion of the commission at any time prior to the issuance of the final order based thereon.

*History: Rule 1-85, eff 2 May 85, § 6.3.*

**3.0153 Withdrawal of complaint.**

The complainant may withdraw the complaint at any time with the permission of the commission.

*History: Rule 1-85, eff 2 May 85, § 6.4.*

**3.0154 Investigation.**

- (a) The commission may order the staff investigative attorney or any other person to conduct an investigation on the allegations of a complaint. The investigator shall have all of the authority to conduct discovery proceedings as permitted in criminal cases.
- (b) The investigator shall file an advisory report with the commission within the time as the commission may order.
- (c) If the commission dismisses the complaint, whether before or after investigation, the commission shall so notify the complainant and state the reason for dismissal.

*History: Rule 1-85, eff 2 May 85, § 6.5.*

**3.0155 Probable Cause Hearings.**

- (a) Time; Place; Date. The hearing shall be held at the time and place specified in the notice of hearing, but may be continued from day to day and adjourned to a later date or to a different place by the commission.
- (b) Confidentiality. Unless the respondent requests an open session on or before the date set for the hearing, the hearing shall be closed to the public

arid all matters presented at the hearing, including all documentary or testimonial evidence, shall not be made public by any person except as allowed by 6.1722(G) and (g) A.S.C.A.

- (c) Prehearing Conference. If the commission determines that the issues will be complex, it may order a prehearing statements specifying the issues, investigative attorney and the respondent submit prehearing statements specifying the issues, theory of case, proposed evidence, and exhibits to be submitted, provided that the respondent need not comply if he exercises his constitutional rights against self-incrimination.
- (d) Presentation of Evidence.
  - (1) The staff investigative attorney and the respondent shall be afforded an opportunity to present evidence and argument on all issues involved.
  - (2) The rules of evidence shall be the same as those set out in 4.1027 A.S.C.A.
  - (3) The burden of proof shall be on the staff investigative attorney to show by a preponderance of evidence that probable cause of a violation of the law or rules of the commission exists.
- (e) Record of the Hearing.
  - (1) The record of the hearing shall be compiled in conformance with 4.1032 A.S.C.A.
  - (2) Unless specifically ordered by the commission, testimony shall not be reported verbatim. The complainant and the respondent shall be entitled to a copy of the record of the hearing or any part thereof upon application to the commission and upon payment of the cost thereof.

*History: Rule 1-85, eff 2 May 85, § 6.6.*

**3.0156 Reporting Probable Cause Findings.**

- (a) If, at the conclusion of proceedings, the commission determines by majority vote of all the members that probable cause of a violation does not exist, then the complaint shall be denied, and the entire records of the proceedings shall be kept confidential at the option of the respondent. Both complainant and respondent

shall be promptly served with a certified copy of the commission's final decision.

- (b) In the event the commission determines by majority vote of all the members that probable cause of an unintentional violation exists, the commission shall promptly serve the complainant and respondent with a certified, confidential copy of its final decision and order. Respondent may be ordered to temporarily cease and desist violation of the law or file any report, statement, or other information required by law or commission rule.
- (c) If, however, the commission determines by majority vote of all the members that probable cause of a willful violation exists, it shall promptly advise the Chief Election Officer of its findings. In addition, both the complainant and the respondent shall be promptly served with a certified copy of the commission's final decision.
- (d) In accordance with standards uniformly applied, the commission will request the office of the Attorney General to prosecute when the commission's final decision indicates that probable cause of a willful violation exists. A copy of the commission's final decision shall accompany the request for prosecution.

*History: Rule 1-85, eff 2 May 85, § 6.7.*

**3.0157 Defective or Deficient Reports.**

- (a) Any person who has filed a defective or deficient report shall correct or satisfactorily explain the same within such time as the commission may specify by written notice.
- (b) The commission may issue and serve with the notice of correction, a written notice of hearing in accordance with subsection e of Section 3.0151, which shall state that if the respondent does not cause the filing of a corrected report or does not satisfactorily explain the deficiency or defectiveness of a report within the time allowed by the commission, that a probable cause hearing on the violation will be held at the time, date, and place specified in the notice of hearing.

*History: Rule 1-85, eff 2 May 85, § 6.8.*

**VII. DISPOSITION OF FUNDS**

**3.0160      Scope.**

This rule governs the general procedure for filing a report with the commission covering the amounts and manner of disposition of funds to meet the requirements of 6.1720 A.S.C.A.

