



City of Phoenix
ETHICS COMMISSION

August 27, 2025

Tristan Manos

Sent Via: Email - [REDACTED]

RE: Dismissal of Ethics Inquiry EC-23-01

Dear Tristan Manos:

I am writing to formally notify you that after thorough review and consideration of Ethics Inquiry EC-23-01 filed on August 9, 2023¹ ("Ethics Complaint"), which included an in-depth investigation, the Ethics Commission voted 5-0 to dismiss the Ethics Complaint on August 21, 2025. The Investigative Report (courtesy copy of report is attached) provides details of the facts investigated and the questions considered by the Commission in reaching its decision.

The Commission's decision was based on a comprehensive assessment of the facts and in accordance with relevant City ordinances, policies, or procedures as explained in more detail in the Investigative Report and the Minutes which will be published after the Commission's next meeting.

For additional information, please see the City of Phoenix Ethics Commission page for previous meeting results, minutes, and resources such as the Bylaws, Rules of Procedure, Ordinances, etc.: www.phoenix.gov/ethics.

We appreciate your cooperation and understanding regarding this matter. Should you have any questions or require additional information regarding our decision, please contact the Ethics Commission at ethics.commission@phoenix.gov for further clarification.

Sincerely,

Samuel Leyvas
Ethics Commission Chair

¹ After the Commission was established, it voted to investigate this Complaint on September 19, 2024. The Commission did not initiate the investigation of this Complaint until after it resolved previously-filed Complaints.



City of Phoenix
ETHICS COMMISSION

August 27, 2025

Councilwoman Pastor
c/o Attorney Robert Pastor

Sent Via: Email - [REDACTED]

RE: Dismissal of Ethics Inquiry EC-23-01

Dear Councilwoman Pastor:

I am writing to formally notify you that after thorough review and consideration of Ethics Inquiry EC-23-01 filed on August 9, 2023¹ ("Ethics Complaint"), which included an in-depth investigation, the Ethics Commission voted 5-0 to dismiss the Ethics Complaint on August 21, 2025. The Investigative Report (courtesy copy of report is attached) provides details of the facts investigated and the questions considered by the Commission in reaching its decision.

The Commission's decision was based on a comprehensive assessment of the facts and in accordance with relevant City ordinances, policies, or procedures as explained in more detail in the Investigative Report and the Minutes which will be published after the Commission's next meeting.

Although the Commission did not find a violation of the Ethics Policy, the Commission identified two areas of concern during its deliberations that it wanted to bring to your attention. First, the Commission was concerned by your failure to timely respond to follow-up questions, which are an important part of the investigation process. While a response was ultimately received, the delayed response unfortunately prolonged the investigation. The Commission also emphasized that the entire system of ethics and public trust relies on transparency, cooperation, and active participation in this process—particularly by public officials. For that reason, the Commission viewed the delay in your response as a concern that needed to be noted.

Second, as an experienced Councilmember, the Commission believed that you should have already established a process to ensure there is no expenditure of public resources in connection with any partisan activities. Despite the Commission's belief that you did not personally benefit from the distribution of the Flyer or the Emails (which contained a partisan sponsor), based upon your years of experience as a Councilmember, the Commission determined that you should have anticipated the situation and better avoided the appearance of impropriety.

¹ After the Commission was established, it voted to investigate this Complaint on September 19, 2024. The Commission did not initiate the investigation of this Complaint until after it resolved previously-filed Complaints.



City of Phoenix
ETHICS COMMISSION

For additional information, please see the City of Phoenix Ethics Commission page for previous meeting results, minutes, and resources such as the Bylaws, Rules of Procedure, Ordinances, etc.: www.phoenix.gov/ethics.

We appreciate your cooperation and understanding regarding this matter. Should you have any questions or require additional information regarding our decision, please contact the Ethics Commission at ethics.commission@phoenix.gov for further clarification.

Sincerely,

Samuel Leyvas
Ethics Commission Chair

INVESTIGATION REPORT - EC 23-01

Submitted to Commission: August 21, 2025

I. INTRODUCTION.

On September 19, 2024, the City of Phoenix (“City”) Ethics Commission (“Commission”), voted 4 to 0 to investigate¹ EC-23-01,² which was filed August 9, 2023 with the City Clerk’s Office (“Complaint”).³ The Complaint asserts violations of the City’s Ethics Policy involving City of Phoenix District 4 Councilwoman Laura Pastor (“Councilwoman Pastor”) and her office staff alleging the use of public resources for partisan purposes.

II. COMPLAINT SUMMARY.

The Complaint alleges as follows:

- On July 26, 2023, Councilwoman Pastor’s office emailed to the District 4 email distribution list a flyer (“Flyer”) that had the subject line, “Councilwoman Pastor Hosts Back-to-School Supply Giveaway with Maricopa County Young Democrats⁴” (“Initial Email”).
- On July 28, 2023, Councilwoman Pastor’s office sent a second email, with the Flyer re-attached, with the subject line, “REMINDER: Councilwoman Pastor Hosts Back-to-School Supply Giveaway with Maricopa County Young Democrats” (Reminder Email”).⁵

III. APPLICABLE RULES, LAWS, AND OTHER GUIDANCE.

The Arizona statutes and regulations and the City Code, Charter, Ethics Handbook and Administrative Rules provide guidance regarding the political activities of elected officials, employees, and the City.

¹ The Commission requested Attorney M. Elizabeth Nillen, AWI-CH (“Investigator”) of Spencer Fane LLP to conduct the investigation (“Investigation”) by obtaining relevant information and drafting recommendations for the Commission’s consideration.

² The Complaint that was filed by Tristan Manos is attached as **Exhibit A**.

³ This Investigation began after the Commission resolved previously-filed Complaints.

⁴ The Maricopa County Young Democrats is a Political Action Committee.

⁵ The Initial Email and Reminder Email are collectively referred to herein as the “Emails.”

A. City of Phoenix Ethics Policy.

The Commission is authorized to investigate complaints of violations of the City's Ethics Policy asserted against City councilmembers as elected officials pursuant to City Code Article II, § 2-53(J). The City's Ethics Policy provides as follows:

ETHICS POLICY.

It is the policy of the City of Phoenix to uphold, promote and demand the highest standards of ethics from all of its elected officials, employees, board members, and volunteers. Accordingly, all City elected officials, employees, board members, and volunteers must maintain the utmost standards of personal integrity, truthfulness, honesty and fairness in carrying out their public duties, avoid any improprieties in their roles as public servants, comply with all applicable laws, and never use their City position or power for improper personal gain.⁶

B. Applicable Arizona Statutes.

There are a few Arizona statutes which have been identified that address a city's use of public resources. Two Arizona statutes involve elections.

A.R.S. § 9-821.01(B)⁷ provides that cities cannot indicate on an election ballot the political support of a candidate:

Notwithstanding any other law, a city or town shall not hold any election on candidates for which there is any indication on the ballot of the source of the candidacy or of the support of the candidate.⁸

A.R.S. § 9-500.14⁹ provides that cities cannot use public resources to influence the outcome of an election:

A. A city or town shall not spend or use its resources, including the use or expenditure of monies, accounts, credit, facilities, vehicles, postage, telecommunications, computer hardware and software, web pages,

⁶ Phoenix City Code, Art. II, § 2-52(B), which is located on the City's Ethics Commission website at <https://www.phoenix.gov/content/dam/phoenix/cityclerk/site/documents/Ordinance-G6274-Ethics.pdf>

⁷ Exhibit B.

⁸ Although not applicable to this Complaint as this matter does not involve an election ballot, the Arizona Supreme Court determined that this provision does not apply to certain charter cities when it upheld the City of Tucson's city charter provision which permits partisan city council elections because the specific provision of the Arizona statutes regarding non-partisan elections was not incorporated into the city's charter. *City of Tucson v. State of Arizona*, 229 Ariz. 172 (2012), see trial court order attached 2012 WL 5894236 (June 5, 2012) as **Exhibit E**. As set forth below, however, the City of Phoenix has incorporated this provision into its City Charter at Charter Chapter XII, Section 9. Therefore, the City of Phoenix cannot disclose a candidate's political affiliation on the ballot.

⁹ Exhibit C.

personnel, equipment, materials, buildings or any other thing of value of the city or town, for the purpose of influencing the outcomes of elections. Notwithstanding this section, a city or town may distribute informational pamphlets on a proposed bond election as provided in § 35-454 if those informational pamphlets present factual information in a neutral manner. Nothing in this section precludes a city or town from reporting on official actions of the governing body.

B. The prohibition on the use of public resources to influence the outcome of bond, budget override and other tax-related elections includes the use of city-focused or town-focused promotional expenditures that occur after an election is called and through election day. This prohibition does not include routine city or town communications.

C. This section does not prohibit the use of city or town resources, including facilities and equipment, for government-sponsored forums or debates if the government sponsor remains impartial and the events are purely informational and provide an equal opportunity to all viewpoints. The rental and use of a public facility by a private person or entity that may lawfully attempt to influence the outcome of an election is permitted if it does not occur at the same time and place as a government-sponsored forum or debate.

...

H.2. "Influencing the outcomes of elections" means supporting or opposing a candidate for nomination or election to public office or the recall of a public officer or supporting or opposing a ballot measure, question or proposition, including any bond, budget or override election and supporting or opposing the circulation of a petition for the recall of a public officer or a petition for a ballot measure, question or proposition in any manner that is not impartial or neutral.

In the context of a ballot measure, as opposed to a city election of councilmembers, the Attorney General has provided the following guidance to determine whether public resources were used to "influence the outcome of elections" under A.R.S. § 9-500.14:

In the context of a ballot measure, we thus assess whether the use of public resources is for the purpose of influencing an election using an objective test to determine both its purpose and its manner. The test looks to: (1) whether the use of public resources has the purpose of supporting or opposing the ballot measure, and (2) whether the use of public resources involves dissemination of information in a manner that is not impartial or neutral. As noted above, this test is objective.

In many cases, the application of the test will be straightforward. If the use of public resources unambiguously urges voters to vote for or against a ballot measure, it will violate the statutory prohibitions because (1) it supports or opposes the ballot measure, and (2) there is no question that the use is not impartial or neutral given its unambiguous message for or against the measure. Similarly, if a reasonable person could not find that the use of public resources supports or opposes a ballot measure, it will not violate the statutory prohibitions because (1) it does not support or oppose a ballot measure, and (2) it must therefore be impartial or neutral with regard to the ballot measure.

In other cases, the application of the test will require additional analysis. If a reasonable person could conclude that the use of public resources supports or opposes a ballot measure but reasonable minds could differ, *see Kromko*, 202 Ariz, at 503 ¶ 10, then the test will require closer examination of whether the use of public resources disseminates information in a manner that is not impartial or neutral. For this examination, we can analogize to the requirement that the legislative council provide "an impartial analysis" of each ballot measure or proposed amendment. A.R.S. § 19-124(B). Our Supreme Court has held

that impartial analysis must “avoid[] argument or advocacy” and “be free from any misleading tendency, whether of amplification, of omission, or of fallacy, and it must not be tinged with partisan coloring.” *Tobin v. Rea*, 231 Ariz. 189, 194 ¶¶ 12-13 (2013) (internal quotation marks and citations omitted). The use of “rhetorical strategy” in an attempt to persuade the reader is another signal that the dissemination of information violates this prohibition. See *Citizens for Growth Management v. Groscost*, 199 Ariz. 71, 72-73 ¶ 6 (2000). If an analysis of the manner of the use of public resources reveals that it engages in advocacy, misleads, or uses rhetorical strategy, the use of public resources will violate the statutory prohibition because (1) a reasonable person could find that the use supports or opposes a ballot measure, and (2) it is not impartial or neutral.⁷

In other words, when assessing whether conduct implicates section 1-410's restrictions based on its purpose, we must account for the delicate balance between the prohibition on the improper use of public resources to influence elections and the need for public officials and employees to carry out their public functions. If a reasonable person could find that the use of public resources supports or opposes a ballot measure, we assess whether it is done in a neutral or impartial manner by examining whether it is: (1) free of advocacy; (2) free of misleading tendencies, including amplification, omission, or fallacy; and (3) free of partisan coloring.

Ariz. Op. Atty. Gen. No. I15-002 (July 30, 2015).¹⁰

A third Arizona statute, **A.R.S. § 38-504(C)**,¹¹ identifies certain prohibited acts by public officers or employees that may create a substantial and improper influence:

A public officer or employee shall not use or attempt to use the officer's or employee's official position to secure any valuable thing or valuable benefit for the officer or employee that would not ordinarily accrue to the officer or employee in the performance of the officer's or employee's official duties if the thing or benefit is of such character as to manifest a substantial and improper influence on the officer or employee with respect to the officer's or employee's duties.

C. Applicable City Charter Provisions.¹²

The City of Phoenix City Charter contains various provisions which govern the general powers of elected officials as well as the limitations regarding partisan activities.

Phoenix City Charter Ch. IV Sec.2(64) provides that the general powers of the City Councilmembers include the power to exercise and carry into effect the actions the Council deems necessary or proper, as follows:

¹⁰ Exhibit D.

¹¹ Exhibit E.

¹² Access to the City Charter is available at: <https://phoenix.municipal.codes/>.

To enact appropriate legislation and do and perform any and all other acts and things which may be necessary and proper to carry out the general powers of the City or any of the provisions of this Charter; to exercise any and all powers not in conflict with the constitution of the State, with this Charter, or with the ordinances adopted by the people of the City; to do and perform all acts required by the laws of the State; to exercise and carry into effect whenever deemed necessary or proper, any and all additional powers vested in the City or the Council by the laws of the State.

Phoenix City Charter Ch. XII, Sec. 9 provides that the City cannot indicate on an election ballot the political support of a candidate:

The ballot shall in all respects comply with the provisions of law respecting ballots to be used at general, county or state elections, so far as applicable. A space may be provided at the top of the ballot for charter amendments or other questions to be voted upon at the municipal elections, as provided for under this Charter. The names of the candidates for each office shall be arranged as provided by law and nothing on the ballot shall be indicative of the source of the candidacy or of the support of any candidate.

Phoenix City Charter Ch. XXI, Sec. 9 provides that the City Council's duties are to protect and safeguard the interests of the City and its residents, which includes as follows:

The Council shall have plenary power to enact and make all proper and necessary ordinances, resolutions and orders to carry out and give effect to the express, as well as the implied powers granted in this Charter to the end that a complete, harmonious and effective municipal government may be initiated, installed, operated and maintained in the City of Phoenix, and thereby protect and safeguard the rights, interests, safety, morality, health and welfare of the City and its inhabitants.

Phoenix City Charter Ch. XXV, Sec.11 provides the limitations on certain political activities:

1. No officer or employee of the City shall directly or indirectly solicit or receive or be in any manner concerned in soliciting or receiving any assessment, subscription or contribution on behalf of any candidate for City of Phoenix elective office from any person holding a position with the City.
2. No person holding a position with the City, except elected officials, shall take any part in political management, affairs or campaigns in any election for City of Phoenix elective office further than to vote and privately express opinions.