*History: Rule 1-85, eff 2 May 85, § 7.1.*

**3.0161      Disposition Report.**

- (a) Who Must File. Any candidate who ceases to be a candidate for any reason after filing 1 or more, organizational reports, and any committee or party that discontinues or determines that it will no longer receive contributions or make expenditures reportable to the commission shall file a disposition of funds report.
- (b) Form; Filing; Time; Copies. The report shall be filed in duplicate with the commission on a form furnished by the commission, on or before the date the distribution is to be made.
- (c) Content. The report shall include:
  - (1) information required to identify the person filing the report, the amount and source of funds to be distributed, the manner of distribution, and additional information as the commission may reasonably require as reflected in the campaign financing report forms adopted by the commission from time to time.
  - (2) The signature of the candidate or person authorized to sign the report by a party or committee. All reports filed by a committee with a campaign treasurer named by a candidate shall also be signed by the candidate.

*History: Rule 1-85, eff 2 May 85, § 7.2.*

**3.0162      Specific standards:**

- (a) Persons other than elected officials or candidates who failed to be nominated or elected who wish to dispose of their residual funds must make a proportionate distribution of the residual amount to...all donors. Failure to make proportionate distribution to donors shall be prima facie evidence of failure to maintain adequate contribution records.

- (b) Elected officials or candidates whose names have appeared on the ballot may make a proportionate distribution to donors or they may contribute any residual funds to any candidate, party, charity, nonprofit organization, or to the territorial general fund in the case of a territorial office.
- (c) To qualify as a proportionate distribution there is no requirement that residual funds be distributed to persons contributing less than \$10 or that distributions be made in amounts less than \$5; provided, however, that no contributor shall receive more than his original contribution.
- (d) An elected official shall be presumed to be a candidate until the close of filing for nomination in the year in which his current term of office expires for purposes of this rule.

*History: Rule 1-85, eff 2 May 85, § 7.3.*

**VIII.      ADOPTION, AMENDMENT OR REPEAL OF RULES**

**3.0170      Scope.**

This rule governs the procedure to be used to adopt, amend or repeal commission rules.

*History: Rule 1-85, eff 2 May 85, § 8.1.*

**3.0171      Commission Initiation.**

When upon its own motion the commission proposes to adopt, amend or repeal a rule, a notice of proposed rulemaking will be published as required by law, under 4.1001 A.S.C.A., et seq. the Administrative Procedure Act.

*History: Rule 1-85, eff 2 May 85, § 8.2.*

**3.0172      Conduct of Hearing on Rules.**

- (a) Public Hearing. A public hearing shall be held for all proposed issuance, amendment, or repeal of rules initiated by the commission.
- (b) Presiding Officer. Each such hearing shall be conducted by the chairman or his designee. The hearing shall be conducted in a way as to afford interested persons a reasonable opportunity to be heard on matters relevant to the issues involved and to obtain a clear and orderly record.
- (c) Continuance of Hearing. Each hearing shall be held at the time and place set in the notice of



hearing, but may at a time and place be continued from day to day or adjourned to a later date or to a different place without notice other than the announcement at the hearing.

- (d) Order of Hearing. At the commencement of the hearing the presiding officer shall read the notice of hearing and shall then outline briefly the procedure to be followed. Testimony shall then be received with respect to the matters specified in the notice of hearing in an order as the presiding officer shall prescribe.
- (e) Submission of Testimony. All interested persons shall be given reasonable opportunity to offer testimony with respect to the matters specified in the notice of hearing. Every witness shall, before proceeding to testify, state his name, address, and whom he represents at the hearing. The presiding officer shall confine the testimony to the issue(s) before the hearing.
- (f) Oral and Written Presentation at the Hearing. All interested persons or agencies of the territory or its political subdivisions will be afforded an opportunity to submit data, views or arguments which are relevant to the issues orally or in writing. Written testimony should be submitted to the commission at its office 24 hours or more prior to the hearing. Person submitting written testimony on the day of the hearing must furnish 15 copies of such testimony to the commission staff prior to the hearing. In addition, or in lieu thereof, persons or agencies may also file with the commission within 7 days following the close of the public hearing a written protest or other comments or recommendations in support of or in opposition to the proposed rulemaking. The period for filing written protests comments or recommendations may be extended by the presiding officer for good cause.
- (g) Transcript of the Testimony. Unless otherwise specifically ordered by the presiding officer, testimony given at the hearing shall not be reported verbatim. All supporting written statement, maps, charts, tabulations, or similar data offered at the hearing, and which are considered by the presiding officer to be authentic and relevant, shall be received and made a part of the record. Unless the presiding

officer finds that the furnishing of copies is impracticable, 2 copies of the exhibits shall be submitted.