D. City of Phoenix City Code (“Code”).¹³

Chapter 12, Sec. 12-217 of the Code provides the following restrictions regarding political activities of candidates for city office, elected officials, and city employees:

a. It shall be unlawful for any candidate for nomination or election to any office of the City to receive, either directly or indirectly, from any employee of the City, any money, or other thing of value whatever, for the purpose of defraying the expenses of or furthering such candidate’s nomination for or election to any City office.

b. It shall be unlawful for any employee of the City, with the exception of elected City officials, to take part in the political management or affairs of any candidate’s campaign for nomination or election to any City office other than to vote or privately express opinions. Except for City staff that conduct or give advice concerning City elections, privately expressing an opinion includes, but is not limited to, off-duty activities such as signing nominating or recall petitions, posting on personal or nongovernmental social media accounts, displaying a sign on nongovernment property, and communicating with another person or group of people when the employee does not do so in an official capacity.

c. Notwithstanding the foregoing, it shall be unlawful for any City employee to engage in political activities while on City time, in uniform, on City property, or using City resources.

E. City of Phoenix Elected Officials Ethics Handbook (“Handbook”).¹⁴

Section II.A.2 of the City of Phoenix Elected Officials Ethics Handbook (“Handbook”) defines “city business” as follows:

[City business] [m]eans an activity or enterprise for gain, benefit, advantage, or livelihood with a public entity, a research organization, a regulatory body, business association, or a professional association, whose primary purpose relates to research, rulemaking, development, best practices, or regulations that affect or relate to the City of Phoenix.

Section III.B of the Handbook provides the general rule that the City’s equipment and personnel shall not be used for private gain:

Elected officials should not use City facilities, equipment, personnel, or supplies for private purposes, except to the extent the facilities, equipment, personnel, or supplies are lawfully available to the public.

¹³ Access to the City Code is available at: <https://phoenix.municipal.codes/>

¹⁴ Access to the Handbook is available on the City’s Ethics Commission website at: https://www.phoenix.gov/content/dam/phoenix/citymanagersite/documents/ethics/ethics_handbook_elected_officials.pdf

The comment to this section in the Handbook also provides:

Public respect for government is weakened when City-owned facilities and equipment are used by elected officials for personal gain. City office supplies, work materials, vehicles and equipment are to be used only for City work. Taking City goods for private use is not a “fringe benefit”; it is stealing. See Arizona Revised Statutes Section 13-1802. Also, it is improper (and maybe unlawful) for supervisors to use subordinates for their personal benefit. Finally, an elected official should avoid waste of public supplies and equipment.

Section III.D of the Handbook provides the general rule that the City’s electronic mail system should only be used for City business:

Electronic mail systems, including the internet, should be only used for City business unless otherwise authorized....

F. City of Phoenix Administrative Regulations.

The Administrative Regulations (“ARs”) are drafted by the City Manager and violations of the ARs are addressed by the City’s Human Resources Department. The ARs only apply to City employees, such as the council staff members, and do **not** apply to elected officials. Although the ARs do not apply to elected officials, excerpts of the relevant ARs are provided in response to requests from the Commission regarding the rules in place for City employees.

AR 1.63¹⁵ is the City Electronic Communications and Information Acceptable Use Policy (“Communications Policy.”) Section III provides the following definitions of “City business,” and “Electronic communications”:

City Business – All work performed on an electronic device that has a direct relation to the City’s operations and activities. City business includes any work performed where non-transient public records may be created, transmitted, or stored using a personal mobile device.

Electronic communications – Any software or electronic information or telecommunications system including email and voice mail systems, instant and text messaging systems, facsimile machines, video-conference devices, software for net-meetings, webcasting, and other collaborative Web technologies.

Section V of the Communications Policy identifies when a City employee may use the City information systems for personal use and defines what constitutes unacceptable use:

4. **Personal Use.** The City workforce may use City information systems for incidental personal use as long as it
 - Consumes only a minimal amount of computer system resources or staff time
 - Does not interfere with productivity or any business activity

¹⁵ Exhibit F.

- Does not cause the City to incur additional costs
- Does not require repeated and ongoing use or registration of their City email account, as City workforce members should not use their City email address as their primary personal email account
- Does not violate any City A.R. or standard, or any applicable law or regulation, and
- Would not adversely affect the reputation of the City, its citizens, or its employees.

5. **Unacceptable Use.** The City workforce must use City information systems in compliance with this A.R.

Examples of unacceptable use include, but are not limited to the following:

- To upload, transmit, display/view, or store offensive, derogatory, defamatory, improper, harassing, sexually explicit, pornographic, obscene, vulgar, or profane messages or materials that violate or infringe in any way upon the rights of others, or that are unlawful, threatening, abusive, defamatory, or otherwise objectionable, even if in a joking manner
- To access restricted-content Web sites, such as sexually explicit, pornographic, racist, or hate sites

City workforce members must immediately disconnect from any Web site they have inadvertently connected to that contains sexually explicit, racist, violent, or otherwise inappropriate content. The ability to connect with a specific Web site does not in itself imply that the City workforce is permitted to visit that site.

- To copy or disseminate copyrighted materials, such as articles, movies, music, or computer software, in a manner that is inconsistent with applicable copyright laws or licensing agreements
- To use their City email account to post or email their personal information on public Web sites, blogs, or other external destinations, including online auctions

Members of the City workforce should not appear to be representing City of Phoenix when conducting personal business.

Only authorized and approved members of the City workforce may write, publish, or post official City information on social media sites.

- For personal gain or for personal business
- For political purposes, including campaigning and voting, except as provided in A.R. 2.16 Political Activity – Time off to Vote
- To use unapproved peer-to-peer or other software, such as LimeWire, BitTorrent, or KaZaA, or
- To transmit or forward chain letters, third-party advertisements, or third-party solicitations, or to set up forwarding agents that automatically forward email to personal or other external email accounts.

AR 2.16¹⁶ is the Employee Political Activity Policy (Political Activity Policy”). Section I of the Political Activity Policy identifies the purpose of the AR as follows:

The purpose of this AR is to define allowable and prohibited political activities for City employees.

Section II of the Political Activity Policy defines the Public Policy of the AR as follows:

It is the public policy of the City, reflected in this AR, that:

- City programs be administered in an unbiased manner and without favoritism for or against any political party or group or any member in order to promote public confidence in government, government integrity, and the efficient delivery of governmental services;
- All employees be free from any express or implied requirement or any political or other pressure of any kind to engage or not engage in any activity permitted by this AR; and,
- Employees not engage in activities that are inconsistent, incompatible, in conflict with, or are harmful to their duties as City employees

Section III of the Political Activity Policy identifies other limitations on the political activities of City employees to include Chapter XXV, section 11 of the Phoenix City Charter, Phoenix City Code §§ 2-221,¹⁷ 12-217¹⁸ and 12-218,¹⁹ Personnel Rules 4b²⁰ and 4c²¹, and A.R.S. § 16-402.²²

¹⁶ **Exhibit G.**

¹⁷ This Code section prohibits public employee organizations from endorsing candidates for the Phoenix City Council, or from making contributions to Phoenix municipal candidates, or to engage in certain union activities. Investigator did not consider this Code section applicable to the allegations set forth in the Complaint or responsive to questions raised by the Commission.

¹⁸ See Section III(D), above.

¹⁹ This Code section prohibits City officers and employees from influencing the vote of another City officer or employee for any particular person for nomination or election to any office of the City. Investigator did not consider this Code section applicable to the allegations set forth in the Complaint or responsive to questions raised by the Commission.

²⁰ See Section III(G), below.

²¹ See Section III(G), below.

²² This statute relates to an employee’s absence from employment for the purpose of voting. Investigator did not consider this statute applicable to the allegations set forth in the Complaint or responsive to questions raised by the Commission.

Section VI of the Political Activity Policy sets forth the specific Prohibited Activities:

...

Certain activities are prohibited. City employees:

1. **May not** use any official City authority or influence for the purposes of interfering with or affecting the results of an election.

2. **May not** participate in the management or affairs of any City candidates' campaign for Mayor of Phoenix or Phoenix City Council including, but not limited to, soliciting or making financial contributions to candidates.

...

4. **May not** use an official City title or designate employment with the City in political advertisements, endorsements or speeches.

Activities prohibited for an individual employee are also prohibited for groups or organizations of employees, even if the specific activities are being performed by a non-employee as a representative of the employee group.

C. The use of City resources or employees to influence the outcome of elections is prohibited by state law. A.R.S. § 9-500.14. This prohibition has been interpreted to prohibit the use of any City funds or resources to advocate for or against a measure that will be on the ballot. The obvious exception to this general prohibition is when the City Council proposes a measure that will appear on the ballot. But, even then, the use of City funds and resources is limited to informing the public of this action. City funds and resources cannot be used to "campaign" in support of the measure.

AR 2.93²³ is the City Employee Gift Policy ("Gift Policy"), which has its own definition of "City business," which is as follows:

For purposes of this AR and the Employee and the Volunteer Ethics Handbook only, [City business] means an activity on behalf of or at the request of the City of Phoenix or an activity that directly benefits the City of Phoenix.

²³ Exhibit H.

G. City of Phoenix Personnel Rules.

The Personnel Rules (“Rules”) are administered by the Civil Service Board. Like the ARs, the Rules do not apply to elected officials. Although the Rules do not apply to elected officials, the following Rules are included based upon questions raised by the Commission.

Rule 4b,²⁴ prohibits the following acts related to political contributions:

No officer or employee of the City shall directly or indirectly solicit or receive or be in any manner concerned in soliciting or receiving any assessment, subscription, or contribution on behalf of any candidate for a City of Phoenix elective office from any person holding a position with the City.

Rule 4c,²⁵ prohibits the following acts related to participation in political activities:

No person holding a position with the City, except elected officials, shall take any part in political management, affairs, or campaigns in any election for City of Phoenix elective office other than to vote and privately express opinions.

IV. INVESTIGATIVE PROCESS.

A. Objective.

The Investigation was conducted to collect information and provide a report with recommendations to assist the Commission in its efforts to determine whether Councilwoman Pastor²⁶ violated the City’s Ethics Policy when Councilwoman Pastor’s office sent emails to residents of District 4 that promoted an event that was co-sponsored by the Maricopa County Young Democrats.

B. Evidentiary Standard.

The evidence was reviewed, compared, and analyzed under a preponderance of the evidence standard, which is the same standard used by the Commission to determine whether the allegations are with or without merit. “Preponderance of the evidence,” for purposes of this Report, means that the evidence on one side outweighs, or is more than, the evidence on the other side. This is a qualitative, not a quantitative, standard.

²⁴ Exhibit I.

²⁵ Exhibit I.

²⁶ The Complainant also requests the Commission to determine whether the actions by the District 4 council staff, who are City employees, also constitute a violation of the City Ethics Policy. For reasons explained below, this Report does not address whether actions by City employees violate the City Ethics policy as the Commission does not have jurisdictional authority over City employees.

C. Independence.

Independence is an important component of this Investigation. The Commission and Investigator are independent from City elected officials and board members and Investigator has never represented or met any persons involved in the Investigation prior to conducting the Investigation. The Commission had complete discretion to conduct the Investigation as deemed necessary.

No City employee, elected official, board member, or staff member interfered with, or attempted to influence, the Investigation or the recommendations set forth in this Report.

D. Scope.

The Commission asked Investigator to obtain and organize factual information regarding the allegations identified in Section I.

E. Methodology.

To achieve the objective, the following information was reviewed and considered:

- The Complaint;
- Response to Complaint²⁷ filed by Robert Pastor, legal counsel for Councilwoman Pastor;
- Secretary of State Office Congressional candidate filings;
- Arizona Republic articles;
- City of Phoenix event fliers;
- Interviews of Councilwoman Pastor, Complainant Tristan Manos, City Attorney Julie Kriegh, Assistant City Attorney Deryck Lavelle, Floor Human Resources Representative Stephanie Bracken, Constituent Services Specialist Brenda Munoz, Council Aid Michael Petersen-Incorvaia, Council Public Information Officer Cooper

²⁷ After Investigator requested a follow-up interview with Councilwoman Pastor on May 5, 2025, Robert Pastor informed Investigator that he was now representing Councilwoman Pastor. As a result, Investigator submitted follow-up questions to Mr. Pastor on May 16, 2025. After not receiving a response, Commission Chair Sam Leyvas sent a follow-up letter on June 18, 2025 (attached hereto as **Exhibit J**), which clarified the additional information requested by the Commission. Mr. Pastor provided a response by letter dated July 14, 2025, which is attached hereto as **Exhibit K**.

Payne, Phoenix Union School District staff members, Maricopa County Young Democrat staff members, and staff members of the Secretary of State's office; and

- Applicable Arizona law, including statutes, City Charter, City Code, Administrative Regulations, Personnel Rules, case law, Attorney General Opinions, and Arizona and Federal Rules of Evidence.

V. BACKGROUND OF FACTS.

A. Undisputed Facts.²⁸

1. Councilwoman Pastor.

Councilwoman Pastor represents Phoenix City Council District 4. District 4 includes approximately 200,000 City residents in Central Phoenix and stretches from 61st Avenue to the west, 32nd Street to the east, Glendale Avenue to the north, and Van Buren Street to the south. Councilwoman Pastor was most recently re-elected (unopposed) on November 8, 2022, and sworn into her current, third term on April 17, 2023. Her current term expires on April 19, 2027.

2. Councilwoman Pastor's Run for Congress.

On or about May 31, 2023, Councilwoman Pastor announced an intent to run for her late father's former District 3 Congressional seat for the then-upcoming 2024 election. On or about August 18, 2023, Councilwoman Pastor abandoned her bid for the 2024 Congressional race. Councilwoman Pastor never filed a Statement of Interest or Nomination papers with the Arizona Secretary of State office and, therefore, was never an official candidate for the 2024 Congressional race.

3. The Emails and the Flyer.

On July 26, 2023, Brenda Munoz, as the Constituent Services Specialist for Councilwoman Pastor's office, sent to the District 4 email distribution list the Initial Email, wherein the body of the email only contained a flyer advertisement for a Back-to-School Supply Giveaway Event (the "Flyer"). The Initial Email had the subject line, "Councilwoman Pastor Hosts Back-to-School Supply Giveaway with Maricopa County Young Democrats."

²⁸ The undisputed facts contain material facts that are (1) undisputed, (2) corroborated by multiple witnesses or documents, or (3) otherwise determined by Investigator to be credible. Certain disputed facts and issues raised that fall outside the scope of this investigation, or provide additional supporting information, are discussed in the footnotes.

On July 28, 2023, Councilwoman Pastor's office sent the Reminder Email, which again only contained the Flyer as the body of the email. The Reminder Email had the subject line, "REMINDER: Councilwoman Pastor Hosts Back-to-School Supply Giveaway with Maricopa County Young Democrats."

Ms. Munoz sent both Emails (which contained the Flyer) through the City's "GreenRopes" electronic mail marketing system. A copy of the Flyer, which comprised the body of the Emails, is inserted below:



Office of City of Phoenix's District 4
Councilmember Laura Pastor
phoenix.gov/district4

Councilwoman Pastor Hosts Back-to-School Supply Giveaway with Maricopa County Young Democrats, Empowering Local Students for Success

Councilwoman Laura Pastor and Maricopa County Young Democrats are excited to host their upcoming Back-to-School Supply Giveaway Event.