*History: Rule 1-85, eff 2 May 85, § 8.3.*

### **3.0173 Commission Action.**

At the close of the final public hearing, the presiding officer shall announce the decision of the commission or announce the date when it intends to make a decision.

*History: Rule 1-85, eff 2 May 85, § 8.4.*

### **3.0174 Emergency Rulemaking.**

The commission may adopt emergency rules as provided by law.

*History: Rule 1-85, eff 2 May 85, § 8.5.*

### **3.0175 Petition, for Adoption, Amendment, or Repeal of Rules.**

- (a) Who May File. Any interested person or organization may petition the commission for the adoption, amendment, or repeal of any rule of the commission.
- (b) Form and Content of Petition. The petition need not be in any special form but it shall contain the following:
  - (1) The name, address, zip code and telephone number of each petitioner;
  - (2) The signature of each petitioner;
  - (3) A statement of the nature of petitioner's interest;
  - (4) A draft or substance of the proposed rule or amendment or a designation of the provisions sought to be repealed, or both;
  - (5) A statement of the reasons in support of the proposed rule, amendment, or repeal; and
  - (6) Any other information pertinent to the petition.
- (c) Filing and Service. An original copy of the petition shall be filed with the commission. Each petition be date-stamped upon receipt and will become a public record upon filing. The commission may require the petitioner to serve

other persons or governmental agencies known to be interested in the proposed rulemaking.

(d) Granting or Denial of Petition; Time Limitation,

(1) The commission shall within 30 days after the submission of the petition either deny the petition in writing, stating its reasons for its denial, or initiate proceedings in accordance with the procedure provided in Sections 3.0171 and 3.0172 for the adoption, amendment, or repeal of rules. Any petition which does not conform to the requirements specified herein may be rejected,

(2) No public hearing, oral argument or other form granting or denying the petition.

(e) Other Commission Action. Nothing in this rule shall operate to prevent the commission, on its own motion, from acting on any matter disclosed in any petition for the adoption, amendment, or repeal of rules.

*History: Rule 1-85, eff 2 May 85. § 8.6.*

---

TITLE 3 - CHAPTER 02 – REGISTRATION

Sections:

3.0201	Scope
3.0202	Definitions
3.0210	Registration in Person
3.0220	Registration in Absentia
3.0230	Re-registration
3.0240	Deadline

---

**3.0201** **Scope.**

This chapter provides the procedures for registration, both in person and in absentia.

Pursuant to ASCA §6.0214(a), any person who desires to vote in local elections for the office of Representative to the House of Representatives (Fono), or for the offices of Governor/Lt. Governor, or for issue(s) placed on a ballot, must appear in person before an election officer to register.

Pursuant to ASCA §6.0214(d), uniformed services and overseas persons, who are unable to appear in person and who have not previously registered to vote in American Samoa, may register in absentia.

However, such individuals, upon qualification, may only vote for the office of Delegate to the United States House of Representatives.

*History: Rule 1-2004, eff. June 16 04.*

**3.0202** **Definitions.**

In this chapter, the following terms have the meanings indicated:

(a) “Uniformed services voters” includes a member of a uniformed service of the U.S. on active duty, or a merchant marine, who is otherwise qualified to vote in American Samoa, and who, by reason of such active duty or merchant marine service, is absent from American Samoa. This category also includes the spouse or dependent of the active-duty uniformed service member/merchant marine.

(b) “Overseas voter” includes a uniformed service voter who, by reason of active duty or service, is absent from American Samoa on the date of the election; or a person who resides outside American Samoa, and was domiciled in American Samoa before leaving the Territory, and is qualified to vote in American Samoa; or a person who resides outside American Samoa, and (but for such residence) would be qualified to vote in American Samoa (the last place in which he was domiciled).

*History: Rule 1-2004, eff. June 16 04.*

**3.0210** **Registration in Person.**

(a) Individuals who are physically present in American Samoa, and who desire to register to vote, must appear in person before an election officer.