The event aims to equip Phoenix students with essential school supplies, ensuring they have the tools they need to excel in their academic journey.

Councilwoman Pastor is collaborating with community partners, local businesses, and generous donors to provide a wide range of school supplies, including backpacks, notebooks, pens, pencils, erasers, rulers, and more.

The supply giveaway will take place during the Phoenix Union High School District Back-to-School Resource Fair this Saturday, July 29, at 9:00 a.m.

In addition to school supplies, the event will feature activities for students and families. There will be free shoes and haircuts for students and opportunities for parents to connect with local resources that support children's education.

Councilwoman Pastor and Maricopa County Young Democrats would like to express their gratitude to all the donors and sponsors who have contributed to making this event possible. Their generosity and commitment to education are vital in supporting the students of our community.

What: Back-to-School Supply Giveaway and Resource Fair

When: Saturday, July 29, 2023, 9:00 a.m. to 12:00 p.m.

Where: Carl Hayden Community High School, 3333 W. Roosevelt St.

Who: Councilwoman Laura Pastor, Maricopa County Young Democrats, Phoenix Union High School District, District 4 Staff

Figure 1

Councilwoman Pastor's office communications are typically reviewed by other staff members within the District 4 office before the communications are transmitted to the public. On this particular occasion, the Emails and Flyer were not reviewed by other staff members because the other staff members were not in the office at the time:

- a. Councilwoman Pastor was in Washington D.C. investigating her potential run for Congress.
- b. Council Aid Michael Petersen-Incorvaia, who usually reviews the flyers, was out of the office on leave.
- c. Policy Advisor Dr. Althe Allen, who is Ms. Munoz's direct supervisor, was out of the office.

Ms. Munoz did not create the Flyer. Rather, the Phoenix Union School District provided the Flyer to Ms. Munoz. Ms. Munoz worked with Council Public Information Officer Cooper Payne, employed by the City of Phoenix in the Communications Department, to distribute the Flyer through GreenRopes. Mr. Payne regularly reviews flyers and other communications sent out through the GreenRopes and did not believe the flyer was a prohibited communication.²⁹

4. The Back-to-School Supply Giveaway Event.

The Flyer promoted a Back-to-School Supply Giveaway Event that occurred on July 29, which is an annual event held by the Phoenix Union High School District that Councilwoman has supported every year since 2018.

The Back-to-School Supply Giveaway Event was set up in a large gymnasium, where tables holding backpacks and various school supplies were lined up along the perimeter. Parents and students stopped by the tables to collect donated supplies and materials (at no charge) to use during the 2023-2024 school year. Councilwoman Pastor and her staff sat at one of the tables to distribute school supplies.

Neither Councilwoman Pastor, nor anyone else, gave a speech at the Back-to-School Supply Giveaway Event. The Maricopa County Young Democrats did not attempt to sign-up persons attendees to join the Maricopa County Young Democrats or the Democratic Party. The Maricopa County Young Democrats also did not distribute pamphlets or other marketing material about their organization at the Back-to-School Supply Giveaway Event.

²⁹ When Mr. Payne believes a communication may be problematic, he recommends council staff review the communication with the City's Law Department. After his review of the Flyer, Mr. Payne did not recommend the Flyer be reviewed by the Law Department.

5. Other Community Events.

The various council district offices regularly host similar community events.³⁰ These other community events are co-sponsored by local businesses, local unions, and community organizations.

6. Mr. Manos.

Mr. Manos is a resident of the City of Phoenix located in District 4. Mr. Manos received the Emails and the Flyer as part of the District 4 email distribution. Mr. Manos worked as an Elections Worker for Maricopa County in 2020 and has served as a Maricopa County Republican Committee member.

7. The Complaint.

Mr. Manos filed the Complaint with the City Clerk on August 9, 2023. The Complaint asserts that the Emails violate the principle that “The use of any government property, including computers and the Internet, for any partisan political activities is always prohibited.”³¹ Although not specifically asserted in the Complaint, during his interview, Mr. Manos explained that he filed the Complaint because District 4 sent an email, using City resources, that promoted an event and included a statement that the event was sponsored by a political party (i.e. the Maricopa County Young Democrats).

B. Councilwoman Pastor and City Responses to the Complaint.

As a result of growing up with her father, who was a U.S. Congressmember, Councilwoman Pastor stated that she is “cautious about any council communication involving identification of a political party” and therefore she would not have approved the Flyer because the Flyer referenced a political group as one of the event sponsors. As stated above, neither Councilwoman Pastor nor her staff created the Flyer—the Phoenix Union School District created the Flyer and provided it to District 4 staff member Ms. Munoz. In the very least, had she been aware of the Flyer, Councilwoman Pastor said that she would have reviewed the Flyer with the Law Department before authorizing distribution.

Nonetheless, Councilwoman Pastor stated that she did not believe the Flyer violated the Ethics Policy because the Maricopa County Young Democrats were only co-sponsoring the event,

³⁰ Copies of examples of various event flyers from several districts are attached as **Exhibit L**.

³¹ Mr. Manos was uncertain the source of this quoted language set forth in the Complaint. The quoted language is identical to statements on the Department of Justice website, which describes ethics policy applicable to federal employees. See <https://www.justice.gov/jmd/misuse-position-and-government-resources> referencing 5 C.F.R. § 2635.704 through .705.

along with District 4 Staff and the Phoenix Union School District, and that the email was not promoting support of the Maricopa County Young Democrats. Further, although, she had announced her then-current interest to run for Congress in 2024, the Maricopa County Young Democrats had not endorsed her for Congress and Councilwoman Pastor had not filed a Statement of Interest or nomination papers to formally run for Congress.³² Even so, Councilwoman Pastor reiterated that if she had been aware of the Flyer, prior to it being distributed, she would not have allowed the reference to the Maricopa County Young Democrat's co-sponsorship of the event without at least obtaining approval from the City Law Department in particular because her personal policy has always been to avoid any reference to any political party in her City communications to avoid any suggestion that she was acting on behalf of any political party.

After receipt of the Complaint, Councilwoman Pastor and City Attorney Julie Kreigh discussed the Complaint with each other.³³ City Attorney Kreigh informed Councilwoman Pastor that she did not believe the Flyer violated any "specific" City policy but that it was a "grey area." City Attorney Kreigh stated that if she had been asked before distribution of the Emails and Flyer that (1) City Attorney Kreigh doubts City Attorney Kreigh would have prohibited distribution of the Flyer, and (2) City Attorney Kreigh would have recommended that "it would have been better" to not include any reference to the Maricopa County Young Democrats because, in City Attorney Kreigh's experience, any reference to politics tends to "give the appearance" the City Council is partisan—which it is not—and it tends to raise questions from the public about the non-partisan nature of the City Council. City Attorney Kreigh confirmed that although City Councilmembers run for office as nonpartisan candidates, the councilmembers are free to attend partisan events and nothing prohibits them from affiliating with a partisan group when promoting a city event.

After receipt of the Complaint, the City Law Department determined that the timing was appropriate to provide legal training to the City Council staff members on the Ethics Policy, Gift Policy, and Conflicts of Interest Policy and scheduled such training for all council staff members on November 16, 2023. The Law Department also held a separate individual council staff training for Districts 3 and 7 on November 21, 2023 due to office scheduling conflicts, which prevented them from attending the November 16, 2023 training session. Councilwoman Pastor's council staff attended the November 16, 2023 training.

³² The Secretary of State Office confirmed that Councilwoman Pastor had not filed official nomination papers and, therefore, she was not an official candidate for election purposes.

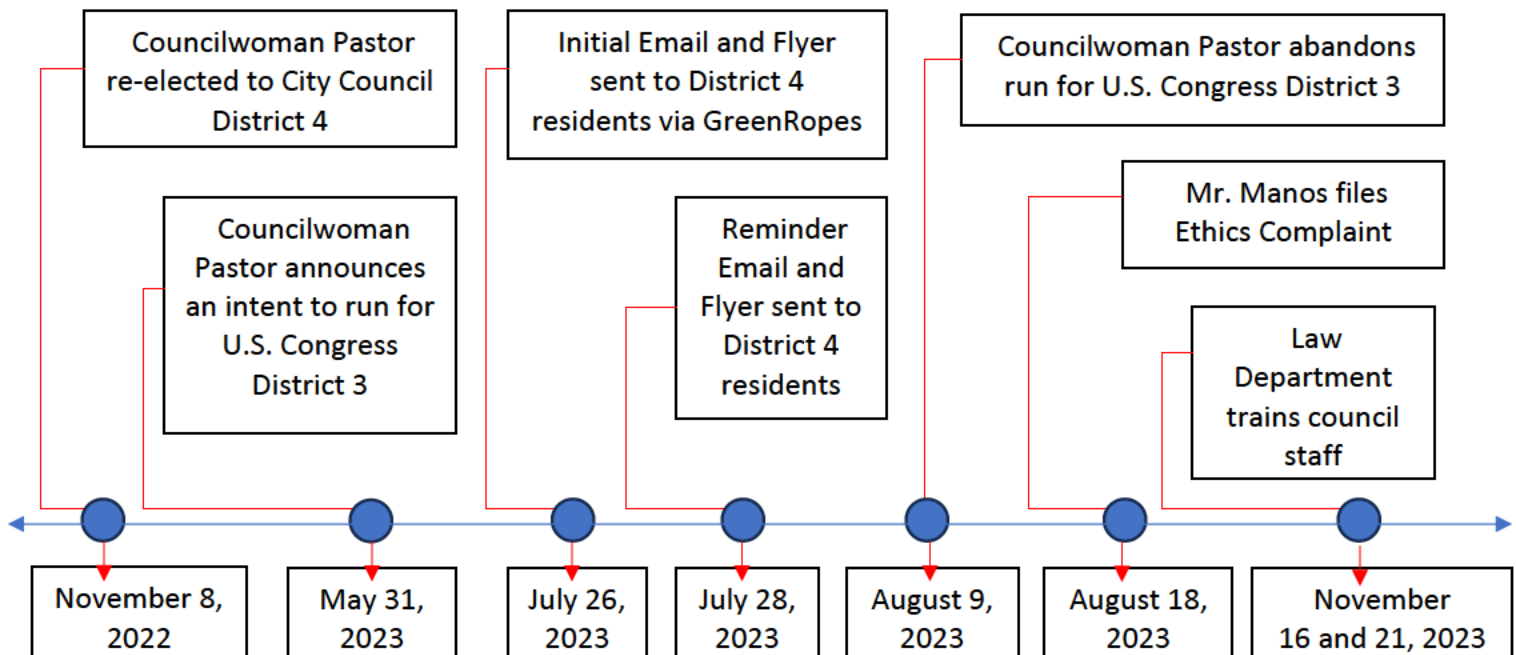
³³ Based upon conflicting recollections, it is unclear whether Councilwoman Pastor or City Attorney Kreigh requested the meeting.

Upon learning about the Complaint, Stephanie Bracken, Floor Human Resources Representative, who is in charge of human resources issues for all the council staff offices, reviewed the Flyer. In her opinion, the Flyer did not violate any City policy or Administrative Regulation. Ms. Bracken stated that if she had reviewed the Flyer prior to distribution, she would have recommended (but not required) that the reference to the “Maricopa County Young Democrats” not be included because she knows it would “raise questions or concerns” from members of the public about whether the council is partisan. Nonetheless, Ms. Bracken stated that the Flyer did not actually violate City policy because the Flyer did not specifically promote the Maricopa County Young Democrats and it did not reference a current election. Rather, Ms. Bracken concluded that the Maricopa County Young Democrats were merely co-sponsoring a community event that was unrelated to any election. Ms. Bracken specifically stated that, in her opinion, co-hosting an event with a partisan group, without more, does not violate any City policy.

8. Procedures Implemented by Councilwoman Pastor in Response to the Complaint.

Upon receiving the Complaint, Councilwoman Pastor implemented a policy to ensure all future flyers are reviewed by all District 4 staff, and herself, prior to distribution by her office (“Packet Review Policy”). Under this new Packet Review Policy, every Friday, her office compiles all proposed communications in a packet and provides the packet to Councilwoman Pastor for review. Councilwoman Pastor reviews the packet over the weekend and returns it Monday to her staff, with comments, approval, or requests for further discussion if necessary.

C. Timeline.



VI. ANALYSIS.

The Complaint alleges that the Emails and Flyer impermissibly used public resources for partisan purposes. The Investigation considered the allegations and the undisputed facts and applied them to the Ethics Policy. The Ethics Policy states:

It is the policy of the City of Phoenix to uphold, promote and demand the highest standards of ethics from all of its elected officials, employees, board members, and volunteers. Accordingly, all City elected officials, employees, board members, and volunteers must maintain the utmost standards of personal integrity, truthfulness, honesty and fairness in carrying out their public duties, avoid any improprieties in their roles as public servants, comply with all applicable laws, and never use their City position or power for improper personal gain.³⁴

A. Did the District 4 Staff Violate the Ethics Policy?

As a threshold matter, the Complainant requests the Commission to determine whether both the actions of Councilwoman Pastor, as an elected official, as well as the District 4 council staff, who are City employees, constitute a violation of the City Ethics Policy. Although the Ethics Policy applies to both elected officials and city employees, City Code Article II, § 2-53(J) only authorizes the Commission to investigate and enforce “the ethics policy or gift policy related to an elected official or board member.”

Recommendation: *Based upon a preponderance of the evidence, Investigator recommends the Commission does not have jurisdictional authority over City employees, which includes the District 4 staff members.*

B. Did Councilwoman Pastor Violate the Ethics Policy?

As set forth above, the Complaint requests the Commission to determine whether Councilwoman Pastor violated the Ethics Policy when her staff distributed the Emails and Flyer. A violation arises under the Ethics Policy if the distribution of the Emails and Flyer:

³⁴ Phoenix City Code, Art. II, § 2-52(B), which is located on the City’s Ethics Commission website at <https://www.phoenix.gov/content/dam/phoenix/cityclerk/site/documents/Ordinance-G6274-Ethics.pdf>.

1. Constituted a violation by Councilwoman Pastor of any applicable law;
2. Demonstrated a lack of personal integrity, truthfulness, honesty, or fairness by Councilwoman Pastor in carrying out her public duties;
3. Constituted an impropriety by Councilwoman Pastor in her role as a public servant; or
4. Constituted Councilwoman Pastor using her City position or power for improper personal gain.

1. Did Distribution of the Emails/Flyer Violate Applicable Law?

There are several statutes that restrict certain partisan activities and the use of public resources. The premise that the Phoenix City Council only acts in a non-partisan manner arises from A.R.S. § 9-821.01(B), which provides that a city³⁵ cannot identify the political support for a candidate on a city election ballot.³⁶ Also, A.R.S. § 9-500.14, provides that cities cannot use public resources to influence the outcome of an election (whether it is a ballot measure or an election of councilmembers).

The application of the two statutes is limited to city elections. In other words, neither statute addresses nor restricts, elected officials from identifying their support for, or their affiliation, alignment, or association with, a partisan group in connection with a city event, provided the event is not a city election.³⁷ The limitation of political activities to city elections is consistent with A.R.S. § 16-901(1), which defines “political advertisements” as information or materials, other than nonpaid special media messages, that are “for the purpose of influencing an election.”

The Emails and Flyer were sent on July 26 and 28, 2023. Councilwoman Pastor was re-elected (unopposed) on November 8, 2022, and sworn into her current, third term as City councilwoman on April 17, 2023. Her current term ends April 19, 2027. Therefore, the Emails and Flyer were not sent during a city election involving Councilwoman Pastor.

A third statute, A.R.S. § 38-504(C), describes acts by public officials that may create a

³⁵ As stated above, this prohibition does not apply to charter cities (like the City of Tucson or the City of Phoenix) if the city’s charter incorporates A.R.S. § 9-821.01(B). See n. 8, above.

³⁶ Unlike the City of Tucson, discussed above at n.8, this statute applies to the Phoenix City Council because the Phoenix City Charter incorporates A.R.S. § 9-821.01(B), which prohibits partisan elections.

³⁷ As raised by Councilwoman Pastor, the fact that the statutes only restrict cities from identifying political support of candidates for city election is consistent with Councilwoman Pastor’s freedom to otherwise identify support for or associate with a political group, which is protected by the First Amendment of the United States Constitution.

substantial and improper influence. This statute provides that a public official cannot (1) use his or her official position to obtain something of value that the official would not normally obtain in his or her official capacity if it (2) would create a substantial and improper influence over the official while conducting the official's duties.

Here, Councilwoman Pastor did not receive a benefit from the Emails/Flyer that she did not already possess. In other words, regardless of the Maricopa County Young Democrat sponsorship of the Back-to-School Supply Giveaway Event, Councilwoman Pastor would have used the same city resources to email the District 4 residents about the Back-to-School Supply Giveaway Event which she has participated in for many years. Further, by co-sponsoring the Back-to-School Supply Giveaway Event, the Maricopa County Young Democrats were not endorsing Councilwoman Pastor for her possible Congressional bid and the Maricopa County Young Democrats never endorsed Councilwoman Pastor for Congress. Both Councilwoman Pastor and the Maricopa County Young Democrats stated that they decided to sponsor the Back-to-School Supply Giveaway Event regardless of the others' sponsorship or participation. The Maricopa County Young Democrats also stated that they did not condition their co-sponsorship of the event based upon Councilwoman Pastor emailing District 4 about the Maricopa County Young Democrats' sponsorship.

The fact that Councilwoman Pastor implemented her new Packet Review Policy to reduce the likelihood that a staff member might accidentally distribute improper communications might raise questions whether such corrective actions may be considered an admission of guilt of Councilwoman Pastor's failure to properly supervise her staff. However, the doctrine of subsequent remedial measures under Rule 407 of both the Arizona and the Federal Rules of Evidence likely applies to the newly instituted Packet Review Policy. Under Rule 407, evidence of subsequent remedial measures (which are steps taken after the fact that would have made an earlier event less likely to occur) is not admissible to prove negligence, culpable conduct, a defect in design, or a need for a warning or instruction. Although Rule 407 is typically applied in product liability cases, the rule is intended to encourage people to take steps to make products safer and courts have applied this rule to exclude evidence of subsequent repairs or changes in company rules. As such, if Rule 407 is applied to the newly instituted Packet Review Policy, the implementation of such corrective actions should not be used against Councilwoman Pastor to establish violation of the Ethics Policy.

Aside from these three statutes, no other law has been identified that may apply to the facts alleged in the Complaint.

Recommendation: *Based upon a preponderance of the evidence, Investigator recommends there is insufficient evidence to establish that Councilwoman Pastor's actions violated applicable law.*

2. Did Distribution of the Emails/Flyer Demonstrate a Lack of Personal Integrity, Truthfulness, Honesty, or Fairness in carrying out Councilwoman Pastor's public duties?

The Ethics Policy does not define or provide examples of the principles of integrity, truthfulness, honesty, or fairness. Merriam-Webster provides the following definitions:

Integrity:

- Firm adherence to a code of especially moral or artistic values: incorruptibility
- An unimpaired condition: soundness
- The quality or state of being complete or undivided: completeness

Truthfulness:

- Telling or disposed to telling the truth

Honest:

- Adherence to the facts: sincerity
- Fairness and straightforwardness of conduct

Fair:

- Marked by impartiality and honesty: free from self-interest, prejudice, or favoritism
- Conforming with the established rules: allowed

There does not appear to be any dispute that the Emails and Flyer were truthful and honest. The Emails and Flyer did not hide the sponsorship by the Maricopa County Young Democrats and clearly disclosed the sponsorship.

Regarding the standards of integrity and fairness, among other sponsors, the Flyer clearly references only the Maricopa County Young Democrats and no other opposing partisan entity, such as the Maricopa County Young Republicans. However, Councilwoman Pastor and her office did not organize the Back-to-School Supply Giveaway Event, take responsibility for obtaining

sponsors, or create the Flyer. Rather, Councilwoman Pastor only agreed to be a sponsor and to distribute the School District-prepared Flyer to District 4 residents. There is no evidence that the Maricopa County Young Republicans sought to be sponsors, or that they did sponsor the event but were not included on the Flyer.

Recommendation: *Based upon a preponderance of the evidence, Investigator recommends there is insufficient evidence to establish a lack of personal integrity, truthfulness, honesty, or fairness in the manner Councilwoman Pastor carried out her public duties.*

3. Did Distribution of the Emails/Flyer Constitute an Impropriety in Councilwoman Pastor's role as a public servant?

The Ethics Policy also does not define or provide examples of improprieties. Merriam-Webster provides the following definitions:

Impropriety:

- An improper or indecorous act or remark
 - Especially: unacceptable use of a work or of language

Improper:

- Not in accord with propriety, modesty, good manners, or good taste
- Not suited to the circumstances, design, or end
- Not regularly or normally formed or not properly so called
- Not in accord with fact, truth, or right procedure: incorrect

Here, the evidence demonstrates that councilmembers generally avoid partisan references in their city communications. However, this general rule is not without exception. During the interviews with city staff, witnesses recalled other councilmembers referencing political parties in various city communications. Unfortunately, no one was able to locate such communications to verify this information. Nonetheless, as set forth above, there is no rule or law that prohibits councilmembers from advertising a partisan group's sponsorship or support of a city event.

Recommendation: *Based upon a preponderance of the evidence, Investigator recommends there is insufficient evidence to establish that Councilwoman Pastor's actions constituted an impropriety in her role as a public servant.*

4. Did Distribution of the Emails/Flyer Constitute the Use of Councilwoman Pastor's City Position or Power for Improper Personal Gain?

In addition to the Ethics Policy, the Ethics Handbook, Section III.B also provides that the City's equipment and personnel shall not be used for private purposes. Neither the Ethics Policy nor the Ethics Handbook provide examples of what constitutes the use of a council position or power for improper personal gain. However, this aspect of the Ethics Policy and the Ethics Handbook is codified under A.R.S. § 38-504(C), which prohibits a public official from using his or her official position to obtain something of value that the official would not normally obtain in his or her official capacity. As discussed above in Section VI(B)(1), for the same reasons it does not appear that there is sufficient evidence to sustain that Councilwoman Pastor violated A.R.S. § 38-504(C), it does not appear that she used her position or power for personal gain.

Recommendation: *Based upon a preponderance of the evidence, Investigator recommends there is insufficient evidence to establish that Councilwoman Pastor used her City position or power for improper personal gain.*

C. Was the Complaint Not Well Grounded in Law or Fact and Interposed for an Improper Purpose?

City Code Article II, § 2-53(O) provides that if the Commission finds and recommends that allegations of an ethics policy violation were not well grounded in law or fact and interposed for an improper purpose (such as to harass or cause unnecessary delay or expense to an elected official) that the Complainant may be subject to sanctions.

Although the evidence demonstrates the Mr. Manos served as a Maricopa County Republican Committee member, there is no evidence that he filed the Complaint for an improper purpose. Further, City Attorney Kriegh asserted that although she did not believe there was a violation of the Ethics Policy or any other city rule or policy, that the distribution of the Email and Flyers were in a "grey area" because such a reference might trigger questions about the nonpartisan nature of the City Council even if the reference was not an improper partisan action.

Recommendation: *Based upon a preponderance of the evidence, Investigator recommends there is insufficient evidence to establish that Complaint was not well founded in law or fact and interposed for an improper purpose.*

VII. COMMISSION OPTIONS FOR CONSIDERATION.

1. For the reasons discussed above, Investigator recommends that the Commission:
 - A. Dismiss Ethics Complaint EC-23-01.
2. Alternatively, the Commission may:
 - A. Dismiss Ethics Complaint EC-23-01, **AND** determine and recommend to the full City Council that the Complaint is not well grounded in law or fact and was interposed for an improper purpose, such as to harass or cause unnecessary delay or expense to the elected official,
OR
 - B. Recommend to the full City Council to sustain the allegations, in whole or in part.


EXHIBIT A



City of Phoenix

To: Julie Kriegh
City Attorney

Date: August 10, 2023

From: Denise Archibald 
City Clerk

Subject: TRANSMITTAL OF ETHICS COMPLAINT (EC-23-01)

On August 9, 2023, the City Clerk Department received the attached complaint from Tristan Manos.

Phoenix City Code, Section 2-53 requires the City Clerk to forward ethics complaints to the Ethics Commission. Since there is currently no appointed City Ethics Commission, I am forwarding this complaint to the Law Department for appropriate handling.

Enclosure: Ethics Complaint

ec: Deryck Lavelle, Assistant Chief Counsel
Lupe Lerma, Deputy City Clerk
Ginger Spencer, Deputy City Manager

Denise Archibald

From: Tristan Manos [REDACTED]
Sent: Wednesday, August 9, 2023 8:00 AM
To: Denise Archibald
Subject: Filing Official City of Phoenix Ethics Complaint re Activities of City of Phoenix District 4 Councilmember Laura Pastor (and/or Anyone In Her Name or In the Name of Her Office)
Attachments: CITY OF PHX ETHICS MANUAL RE D4 LP EXHIBIT 1.PNG; CITY OF PHX ETHICS MANUAL RE D4 LP EXHIBIT 4.PNG; CITY OF PHX ETHICS MANUAL RE D4 LP EXHIBIT 3.PNG; CITY OF PHX ETHICS MANUAL RE D4 LP EXHIBIT 2.PNG; CITY OF PHX ETHICS MANUAL RE D4 LP EXHIBIT 5.PNG; PHX D4 LP EMAIL HEADER AND TOP OF BODY ORIGINAL EMAIL SCREENSHOT.PNG; PHX D4 LP EMAIL HEADER AND TOP OF BODY REMINDER SCREENSHOT.PNG; PHX D4 LP EMAIL INBOX SCREENSHOT.PNG

Filing Official City of Phoenix Ethics Complaint re Activities of City of Phoenix District 4 Councilmember Laura Pastor (and/or Anyone In Her Name or In the Name of Her Office)

...

To: Denise Archibald | City Clerk/Director | City Clerk Department - City of Phoenix

...

This email is submitted for the purpose of filing an official Ethics Complaint pursuant to Phoenix City Code Section 2-53(F), surrounding two acts that may represent the inappropriate use of City of Phoenix government resources via email—in the name of and via the official Phoenix government email account of—Phoenix City Councilmember Laura Pastor, the elected representative for Phoenix City Council District 4, and/or anyone in her name or in the name of her office.

By way of background and present status, I am registered to vote in City of Phoenix District 4. Therefore, I am a constituent of Ms. Pastor.

I am a regular subscriber to Ms. Pastor's email alerts, and for some time now.

Please advise if it is appropriate for Ms. Pastor to email subscribers the following two emails—the first being an original announcement, the second being a reminder of the original announcement—about this particular activity of Ms. Pastor, especially given the elected position of Ms. Pastor, the theme of the activity, and Ms. Pastor's use of official City of Phoenix government resources, platforms, and infrastructure to promote this activity?

The circumstances speak for themselves, as provided below.

Please advise if Ms. Pastor's behavior as shown in her two emails above and attached below is officially authorized, permissible, and therefore appropriate, or, be it as it may, if otherwise. Or, be it as it may, if the Ethics Commission uses its own official wording as per its own protocols, please advise accordingly, in essentially the same spirit.

Based upon the commonsense principle:

...

"The use of any government property, including computers and the Internet, for any partisan political activities is always prohibited."

...

Based upon my personal understanding of basic ethical principles in the context of the appropriate use of public government resources and infrastructure by elected official public government officials, and going in good faith for the sake of upholding the principles of open and transparent government being for the overall good of our civil society, it is my initial impression and humble observation that Ms. Pastor's behavior—or behavior by someone in her name, and in the name of her elected office—as shown in her two emails, crosses a bright line prohibiting this sort of behavior.

This is to also observe the irony in seeing elected Phoenix City Councilmember positions formally and officially represented to the general public as non-partisan, only to see an elected City of Phoenix Councilmember promoting her own partisan political activities through the use of City of Phoenix government resources, platforms, and infrastructure, be it herself, her staff, or any other City of Phoenix employees or contractors.

Granted, although we may all agree the promoted activity, one taking place outside Phoenix City Hall, a "Back-to-School Supply Giveaway... Empowering Local Students for Success," is admirable in and of itself, it is also beside the point, outside the scope of the essential objective and purpose of this complaint.

Generally, it may be reasonable for one to imagine seeing something like this being emailed via a person's personal email, some political figure's political campaign email platform, or similar, outside City Hall, but never via a publicly elected government official's own public government email account, in their own name as an elected official, in the name of their elected office, inside City Hall.

Furthermore, although Ms. Pastor may be the primary subject of this complaint, please also address the activities of Ms. Pastor's staff, both employees and contractors in positions inside Ms. Pastor's office, and any other City of Phoenix employees or contractors, in positions outside Ms. Pastor's office, in the same context of what activities of staff, employees, or contractors is authorized, permissible, and therefore appropriate, or, be it as it may, if otherwise.

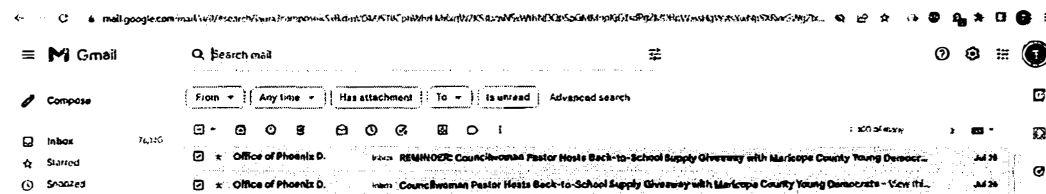
Thank you for your service, your attention to, and consideration of, this matter, and the same goes to all who may serve on the ethics commission, and others involved for the purpose of facilitating the resolution of this matter.