(b) An application in the form of an affidavit, containing the following information, must be completed:

- (1) name;
- (2) Social Security number, if any;
- (3) date of birth;
- (4) current residence;
- (5) place of current employment;

- (6) a statement that the American Samoa residence was acquired with the intent to make American Samoa the person's legal residence with all the accompanying obligations therein;
  - (7) that the person is a U.S. citizen or U.S. national;
  - (8) signature of the applicant; and
  - (9) sworn to before an election officer.
- (b) Proof of qualifications and residency must be provided upon request by the Election Office. A list shall be posted in a public area of the Election Office, specifying those documents that are acceptable as proof of qualifications and residency. Copies of such documentation must be maintained in the qualified voter's file.

*History: Rule 1-2004, eff. June 16 04.*

**3.0220 Registration in Absentia.**

- (a) Uniformed services voters and overseas voters may register to vote for the office of Delegate to the U.S. House of Representatives without having to appear before an election officer in American Samoa.
- (b) An application to register must be in writing. The application must contain the following information:
  - (1) name;
  - (2) Social Security number, if any;
  - (3) date of birth;
  - (4) residence in American Samoa;
  - (5) current mailing address outside of American Samoa;
  - (6) place of current employment;
  - (7) a statement that the American Samoa residence was acquired with the intent to make American Samoa the person's legal residence with all the accompanying obligations therein;
  - (8) that the person is a U.S. citizen or U.S. national;

- (9) signature of the applicant; and
  - (10) sworn to by a notary public, commissioned officer, consular officer or other authorized person.
- (c) An application to register need not be on any specific form or in any specific format. The following forms are also acceptable for voter registration:
- (1) Federal Post Card Application; and
  - (2) any other form prescribed by the National Voter Registration Act. (d) An application to register must be mailed or FAX'ed directly to the Election Office. If a facsimile medium is utilized, the application must be mailed after it is FAX'ed.
- (e) Proof of qualifications and domiciliary must be provided upon request by the Election Office. The request by the Election Office may specify the type of documents that are acceptable as proof of qualifications and domiciliary. Copies of such documentation must be maintained in the qualified voter's file.

*History: Rule 1-2004, eff. June 16 04.*

**3.0230 Re-registration.**

- (a) Any previously qualified voter whose name has been removed from the Official Roll of registered voters may apply to have his name restored in the Official roll.
- (b) When a previously qualified voter appears in person before an election officer to re-register, he must complete and sign a new registration application. Copies of documentation that previously established the voter's qualifications, and that is maintained in the voter's file, may be utilized to establish the voter's qualifications. However, the Election Office may require further proof of residency.
- (c) When a previously qualified voter who is not present in American Samoa requests in writing to re-register, the election officer must compare the signature in the written request to that contained in the voter's file. If the signatures do not match, the Election Office may require

further proof from the applicant. If the signatures match, the Election Office must complete a new registration application with the updated information received from the applicant. Copies of documentation that previously established the voter's qualifications and domiciliary in American Samoa, and that is maintained in the voter's file, are sufficient to reestablish the voter's qualifications.

*History: Rule 1-2004, eff. June 16 04.*

**3.0240      Deadline.**

All applications to register or re-register must be made or postmarked not less than thirty (30) days before an election.

*History: Rule 1-2004, eff. June 16 04.*

---

TITLE 3 - CHAPTER 03 – CANDIDATES

Sections:

3.0310      Filing Fees

**3.0310      Filing Fees.**

Candidates for the offices of Governor and Lieutenant Governor of American Samoa, Delegate to the House of Representatives of the Congress of the United States, and representatives to the House of Representatives of the Legislature of American Samoa, shall pay the following non-refundable fees when filing their respective candidacy petition:

Governor & Lt. Governor	\$500.00
Delegate/Congress	\$500.00
Representative/Fono	\$300.00

*History: Rule 1-2004, eff. June 16 04.*

---

TITLE 3 - CHAPTER 11 – ABSENTEE VOTING

Sections:

3.1102      Counting of Absentee Ballots

**3.1102      Counting of Absentee Ballots.**

Absentee ballots secured in the absentee ballot container pursuant to A.S.C.A. §6.1106, shall be counted pursuant to A.S.C.A. §6.1108, as amended.

*History: Rule 1-2004, eff. June 16 04.*