Respectfully submitted,

Tristan Manos
Registered to Vote in Maricopa County
Primary Residence for Voter Registration: Phoenix City Council District 4
Phoenix Resident Since 2001

Exhibits & Attachments:

(Click to Zoom)



Email 1 Link: <https://action.phoenix.gov/v.pl?be63fa1491bd5d2e0c43dea4933afe654851af6160b0aa41>

from:Office of Phoenix District 4 Councilwoman Laura Pastor <council.district.4@phoenix.gov>
to:TRISTAN MANOS [REDACTED]
date:Jul 26, 2023, 12:25 PM
subject:Councilwoman Pastor Hosts Back-to-School Supply Giveaway with Maricopa County Young Democrats
[mailed-by:mta1.phoenix.gov](mailto:mta1.phoenix.gov)
[signed-by:mta1.phoenix.gov](mailto:mta1.phoenix.gov)

Email 2

Link: <https://action.phoenix.gov/v.pl?c74511e1e989b1c55fd98c551bc79a9ffcac89673f2f7223>

from:Office of Phoenix District 4 Councilwoman Laura Pastor <council.district.4@phoenix.gov>

to:TRISTAN MANOS [REDACTED]

date:Jul 28, 2023, 12:10 PM

subject:REMINDER: Councilwoman Pastor Hosts Back-to-School Supply Giveaway with
Maricopa County Young Democrats

[mailed-by:mta1.phoenix.gov](mailto:mta1.phoenix.gov)

[signed-by:mta1.phoenix.gov](mailto:mta1.phoenix.gov)

.....

Email 1:

[View this email as a webpage](#)



Office of City of Phoenix's District 4

Councilmember Laura Pastor

phoenix.gov/district4

**Councilwoman Pastor Hosts Back-to-School Supply
Giveaway with Maricopa County Young Democrats,
Empowering Local Students for Success**

Councilwoman Laura Pastor and Maricopa County Young Democrats are excited to host their upcoming Back-to-School Supply Giveaway Even

The event aims to equip Phoenix students with essential school supplies, ensuring they have the tools they need to excel in their academic journey.

Councilwoman Pastor is collaborating with community partners, local businesses, and generous donors to provide a wide range of school supplies, including backpacks, notebooks, pens, pencils, erasers, rulers, and more.

The supply giveaway will take place during the Phoenix Union High School District Back-to-School Resource Fair this Saturday, July 29, at 9:00 a.m.

In addition to school supplies, the event will feature activities for students and families. There will be free shoes and haircuts for students and opportunities for parents to connect with local resources that support children's education.

Councilwoman Pastor and Maricopa County Young Democrats would like to express their gratitude to all the donors and sponsors who have contributed to making this event possible. Their generosity and commitment to education are vital in supporting the students of our community.

What: Back-to-School Supply Giveaway and Resource Fair

When: Saturday, July 29, 2023, 9:00 a.m. to 12:00 p.m.

Where: Carl Hayden Community High School, 3333 W. Roosevelt St.

Who: Councilwoman Laura Pastor, Maricopa County Young Democrats, Phoenix Union High School District, District 4 Staff

Contact: Brenda Muñoz Murguía, 602-262-6214, brenda.munoz.murguia@phoenix.gov

PHOENIX
PXU
UNION

BACK TO
SCHOOL

RESOURCE FAIR *FERIA DE RECURSOS*

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This email was sent by Office of Phoenix District 4 Councilwoman Laura Pastor from 200 W. Washington Street, Phoenix, Arizona 85003.

This email was sent by Office of Phoenix District 4 Councilwoman Laura Pastor at 200 W. Washington St. Phoenix, AZ 85003.

.....

Email 2:

[View this email as a webpage](#)



Councilwoman Pastor I Giveaway with Maricopa Empowering Local

Councilwoman Laura Pastor and her staff are excited to host their upcoming Back-to-School Supply Giveaway. The event aims to equip Phoenix students with school supplies, ensuring they have the tools for a successful academic journey.

Councilwoman Pastor is collaborating with local businesses, and generous donors to provide school supplies, including backpacks, notebooks, and more.

The supply giveaway will take place at the School District Back-to-School Registration on September 1st, 9:00 a.m.

In addition to the giveaway, the students and families. There will students and opportunities for parents that support children's education

Councilwoman Pastor and Marico like to express their gratitude to contributed to making this event commitment to education are vital community.

What: Back-to-School Supply Giveaway

When: Saturday, July 29, 2023,

Where: Carl Hayden Community

Who: Councilwoman Laura Pastor
Phoenix Union High School District

Contact: Brenda Muñoz Murguía
6214, brenda.munoz.murguia@pueh.edu

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This email was sent by Office of Phoenix District 4 Councilwoman Laura Pastor at 200 W. Washington St. Phoenix, AZ 85003.



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Phoenix City Code

Chapter 2, Article II, Section 2-52(B) (Ethics Policy)

B. Ethics policy.

It is the policy of the City of Phoenix to uphold, promote and demand the highest standards of ethics from all of its elected officials, employees, board members, and volunteers. Accordingly, all City elected officials, employees, board members, and volunteers must maintain the utmost standards of personal integrity, truthfulness, honesty and fairness in carrying out their public duties, avoid any improprieties in their roles as public servants, and never use their City position or power for improper personal gain.

USE OF CITY EQUIPMENT, FACILITIES, OR PERSONNEL FOR PRIVATE GAIN

(A.R.S. § 13-1802; A.R. 1.2)

Employees should not use City facilities, equipment, work materials, vehicles, personnel, or supplies for private purposes, except to the extent they are lawfully available to the public. Employees who use these items for a personal purpose may be subject to discipline up to and including dismissal.

ELECTRONIC COMMUNICATIONS AND INFORMATION

(A.R.S. §§ 39-101 and following; A.R. 1.63)

Electronic communications, including the internet, should be used only for City business unless otherwise authorized. All electronic communications are official City business and must be retained in accordance with the City's Records Retention Schedule. In general, electronic communications are public records and subject to disclosure under the Public Records Law. See A.R.S. §§ 39-101 and following; and A.R. 1.63.



WHERE TO REPORT ETHICS OR INTEGRITY CONCERNS

(A.R. 1.2; A.R. 2.35; A.R. 2.35(A); A.R. 2.35(B))

You have a duty to prevent any improper governmental actions if another employee, board member, or elected official acts improperly. Moreover, you should never attempt to intimidate, threaten, coerce, command, or influence any person with the intent of interfering with that person's duty to disclose improper activity. Additionally, no one should intimidate, threaten, coerce, command, or influence you to not do your duty and disclose improper activity.

When you discover that someone may have violated a law or City policy, you should report the issue to your supervisor(s), management, Human Resources representative, and/or the Department's Ethics Representative. If you are not satisfied with the response or are not comfortable reporting to any of these people, you should report the information to one of the following areas for further review:

Councilwoman Pastor Hosts Back-to-School Supply Giveaway with Maricopa County Young Democrats Inbox x

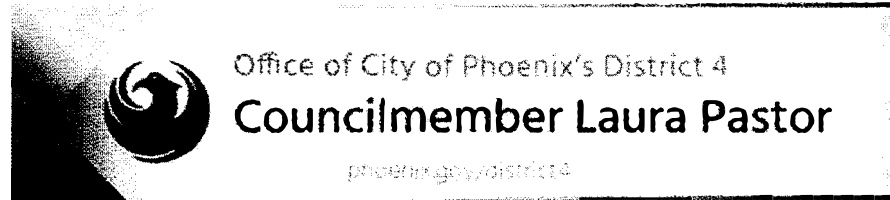


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Councilwoman Pastor Hosts Back-to-School Supply Giveaway with Maricopa County Young Democrats, Empowering Local Students for Success

Councilwoman **Laura** Pastor and Maricopa County Young Democrats are excited to host their upcoming Back-to-School Supply Giveaway Event. The event aims to equip Phoenix students with essential school supplies, ensuring they have the tools they need to excel in their academic journey.

REMINDER: Councilwoman Pastor Hosts Back-to-School Supply Giveaway with Maricopa County Young Democrats [Inbox x](#)

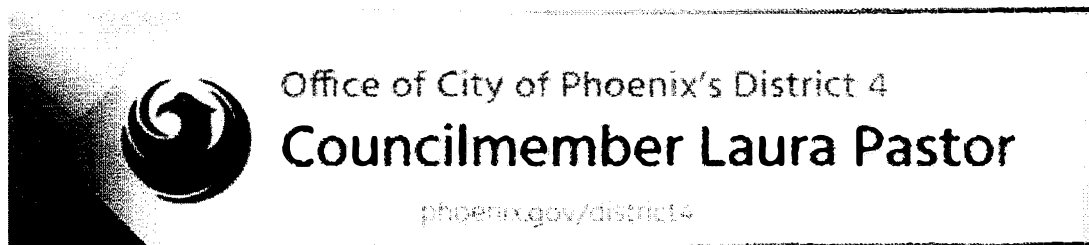


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

Councilwoman Pastor Hosts Back-to-School Supply Giveaway with Maricopa County Young Democrats, Empowering Local Students for Success

Councilwoman [Laura](#) Pastor and Maricopa County Young Democrats are excited to host their upcoming Back-to-School Supply Giveaway Event. The event aims to equip Phoenix students with essential school supplies, ensuring they have the tools they need to excel in their academic journey.

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Proposed Legislation

Arizona Revised Statutes Annotated

Title 9. Cities and Towns

Chapter 7. Ordinances and Codes; Publication; Elections and Voters (Refs & Annos)

Article 3. Elections and Voters (Refs & Annos)

A.R.S. § 9-821.01

§ 9-821.01. Declaration of statewide concern; nonpartisan city and town elections; districts; procedure

Currentness

A. Arizona courts have recognized that the Constitution of Arizona requires the legislature's involvement in issues relating to elections conducted by charter cities, including initiative and referendum elections, the method of elections other than by ballot, laws relating to primary elections, voter registration laws to prevent abuse and fraud and campaign finance laws. The legislature finds that the conduct of elections described in this section is a matter of statewide concern.

B. Notwithstanding any other law, a city or town shall not hold any election on candidates for which there is any indication on the ballot of the source of the candidacy or of the support of the candidate.

C. Notwithstanding any other law, for any city or town that provides for election of city or town council members by district, ward, precinct or other geographical designation, only those voters who are qualified electors of the district, ward, precinct or other geographic designation are eligible to vote for that council member candidate in the city or town's primary, general, runoff or other election.

D. Notwithstanding any other law or any charter provision, a city or town may by ordinance provide that at the primary election any candidate for the office of mayor or city council who receives a majority of all votes cast at that election for that office shall be declared elected to the office for which the person is a candidate, effective as of the date of the general election, and a further election may not be held as to such candidate, except that if the person holding the office of mayor or city council at the time of the primary election is holding that office by appointment as prescribed by § 9-235, the following apply:

1. A candidate for the remainder of that term in office who receives a majority of all votes cast at the primary election both:
 - (a) Shall be declared elected after the canvass and certification of the results of that primary election and on taking the oath of office.
 - (b) Shall be seated in accordance with subsection E of this section.
2. A candidate for a new term in that office who receives a majority of all votes cast at the primary election both:

(a) Shall be declared elected to the new term of office, effective after the canvass and certification of the results of that primary election and on taking the oath of office.

(b) May be seated to complete the remainder of existing term in accordance with subsection E of this section.

E. If more than one candidate receives a majority of all votes cast at the primary for an office that is currently being served by a person who is appointed as provided in subsection D of this section, the order of seating the candidates shall be determined by the highest number of votes.

F. For the purposes of subsection D of this section, the majority of votes cast is determined by:

1. Calculating the total number of actual votes cast for all candidates for an office whose names were lawfully on the ballot for that office.

2. Dividing the sum reached pursuant to paragraph 1 of this subsection by the number of seats to be filled for the office.

3. Dividing the number reached pursuant to paragraph 2 of this subsection by two and rounding that number to the highest whole number.

G. If more candidates receive a majority of votes cast than there are seats to be filled for the office pursuant to subsection D of this section, from among those candidates who receive a majority of votes cast, the candidates who receive the highest number of votes equal to the number of seats to be filled for the office shall be declared elected to that office.

H. If at the primary election no candidate receives the majority of the votes cast or the number of seats to be filled for the office is more than the number of candidates who receive a majority of votes cast, of the candidates who did not receive a majority of votes cast, the number of candidates who advance to the general or runoff election shall be equal in number to twice the number of seats to be filled for the office and the candidates who received the highest number of votes for the office shall be the only candidates at the general or runoff election. If more than one candidate received an equal number of votes and that number was the highest number of votes for the office, then all candidates receiving the equal number of votes shall be candidates at the general or runoff election. The candidates equal in number to the seats to be filled for the office who receive the highest number of votes at the general or runoff election shall be declared elected to that office. If two or more candidates receive an equal number of votes cast for the same office, and a higher number than any other candidate, the candidate who shall be declared elected shall be determined by lot in the presence of the candidates. A write-in candidate may not advance to the general or runoff election if the write-in candidate did not receive a number of votes equivalent to at least the same number of signatures required by § 16-322 for nominating petitions for the same office.

I. In addition to subsection D of this section, any town with a population of five thousand persons or less may by majority vote of the qualified electors of the town voting on the question provide that at the primary election those candidates receiving the highest number of votes for the offices to be filled shall be declared elected to the office, and a further election may not be held if at least three-fifths of the seats are filled by persons receiving a majority of the votes cast as provided in subsection D of this section.

Credits

Added by Laws 1959, Ch. 62, § 1. Amended by Laws 1983, Ch. 60, § 1; [Laws 2009, Ch. 176, § 1](#); [Laws 2010, Ch. 51, § 1](#), eff. April 14, 2010; [Laws 2015, Ch. 105, § 1](#); [Laws 2019, Ch. 284, § 1](#); [Laws 2024, Ch. 114, § 2](#).

[Notes of Decisions \(5\)](#)

A. R. S. § 9-821.01, AZ ST § 9-821.01

Current through legislation of the First Regular Session of the Fifty-Seventh Legislature (2025), effective as of April 24, 2025.

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Proposed Legislation

Arizona Revised Statutes Annotated

Title 9. Cities and Towns

Chapter 4. General Powers

Article 8. Miscellaneous (Refs & Annos)

A.R.S. § 9-500.14

§ 9-500.14. Use of city or town resources or employees to influence elections; prohibition; civil penalty; definitions

Currentness

A. A city or town shall not spend or use its resources, including the use or expenditure of monies, accounts, credit, facilities, vehicles, postage, telecommunications, computer hardware and software, web pages, personnel, equipment, materials, buildings or any other thing of value of the city or town, for the purpose of influencing the outcomes of elections. Notwithstanding this section, a city or town may distribute informational pamphlets on a proposed bond election as provided in § 35-454 if those informational pamphlets present factual information in a neutral manner. Nothing in this section precludes a city or town from reporting on official actions of the governing body.

B. The prohibition on the use of public resources to influence the outcome of bond, budget override and other tax-related elections includes the use of city-focused or town-focused promotional expenditures that occur after an election is called and through election day. This prohibition does not include routine city or town communications.

C. This section does not prohibit the use of city or town resources, including facilities and equipment, for government-sponsored forums or debates if the government sponsor remains impartial and the events are purely informational and provide an equal opportunity to all viewpoints. The rental and use of a public facility by a private person or entity that may lawfully attempt to influence the outcome of an election is permitted if it does not occur at the same time and place as a government-sponsored forum or debate.

D. Employees of a city or town shall not use the authority of their positions to influence the vote or political activities of any subordinate employee.

E. The attorney general or the county attorney of the county in which an alleged violation of this section occurred may initiate a suit in the superior court in the county in which the city or town is located for the purpose of complying with this section.

F. For each violation of this section, the court may impose a civil penalty not to exceed five thousand dollars plus any amount of misused funds subtracted from the city or town budget against a person who knowingly violates or aids another person in violating this section. The person determined to be out of compliance with this section is responsible for the payment of all penalties and misused funds. City or town funds or insurance payments shall not be used to pay these penalties or misused funds. All misused funds collected pursuant to this section shall be returned to the city or town whose funds were misused.

G. Nothing contained in this section shall be construed as denying the civil and political liberties of any employee as guaranteed by the United States and Arizona Constitutions.

H. For the purposes of this section:

1. “Government-sponsored forum or debate” means any event, or part of an event or meeting, in which the government is an official sponsor, which is open to the public or to invited members of the public, and whose purpose is to inform the public about an issue or proposition that is before the voters.

2. “Influencing the outcomes of elections” means supporting or opposing a candidate for nomination or election to public office or the recall of a public officer or supporting or opposing a ballot measure, question or proposition, including any bond, budget or override election and supporting or opposing the circulation of a petition for the recall of a public officer or a petition for a ballot measure, question or proposition in any manner that is not impartial or neutral.

3. “Misused funds” means city or town monies or resources used unlawfully as proscribed by this section.

4. “Routine city or town communications” means messages or advertisements that are germane to the functions of the city or town and that maintain the frequency, scope and distribution consistent with past practices or are necessary for public safety.

Credits

Added by [Laws 1996, Ch. 286, § 1](#). Amended by [Laws 2013, Ch. 88, § 1](#); [Laws 2015, Ch. 296, § 1](#).

[Notes of Decisions \(8\)](#)

A. R. S. § 9-500.14, AZ ST § 9-500.14

Current through legislation of the First Regular Session of the Fifty-Seventh Legislature (2025), effective as of April 24, 2025.

Ariz. Op. Atty. Gen. No. I15-002 (Ariz.A.G.), 2015 WL 4719005

Office of the Attorney General

State of Arizona
No. I15-002 (R15-002)
July 30, 2015

Re: Use of Public Funds to Influence the Outcomes of Elections

***1** Sheila Polk
Yavapai County Attorney

Bill Montgomery
Maricopa County Attorney

Questions Presented

You have asked for guidance on the limitations imposed by [Arizona Revised Statutes Section 11-410](#) on the use of county resources to influence an election. Your inquiry focuses on the relationship between [section 11-410](#) and ballot measures, and raises two discrete questions:

1. When do the restrictions on the use of public resources “for the purpose of influencing the outcomes of elections” arise with regard to a ballot measure?
2. What conduct or communications does the prohibition in [A.R.S. § 11-410](#) preclude?

Summary Answer

1. The prohibitions in [Section 11-410](#) on the use of public resources “for the purpose of influencing the outcomes of elections” in the context of a ballot measure proposition arise upon the filing of an application for a serial number for a ballot initiative or referendum.
2. Determining whether particular conduct or communications may be prohibited requires analysis under an objective two-part test:
 - a. Was there a use of public resources?
 - b. If so, were the public resources used “for the purpose of influencing the outcomes of elections?”

Background

In 1996, the Arizona Legislature enacted a series of statutes to prohibit the use of public resources “for the purpose of influencing the outcomes of elections.” 1996 Ariz. Legis. Serv. Ch. 286 (S.B. 1247). The original statutory language did not define the phrase “influencing the outcome of elections,” but rather, generally prohibited expending public resources for that purpose. *Id.* The prohibitions, codified in the Arizona Revised Statutes, applied to cities (§ 9-500.14); counties ([§ 11-410](#)); state and

public agencies (§ 16-192); school districts and charter schools (§ 15-511); community colleges (§ 15-1408); and universities (§ 15-1633). The Legislature clarified that it did not intend through these prohibitions to deny any civil or political liberties of public employees that are guaranteed by the federal and state constitutions. *See, e.g., A.R.S. § 11-410(G)*(2015).

In 2000, this office looked to the campaign finance laws for guidance to determine what “influencing the outcome of elections” encompassed. Ariz. Atty. Gen. Op. 100-020. That guidance resulted in two general principles. First, determining whether something has the purpose of influencing an election should be generally an objective test. *Id.* at 2 (citing *Federal Election Comm’n v. Ted Haley Congressional Comm.*, 852 F.2d 1111, 1116 (9th Cir. 1988) (Under federal campaign finance law, whether something is intended to influence an election is an objective test, rather than a test “based on the subjective state of mind of the actor.”)). Second, “campaign expenditures ‘for the purpose of influencing elections’ do not include ‘non-partisan activity designed to encourage individuals to vote or to register to vote.’” *Id.* (quoting *A.R.S. § 16-901(9)(b)*). This office set forth specific guidance for public officials stating that the operative statutes “do not prohibit

- *2 • elected officials from speaking out individually regarding measures on the ballot;
- the use of public resources to respond to questions about ballot measures, although responses should provide factual information that suggest neither support nor opposition to the measure;
- the use of public resources to investigate the impact of ballot measures on a jurisdiction;
- the use of public resources to prepare and distribute the election information required by statute; and
- the preparation and dissemination of materials ‘reporting on official actions of the governing body.’” *Id.*

Id. at 3-4 (emphasis in original).

Two years later, Division Two of the Arizona Court of Appeals interpreted Section 9-500.14. *See Kromko v. City of Tucson*, 202 Ariz. 499 (App. 2002). The court noted, “[a]t the heart of the appeal and cross-appeal is the following question: precisely what constitutes ‘influencing the outcomes of elections’ for purposes of the statute?” *Id.* at 501 ¶ 6. The court ultimately settled on the “unambiguously urges” test, finding that an actor would not be found to violate the prohibition unless the communication at issue “unambiguously urges a person to vote in a particular manner.” *Id.* at 503 ¶ 10 (internal quotation marks and alterations omitted). In applying this test, the court looked at whether “reasonable minds could differ” as to whether the particular communication encouraged a vote one way or the other on the propositions at issue. *Id.* (internal quotation marks omitted). In other words, the court imposed a very narrow reading of the prohibition at issue. The *Kromko* court explicitly rejected a requirement of impartiality similar to that in *A.R.S. § 19-124(B)* because Section 9-500.14 did not expressly require impartiality. *Id.* at 502.

In 2007, this office subsequently relied on the 2000 AG opinion, with reference to *Kromko*, in considering whether elected county officials may use their official titles in various materials that advocate the success or defeat of ballot measures. *See* Ariz. Atty. Gen. Op. 107-008 (“[E]lected officials may communicate their views on pending ballot measures and may use their official titles when doing so.” “Although county officials may sign their names and use their official titles in such communications, they may not use public resources or funds for the purpose of expressing these views.”).

In 2013, the Arizona Legislature substantially amended the prohibitions against the use of public resources to affect elections. *See* 2013 Ariz. Legis. Serv. Ch. 88 (H.B. 2156). Among the broad changes made, the Legislature provided a statutory definition of “influencing the outcomes of elections” lacking at the time of the *Kromko* decision:

“Influencing the outcomes of elections” means supporting or opposing a candidate for nomination or election to public office or the recall of a public officer or supporting or opposing a ballot measure, question or proposition, including any bond, budget or override election and supporting or opposing the circulation of a petition for the recall of a public officer or a petition for a ballot measure, question or proposition in any manner that is not impartial or neutral.

*3 [A.R.S. § 9-500.14\(G\)\(2\)](#); [§ 11-410\(G\)\(2\)](#); [§ 15-511\(L\)\(2\)](#); [§ 15-1408\(J\)\(2\)](#); [§ 15-1633\(K\)\(2\)](#); [§ 16-192\(G\)\(2\)](#).¹

Analysis

There are two questions pending: (1) when do the statutory prohibitions on the use of public resources “for the purpose of influencing the outcomes of elections” arise with regard to a ballot measure, and (2) what conduct or communications do the prohibitions preclude?

1. Question One: When (temporally) do these prohibitions arise?

The Legislature has not explicitly answered this question. This office's 2000 opinion stated that the statutory prohibitions with regard to ballot measures “apply before a measure qualifies for the ballot.” Ariz. Atty. Gen. Op. 100-020 at 4. We now clarify that the language of [Section 11-410](#)² indicates that the prohibitions arise upon the filing of an application for a serial number for a ballot initiative or referendum. See [A.R.S. § 19-111](#).

The 2013 amendments to [Section 11-410](#) adding the operative definition make it clear that, for purposes of ballot measures, the prohibition against influencing an election includes “supporting or opposing a ballot measure, question or proposition” and “supporting or opposing *the circulation of a petition* for a ballot measure, question or proposition.” [A.R.S. § 11-410\(H\)\(2\)](#) (emphasis added). The statute makes plain that the prohibition applies not just to measures on the ballot, but also to supporting or opposing the circulation of a petition. See *id.* In other words, the Legislature defined this prohibition to apply beyond merely the time at which the election participants (candidates and ballot measures) are fixed. A petition may be circulated once the Secretary of State issues an official serial number to the petition. See [A.R.S. §§ 19-111\(B\), 19-121\(A\)](#). Thus, for ballot measures, the prohibitions arise when an official serial number is assigned to the petition.

Aligning the statutory prohibitions with this objectively identifiable date is consistent with Arizona's election laws generally, which typically tie election-related prohibitions and duties to objectively identifiable dates and times. See, e.g., [Ariz. Const. Art. IV, Pt. 1 § 1\(4\)](#) (setting the time for filing of initiative and referendum petitions); [A.R.S. § 16-311](#) (time for filing a candidacy nominations paper); [§ 16-914.01](#) (duties for campaign finance reporting, including deadlines, for committee supporting or opposing a ballot measure); [§ 16-945](#) (prescribing contribution schedules for candidates participating in public financing scheme). A contrary rule would cause unnecessary ambiguity and potentially chill the otherwise permissible conduct or speech of elected officials and public employees. Accordingly, the prohibitions in [Section 11-410](#) arise with regard to ballot measures when an application for a serial number for a ballot initiative or referendum is filed.

2. Question Two: What conduct or communications do these prohibitions preclude?

*4 The Legislature's 2013 amendments to [Section 11-410](#) effectively rejected the *Kromko* “unambiguously urge” test as the only measure of influencing the outcome of elections, but the Legislature did not clearly articulate its preferred alternative to that test. However, the definition of “influencing the outcomes of elections” provides sufficient guidance to construct an analytical framework to assist public officials in avoiding prohibited conduct under the statute.

Statutory interpretation principles require that each portion of the provision at issue be given effect; in other words, we do not read a statute in a way that would render a portion superfluous or ineffective. [Grand v. Nacchio](#), 225 Ariz. 171, 175-76 ¶ 21 (2010) (“We ordinarily do not construe statutes so as to render portions of them superfluous.”). Accordingly, whatever test the Legislature intended to adopt in its 2013 amendments, it must incorporate all elements of the definition.

To give full meaning to the statute, the analytical framework requires an objective two-part test: (1) was there a use of public resources; (2) if so, were the public resources used “for the purpose of influencing the outcomes of elections?”

A. Was There A Use of Public Resources?

As a threshold matter, the statutory prohibition does not become operative unless there is a use of public resources. In other words, there is no need to analyze the conduct or communication if there is no use of public resources because [Section 11-410](#) does not apply.

Arizona's statutory prohibitions are quite broad, including “the use or expenditure of monies, accounts, credit, facilities, vehicles, postage, telecommunications, computer hardware and software, web pages, personnel, equipment, materials, buildings or any other thing of value.” [A.R.S. § 11-410\(A\)](#). Although broad, this list is consistent in applying only to a “thing of value.” *See id.* A violation of the statutory prohibitions must therefore involve the use or expenditure of a public resource that has value.

In addition to the specific examples given in the statute, this prohibition also generally applies to the use of a public employee's time during normal working hours, as that time is a public resource that has value. Employees' time spent outside of normal working hours is not a public resource.

Elected officials' time, however, should be considered differently. Elected officials' titles and duties are not readily separated from their persons. *Colorado Taxpayers Union, Inc. v. Romer*, 750 F. Supp. 1041, 1045 (D. Colo. 1990) (“the political personage which are not separable from the man in office. The official position is a part of the person of the incumbent at all times. Governors have no duty shifts or time off.”).³ This should not lead to a conclusion that elected officials have less ability to participate in the political process than their employees. Rather, it suggests that whether particular conduct in question under this statute occurred during the traditional work day is not a relevant consideration to evaluating if public resources have been expended when the actor at issue is a politically elected official.⁴ Instead, the inquiry for elected officials must consider whether the official used public resources other than his time.

***5** The Legislature is not presumed to have adopted a statute intended to infringe state elected officials' and employees' ability to engage in the political process as citizens. And the Legislature expressly stated that it did not intend the prohibitions as prohibiting constitutionally protected speech. [A.R.S. § 11-410\(G\)](#) (“Nothing contained in this section shall be construed as denying the civil and political liberties of any employee as guaranteed by the United States and Arizona Constitutions”). Thus, elected officials and public employees do not use public resources when they take a position on a ballot proposition, where for the employee it is outside of their normal working hours or while on approved official leave, and for either an elected official or a public employee, the individual does not otherwise expend public resources in taking that position. Examples of this type of permissible speech include drafting an editorial or participating in an interview or a debate.

The use of either an elected official's title or other incidental uses of the attributes of office also is not a use of public resources for purposes of the statutory prohibition. The statutory prohibitions should be interpreted and applied to implement the Legislature's legitimate purpose of deterring the misuse of public funds, but they should not be employed to improperly silence public officials from expressing views on important matters of public policy. Although an elected official's title has some inherent value, it does not constitute a use of public resources under the statute when the elected official exercises his First Amendment rights to speak about elections. Thus, the use of a public official's name and title on a mailing that is not paid for with public resources would not constitute a use of public resources because the Legislature's legitimate regard for the First Amendment outweighs whatever minimal value that the use of an official's title may have. *See* Atty. Gen. Op. 107-008. Similarly, the presence of a regular security detail paid for by an elected official's office by itself does not constitute the use of public resources for purposes of the statutory prohibition because the security detail must accompany the elected official regardless of whether the elected official is communicating about a ballot measure. *See, e.g., Romer*, 750 F. Supp. at 1045 (The detail is generally considered an extension of the public official's political person and is not separable from the person in office; “There is a difference between the conduct of public officials in speaking out on controversial political issues and their use of governmental power to affect the election.”).⁵

If an activity falls into one of the exceptions above, there is no need to move on to the second step of the analysis. But where an elected official or public employee does in fact use a public resource, additional analysis is required.

B. Was the Public Resource Used “For the Purpose of Influencing the Outcomes of Elections?”

1. The standard is objective.

*6 Where there is a use of public resources, the analysis turns to purpose— whether the public resources were used “for the purpose of influencing the outcomes of elections.” Although examination of that purpose seems to implicate subjective intent, our office has previously adopted an objective test in determining whether something has the purpose of influencing an election. Ariz. Att’y. Gen. Op. 100-020 at 2 (citing *Fed. Election Comm’n v. Ted Haley Congressional Comm.*, 852 F.2d 1111, 1116 (9th Cir. 1988)); see also *FEC v. Wisconsin Right to Life, Inc.*, 551 U.S. 449, 466-69 (2007) (rejecting intent-based test in the context of an as-applied constitutional challenge); *Orloski v. Fed. Election Comm’n*, 795 F.2d 156, 162, 165 (D.C. Cir. 1986) (approving of an objective test to determine whether a contribution is made for the purposes of influencing any election). While the Legislature substantially amended the statutes at issue since this office’s 2000 opinion, it did not suggest that the standard should not be objective. Indeed, the primary concern—conduct or communications that have the purpose of influencing the outcomes of elections—has remained the same and thus the analysis regarding an objective test endures. The objective test will necessarily involve a fact-specific, case-by-case evaluation. Ariz. Att’y. Gen. Op. 100-020.

2. The standard prohibits supporting, opposing, or disseminating information in a manner that is not impartial or neutral.

The statutory prohibition on the use of public resources for the purpose of “influencing the outcomes of elections” precludes the use of public funds for ““supporting or opposing” a candidate or ballot measure “in any manner that is not impartial or neutral.” A.R.S. § 11-410(H)(2). “Support” is defined as “to promote the interests or cause of.” Merriam-Webster.com. “Oppose” means “to place opposite or against something.” *Id.* By contrast, “impartial” is defined as “treating or affecting all equally” *id.*, while “neutral” means “a position of disengagement,” *id.* Thus, the terms “supporting or opposing” are antonymic to “impartial or neutral.” In other words, it is not possible to ““support or oppose” a candidate or ballot measure in an “impartial or neutral” manner.⁶

Despite this apparent tension in the text of the statutory prohibition, it is possible to discern the Legislature’s purpose and intent from the language of the statute. Courts determine legislative intent from the statutory language, “the general purpose of the act in which it appears, and the language of the act as a whole.” *No Ins. Section v. Indus. Comm’n*, 187 Ariz. 131, 132 (App. 1996) (internal citation omitted). Section 11-410 generally sets forth a prohibition against the use of public resources for the purpose of influencing the outcomes of elections, and attempts to give some parameters for that prohibition through carve outs (that is, distributing informational pamphlets or reporting on official actions (Subsection A); certain government-sponsored forums or debates (Subsection C); and any conduct protected by our federal or state constitution (Subsection G)). Moreover, the definition in subsection (H)(2) is self-evidently a response to the narrow test set forth in *Kromko*. The Court of Appeals in *Kromko* rejected an impartiality test because, “Had the legislature wanted to make presentation of an impartial analysis a prerequisite to [the use of public] funds and resources to educate the public on a ballot issue, it easily could have done so.” 202 Ariz. at 502 ¶ 7. With subsection (H)(2), the Legislature made clear that it did require impartiality as an element in the test. We can thus infer that the Legislature intended the prohibition on the use of public resources to apply not just to uses of public resources that unambiguously urge the electorate to vote in a particular matter, but also to uses of public resources that “support or oppose” a ballot measure ambiguously by presenting the information in “any manner that is not impartial or neutral.” See A.R.S. § 11-410(H)(2); see also Ariz. Att’y. Gen. Op. 100-020 at 2 (allowing responses to inquiries on election issues “in a neutral manner that does not urge support or opposition to a measure”).

*7 In the context of a ballot measure, we thus assess whether the use of public resources is for the purpose of influencing an election using an objective test to determine both its purpose and its manner. The test looks to: (1) whether the use of public

resources has the purpose of supporting or opposing the ballot measure, and (2) whether the use of public resources involves dissemination of information in a manner that is not impartial or neutral. As noted above, this test is objective.

In many cases, the application of the test will be straightforward. If the use of public resources unambiguously urges voters to vote for or against a ballot measure, it will violate the statutory prohibitions because (1) it supports or opposes the ballot measure, and (2) there is no question that the use is not impartial or neutral given its unambiguous message for or against the measure. Similarly, if a reasonable person could not find that the use of public resources supports or opposes a ballot measure, it will not violate the statutory prohibitions because (1) it does not support or oppose a ballot measure, and (2) it must therefore be impartial or neutral with regard to the ballot measure.

In other cases, the application of the test will require additional analysis. If a reasonable person could conclude that the use of public resources supports or opposes a ballot measure but reasonable minds could differ, *see Kromko*, 202 Ariz. at 503 ¶ 10, then the test will require closer examination of whether the use of public resources disseminates information in a manner that is not impartial or neutral. For this examination, we can analogize to the requirement that the legislative council provide “an impartial analysis” of each ballot measure or proposed amendment. A.R.S. § 19-124(B). Our Supreme Court has held that impartial analysis must “avoid[] argument or advocacy” and “be free from any misleading tendency, whether of amplification, of omission, or of fallacy, and it must not be tinged with partisan coloring.” *Tobin v. Rea*, 231 Ariz. 189, 194 ¶¶ 12-13 (2013) (internal quotation marks and citations omitted). The use of “rhetorical strategy” in an attempt to persuade the reader is another signal that the dissemination of information violates this prohibition. *See Citizens for Growth Management v. Groscost*, 199 Ariz. 71, 72-73 ¶ 6 (2000). If an analysis of the manner of the use of public resources reveals that it engages in advocacy, misleads, or uses rhetorical strategy, the use of public resources will violate the statutory prohibition because (1) a reasonable person could find that the use supports or opposes a ballot measure, and (2) it is not impartial or neutral.⁷

In other words, when assessing whether conduct implicates section 1-410's restrictions based on its purpose, we must account for the delicate balance between the prohibition on the improper use of public resources to influence elections and the need for public officials and employees to carry out their public functions. If a reasonable person could find that the use of public resources supports or opposes a ballot measure, we assess whether it is done in a neutral or impartial manner by examining whether it is: (1) free of advocacy; (2) free of misleading tendencies, including amplification, omission, or fallacy; and (3) free of partisan coloring.

3. *The standard may be applied practically.*

***8** To clarify the application of the standard set forth above, we provide the following practical application examples, each of which is subject to the purpose and manner analysis as set forth above.

Routine uses of public resources made in the normal course of government functions would be presumed not to run afoul of the statutory prohibitions unless additional evidence demonstrates the use of resources was for the purpose of influencing an election. If the use of public resources is a routine use in the normal course of government functions, an objective observer would likely conclude that the purpose of the use of public resources was not to promote the interests of the ballot measure or to be used against the ballot measure. As such, routine communications are presumed to be permissible; but that presumption may be rebutted by evidence that the communication meaningfully deviated from the routine in a manner that objectively indicated it had the purpose of influencing an election in violation of the statutory prohibitions. For example, where a tough-on-crime ballot measure is being circulated, the release of statistics that report an increase or decrease in crime but did not expressly address the ballot measure would be presumed not to violate the statutory prohibitions if it is a routine communication. In order to rebut that presumption, there would need to be evidence that, considering the totality of the circumstances, the report disseminated information in a manner that was not impartial or neutral. Relevant circumstances may include evidence that the report was inaccurate, misleading, and/or used rhetorical strategies that attempt to persuade the voter.

Similarly, in the discharge of their duties, elected officials are often presented with inquiries from the press or constituents concerning their positions on a variety of public policy issues, including ballot measures. For example, a county attorney may be asked at an open press conference to express a position on a pending ballot measure. Given the First Amendment implications discussed above, the official may respond to the inquiry without violating the prohibition on the use of public funds where the statement does not otherwise result in a non-routine use of public resources. Ariz. Atty. Gen. Op. 100-020 at 3 (citing *Smith v. Dorsey*, 599 So. 2d 529, 541 (Miss. 1992) (“the effective discharge of an elected official's duty would necessarily include the communication of one's considered judgment of the proposal to the community which he or she serves.”)). Although the use of the official's time during the press conference has some value, the First Amendment implications of the official's speech and the explicit carve-out in subsection (F) for speech protected by the First Amendment both indicate that this should not be considered a use of public resources within the statutory prohibition.

Further, the statute and this office's previous guidance recognizes that public officials may expend public resources concerning elections for a variety of neutral or impartial reasons, including “the use of public resources to respond to questions about ballot measures, although responses should provide factual information that suggest neither support nor opposition to the measure;” “the use of public resources to investigate the impact of ballot measures on a jurisdiction;” “the use of public resources to prepare and distribute the election information required by statute;” and “the preparation and dissemination of materials ‘reporting on official actions of the governing body.’”⁸ Ariz. Atty. Gen. Op. 100-020 at 3-4. Again, any expenditure or use of resources related to the subject matter of a ballot measure and within the operative time frame will be subject to the purpose and manner analysis to determine whether it violates the prohibition. For example, the use of public resources to investigate the potential impact of a ballot measure on a jurisdiction could give rise to a challenge where the dissemination of information related to that investigation is made in a manner that fails to be neutral or impartial.

***9** As expressly permitted by the statute, public officials also may sponsor forums or debates at public expense if they remain impartial, the events are purely informational and provide an equal opportunity to all viewpoints. A.R.S. § 11-410(B).

In contrast, the statute prohibits a non-elected public employee's attendance at a non-neutral event designed for the purpose of supporting or opposing a ballot measure if the employee attends the event during normal working hours unless the employee uses annual leave personal time; such attendance would violate the statute's prohibition on use of personnel for the purpose of influencing the outcome of an election.

The importance of context in this objective analysis cannot be overstated. The use of public resources to disseminate information may be impartial or neutral in content, but violate the statutory prohibition in the manner in which it is disseminated. For example, if neutral or impartial information is disseminated through direct mail only to likely voters (as opposed to the full relevant constituency), that context may indicate that the public resources are being used for the purpose of influencing the outcome of elections.

Conclusion

Section 11-410 prohibits counties from using public resources for the purpose of influencing the outcomes of elections. The statute seeks to balance a public official's First Amendment rights to participate in the political process, and the public's right against compelled subsidy of speech embodied in the improper use of public resources to influence elections. This opinion provides an analytical framework to assist public officials in their efforts to balance their First Amendment rights with the public's right against compelled subsidy of speech.

To that end, the operative time frame for the relevant prohibitions is triggered by the filing of an application for a serial number for a ballot initiative or referendum.

The determination of whether particular conduct is permissible requires analysis under an objective two-part test:

1. Was there a use of public resources?

2. If so, were the public resources used “for the purpose of influencing the outcomes of elections?”

Under this test, any use of public resources that occurs after the restrictions arise under the statute is subject to the objective test set forth above, which must necessarily constitute a fact-specific, case-by-case evaluation to determine whether such use was for the impermissible purpose of influencing the outcome of an election.

Mark Brnovich
Attorney General

Footnotes

- 1 As previously noted, the Legislature further amended the relevant statutes in 2015. *See* 2015 Ariz. Legis. Serv. Ch. 296 (H.B. 2613) (amendments to all relevant statutes except [A.R.S. § 15-1633](#)).
- 2 For convenience, and because it is the direct subject of the inquiry, the analysis in this Opinion will reference [Section 11-410](#). Because the operative language in that section is repeated elsewhere, the analysis in this Opinion applies equally to the same language as found in [A.R.S. § 9-500.14\(G\)\(2\)](#); [§ 15-511\(L\)\(2\)](#); [§ 15-1408\(J\)\(2\)](#); [§ 15-1633\(K\)\(2\)](#); and [§ 16-192\(G\)\(2\)](#).
- 3 In Arizona, state and county elected officials do not accrue sick or annual leave and are not required to use leave for time away from the office. *See* [A.R.S. § 41-742\(D\)\(1\)](#) (exempting state elected officials from the state personnel system), [A.R.S. § 11-352\(A\)](#) (exempting county elected officials from the county merit system). In other words, Arizona's laws explicitly recognize that elected officials always carry their title and official persona, regardless of the time of day.
- 4 This is consistent with the general jurisprudence regarding the federal Hatch Act, and related state “Little Hatch” Acts, which proscribe certain political activities by government employees, but generally exempt certain high level, primarily elected, officials. In *United States Civil Service Commission v. National Ass'n of Letter Carriers*, the Supreme Court held that the Hatch Act struck a constitutionally sustainable balance between First Amendment rights of public employees and “obviously important interests sought to be served by the limitations on partisan political activities now contained in the Hatch Act.” 413 U.S. 548, 564 (1973). *See also* [Patterson v. Maricopa County Sheriffs Office](#), 177 Ariz. 153 (App. 1993). The statutory framework in [A.R.S. § 11-410](#) strikes that same balance.
- 5 *Romer* was “not a public expenditure case.” *Id.* at 1044. The federal court instead considered whether the Colorado Governor's conduct and speech in opposition to a ballot measure violated state citizens' First Amendment rights as a result of the use of state resources as well as the “power and prestige” of the public office. *Id.* at 1042. The court's analysis as to what constituted public resources in that context is relevant and instructive to the questions addressed in this opinion. A public official presented with an opportunity to exercise constitutionally protected rights to free speech, where such opportunity poses a potential security threat, must not be required to choose between his safety and the exercise of free speech. As previously noted, [section 11-410](#) explicitly exempts conduct protected by state and federal constitutions so it is clear that our Legislature did not intend for public officials in this state to be faced with such a Hobson's choice.
- 6 It is well-established that statutes “must give fair notice of conduct that is forbidden or required.” *FCC v. Fox Television Stations, Inc.*, 132 S.Ct. 2307, 2317 (2012). “The requirement of clarity is enhanced ... when the statute ‘abut[s] upon sensitive areas of basic First Amendment freedoms.’” *Info. Providers' Coal. for Def of the First Amendment v. FCC*, 928 F.2d 866, 874 (9th Cir. 1991) (internal quotation marks and citations omitted). Where a statute is vague, it will

“inevitably lead citizens to ‘steer far wider of the unlawful zone’ ... than if the boundaries of the forbidden areas were clearly marked.” *Grayned*, 408 U.S. at 109 (quoting *Baggett v. Bullitt*, 311 U.S. 360, 372 (1972)). The definition of “influencing the outcome of elections” presents some constitutional concerns because the uncertainty resulting from the inherent contradiction between “supporting or opposing” and “in any manner that is not impartial or neutral” may well deter public officials and employees from engaging in protected speech. The Arizona Legislature may consider looking to language that the State of Washington used in a similar statutory prohibition that does not present the same vagueness concerns. See *Wash. Rev. Code Ann. § 42.52.180* (2012).

- 7 This is consistent with our previous opinion assessing the circumstances under which informational materials that do not advocate for or against a measure, but are not specifically authorized or required by statute, may be disseminated using public resources. Ariz. Atty. Gen. Op. 100-020 (approving of “such factors as the style, tenor and timing of the publication” to determine whether a public resource was used for the purpose of influencing an election) (internal quotation marks and citation omitted).
- 8 Ariz. Atty. Gen. Op. 100-020 interpreted the prior version of the statutory prohibitions that did not have the definition of “influencing the outcome of elections” at issue here. But that opinion embraced a similar standard, as it indicated that the use of resources must be assessed in an objective manner on a case-by-case basis to determine whether, for example, information is provided “in a neutral maimer that does not urge support or opposition to a measure.”

Ariz. Op. Atty. Gen. No. I15-002 (Ariz.A.G.), 2015 WL 4719005

Arizona Revised Statutes Annotated

Title 38. Public Officers and Employees (Refs & Annos)

Chapter 3. Conduct of Office

Article 8. Conflict of Interest of Officers and Employees (Refs & Annos)

A.R.S. § 38-504

§ 38-504. Prohibited acts

Currentness

A. A public officer or employee shall not represent another person for compensation before a public agency by which the officer or employee is or was employed within the preceding twelve months or on which the officer or employee serves or served within the preceding twelve months concerning any matter with which the officer or employee was directly concerned and in which the officer or employee personally participated during the officer's or employee's employment or service by a substantial and material exercise of administrative discretion.

B. During the period of a public officer's or employee's employment or service and for two years thereafter, a public officer or employee shall not disclose or use for the officer's or employee's personal profit, without appropriate authorization, any information acquired by the officer or employee in the course of the officer's or employee's official duties which has been clearly designated to the officer or employee as confidential when such confidential designation is warranted because of the status of the proceedings or the circumstances under which the information was received and preserving its confidentiality is necessary for the proper conduct of government business. A public officer or employee shall not disclose or use, without appropriate authorization, any information that is acquired by the officer or employee in the course of the officer's or employee's official duties and that is declared confidential by law.

C. A public officer or employee shall not use or attempt to use the officer's or employee's official position to secure any valuable thing or valuable benefit for the officer or employee that would not ordinarily accrue to the officer or employee in the performance of the officer's or employee's official duties if the thing or benefit is of such character as to manifest a substantial and improper influence on the officer or employee with respect to the officer's or employee's duties.

Credits

Added by Laws 1974, Ch. 199, § 3. Amended by [Laws 1995, Ch. 76, § 5](#); [Laws 1999, Ch. 40, § 1](#).

[Notes of Decisions \(3\)](#)

A. R. S. § 38-504, AZ ST § 38-504

Current through legislation of the First Regular Session of the Fifty-Seventh Legislature (2025), effective as of May 7, 2025.



City of Phoenix

ADMINISTRATIVE REGULATION SUBJECT ELECTRONIC COMMUNICATIONS AND INFORMATION ACCEPTABLE USE	A.R. NUMBER
	1.63 Revised
	FUNCTION Information Technology Page 1 of 6
	EFFECTIVE DATE June 26, 2014 REVIEW DATE

Transmittal Message

Email questions about this Administrative Regulation (A.R.) to the Information Technology Services, Information Security & Privacy Office at ISPO@phoenix.gov.

I. PURPOSE

The purpose of this A.R. is to govern the acceptable use of City of Phoenix (City) information systems, electronic communication channels, and Internet access in support of City business requirements. The elements in this A.R. provide measures that

- Protect the confidentiality, integrity, and availability of City information and help preserve the public trust
- Increase the City workforce's effectiveness by promoting efficient, clear, and accurate electronic business transactions and communications
- Minimize security incidents
- Emphasize the public record aspects of electronic information, and
- Protect the City from legal liability.

II. SCOPE

This A.R. applies to all members of the City workforce.

III. DEFINITIONS

- City business – All work performed on an electronic device that has a direct relation to the City's operation and activities. City business includes any work performed where non-transient public records may be created, transmitted, or stored using a personal mobile device.
- City workforce – Anyone authorized to access City information systems and information including, without limitation, City employees, non-City employees, business partners, contractors, volunteers, and temporary workers.
- Criminal Justice Information (CJI) – Data provided by the Federal Bureau of Investigation (FBI) for law enforcement agencies to perform their mission and enforce the laws. CJI includes biometric, identity history, person, organization, property, and case/incident history data.
- Electronic communications – Any software or electronic information or telecommunications system including email and voice mail systems, instant and text messaging systems, facsimile machines, video-conference devices, software for net-meetings, webcasting, and other collaborative Web technologies.

- Information system – Any hardware, software, or electronic system that the City owns, operates, maintains, or provides and authorizes for use in storing, accessing, analyzing, and manipulating business information. These systems include business application systems, databases, Internet and intranet sites, file servers, document management systems, and their infrastructure.
- Personal device – Any electronic storage or multi-function computing and communications device capable of hosting a broad range of applications for both business and consumer use that is not owned by the City, but owned or provided by City workforce. Personal devices include, but are not limited to USB sticks, removable hard drives, personal digital assistants (PDAs), smartphones, and tablet, pad, desktop, and laptop computers.

IV. ROLES and RESPONSIBILITIES

- Department Heads are responsible for ensuring their department complies with this A.R.
- The Chief Information Security Officer or designee is responsible for interpreting and revising this A.R.
- The City workforce is responsible for understanding and complying with this A.R and for annually acknowledging their compliance with City information security policies.

V. POLICY STATEMENTS

- 1 **City Workforce Accountability.** All members of the City workforce are accountable for the security of their user IDs and passwords, and for all actions performed by their computer accounts. City workforce members may not use another's user ID and password, nor allow another to use their user ID and password.
- 2 **Privacy Expectations.** The City workforce has no expectation of privacy for any electronic information created, received, stored in, or transmitted on the City's electronic property or electronic communication systems.

In accordance with Arizona's Public Records Law, the public may request all information made or received by City workforce in performance of their jobs. The City workforce must consider all information, including email and City information residing on personal devices, open to public view unless the Law Department determines there is a specific legal confidentiality requirement.

- 3 **Use of Personal Devices.** As described below, the City workforce may use personal devices for work involving information classified as public. Reference: s1.9 Information Classification Standard.

City workforce members performing any work on personal devices are encouraged to connect to the City's network using the City's remote access facility to best protect City information. To help ensure compliance with Public Records Law, the City workforce should not store any City information on a personal device or system.

While City workforce members may use personal devices to access their City email as stated below, they should not conduct City business using personal email accounts.

City workforce members may not use personal devices for work involving any personal identifying or restricted City information that may result in a critical breach of information security. Reference: A.R. 1.90 Information Privacy and Protection.

The City workforce may not use personal devices to access Criminal Justice Information unless specifically authorized by the City's Criminal Justice Information Services (CJIS) Officer. The CJIS Officer must

approve and authorize any access, processing, storage, or transmission of Criminal Justice Information using personal devices.

3.1 Use of Personal Devices for Messaging. The City workforce may use personal devices, such as smartphones for telephone, texts, and email related to City business. While the City workforce must comply with all other provisions in this A.R., no additional approvals are required.

3.2 Use of Personal Devices for Messaging and Offline Work. The City workforce may use personal devices, such as pad and/or tablet computers for texts, email, and work related to City business without connecting to the City's network. This includes accessing email via a web browser. While the City workforce must comply with all other provisions in this A.R., no additional approvals are required.

3.3 Use of Personal Devices Connecting to City Network. The City workforce may use personal devices, such as pad, tablet, laptop, or desktop computers to connect to the City's network with approval from their department's information security liaison and with the understanding that the City may require City-provided and monitored management software to ensure compliance with City policies.

4 Personal Use. The City workforce may use City information systems for incidental personal use as long as it

- Consumes only a minimal amount of computer system resources or staff time
- Does not interfere with productivity or any business activity
- Does not cause the City to incur additional costs
- Does not require repeated and ongoing use or registration of their City email account, as City workforce members should not use their City email address as their primary personal email account
- Does not violate any City A.R. or standard, or any applicable law or regulation, and
- Would not adversely affect the reputation of the City, its citizens, or its employees.

5 Unacceptable Use. The City workforce must use City information systems in compliance with this A.R. Examples of unacceptable use include, but are not limited to the following:

- To upload, transmit, display/view, or store offensive, derogatory, defamatory, improper, harassing, sexually explicit, pornographic, obscene, vulgar, or profane messages or materials that violate or infringe in any way upon the rights of others, or that are unlawful, threatening, abusive, defamatory, or otherwise objectionable, even in a joking manner
- To access restricted-content Web sites, such as sexually explicit, pornographic, racist, or hate sites

City workforce members must immediately disconnect from any Web site they have inadvertently connected to that contains sexually explicit, racist, violent, or otherwise inappropriate content. The ability to connect with a specific Web site does not in itself imply that the City workforce is permitted to visit that site.

- To copy or disseminate copyrighted materials, such as articles, movies, music, or computer software, in a manner that is inconsistent with applicable copyright laws or licensing agreements
- To use their City email account to post or email their personal information on public Web sites, blogs, or other external destinations, including online auctions

Members of the City workforce should not appear to be representing the City of Phoenix when

conducting personal business.

Only authorized and approved members of the City workforce may write, publish, or post official City information on social media sites.

- For personal gain or for personal businesses
- For political purposes, including campaigning and voting, except as provided in A.R. 2.16 Political Activity – Time off to Vote
- To use unapproved peer-to-peer or other software, such as LimeWire, BitTorrent, or KaZaA, or
- To transmit or forward chain letters, third-party advertisements, or third-party solicitations, or to set up forwarding agents that automatically forward email to personal or other external email accounts.

- 6 Required Training.** The City workforce must complete all applicable information security awareness training within the timeframes that the City establishes. This includes, but may not be limited to new hire and annual training.
- 7 Security Software.** The City workforce must not disable or circumvent any software or controls intended to safeguard City information systems.
- 8 Unattended Devices.** The City workforce must appropriately protect all unattended information systems and promptly report any suspicious activity that may affect information security, or the loss or theft of a device containing City information to their department's information security liaison.
- 9 Authorized Software.** The City workforce must use only City-authorized software on City-owned devices. The City workforce may neither use nor distribute unauthorized software in the course of performing City business. Reference: A.R. 1.86 Legal Use of Software.
- 10 Copyrights and Licensing.** The City workforce must always comply with all applicable copyright and license requirements. Reference: A.R. 1.86 Legal Use of Software.
- 11 Records Management.** The City workforce must comply with all records retention policies and schedules. The City workforce must not delete and/or modify any electronic records in a manner that violates their approved retention periods and/or any other legal requirements. For example, members of the City workforce must not empty their email system trash or modify activity logs. Reference: A.R. 1.61 Records Management Program.
- 12 System Use.** The City workforce must use City information systems and protect City information in accordance with all A.R.'s and standards. Reference: A.R. 1.84 Information Security Management.
- 13 Ownership.** The City owns all information residing on its information systems. Upon termination of City employment, contract, or agreement, City workforce members must return all equipment, software, and information, whether in electronic form or otherwise.

VI. PRIVACY AND MONITORING

The City reserves the right to monitor systems, electronic communications, and usage to support operational, maintenance, auditing, security, and investigative activities, including enforcement of this policy, legal requests, public record requests, and to help ensure and to verify compliance, confidentiality, integrity, and availability of information systems used to conduct City business. This A.R. does not prohibit technical staff from monitoring departmental workstations and servers for the purpose of maintaining overall system reliability, availability, and security. Unauthorized accessing, monitoring, or reading of electronic communication systems or their contents violates this City policy.

City departments are responsible for handling public requests for their electronic information, including email messages, and for working with their legal, human resources, City Clerk, and Public Information Office representatives, as needed, before making the records available to the public.

City Department Heads may approve initiating an investigation of their workforce's compliance with this A.R. and must coordinate the investigation with the Human Resources (HR) Director and the department's legal representative. The HR Director may authorize access and monitoring of email based on Department Head requests. If authorized, the HR Director will forward requests to Information Technology Services, or the Police Department for Police staff, to process email requests and maintain them. The HR Director may consult with the Chief Information Officer for technical advice and/or assistance in the course of a lawful investigation.

VII. COMPLIANCE

All City workforce members agree to abide by and comply with this A.R. The City workforce must consider all information, including email and City information residing on personal devices, open to public view unless the Law Department determines there is a specific legal confidentiality requirement. The City Auditor Department may conduct periodic audits to evaluate compliance with the responsibilities set forth in this A.R.

A violation of this A.R. may result in disciplinary action, up to and including termination of employment. In the case of contractors and temporary workers who violate this policy, the City may revoke any and all system access and use privileges and terminate the third-party contract(s).

All exception requests must follow the authorized waiver procedure.

VIII. RELATED POLICES, STANDARDS AND PROCEDURES

A.R. 1.61 Records Management Program

A.R. 1.73 Control of Communication Services and Systems

A.R. 1.84 Information Security Management

A.R. 1.86 Legal Use of Software

A.R. 1.90 Information Privacy and Protection

A.R. 1.91 Information Privacy and Protection Supplement – Data Shared With Third Parties

s1.1 Virus Protection

s1.2 Web Filtering

s1.3 Identity Management

s1.4 Remote User Access

s1.5 Password Management

s1.7 Media Retention/Removal

s1.8 Internet Email Content Security

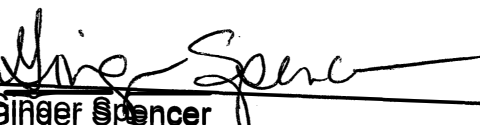
s1.9 Information Classification

s1.10 Collaborative Web Technologies Usage

s1.2.1 Requesting Access to Blocked Web Sites

b1.3 Waiver Standard

ED ZUERCHER, City Manager

By: 
Ginger Spencer
Special Assistant to the City Manager

CITY OF PHOENIX
ELECTRONIC COMMUNICATIONS AND
INFORMATION ACCEPTABLE USE
CITY WORKFORCE RECEIPT

This form must be signed by each current and new member of the City workforce.

I acknowledge that I have received A.R. 1.63, Electronic Communications and Information Acceptable Use. I recognize that as a user of City information, electronic communications, and computer systems I am responsible for following the provisions outlined in this policy. I understand that if I am found to be in violation of this written policy, I may be subject to disciplinary action.

Name (printed) _____

Signature _____ Date _____

c: Copy to individual member of the City workforce

Original to department file



City of Phoenix

ADMINISTRATIVE REGULATION SUBJECT EMPLOYEE POLITICAL ACTIVITY	A.R. NUMBER
	2.16 Revised
	FUNCTION Human Resources and Payroll Page 1 of 6
	EFFECTIVE DATE October 31, 2017 REVIEW DATE

Summary of Changes

This Administrative Regulation (AR) was last revised in 2016. This revision modifies the title, adds language to Section II, "Public Policy", and clarifies language in Section VII.A, "Candidate for Elective Office". Additionally, information regarding time off to vote has been moved to a new AR titled "Time Off to Vote", AR 2.17.

I. PURPOSE

The purpose of this AR is to define allowable and prohibited political activities for City employees.

II. PUBLIC POLICY

It is the public policy of the City, reflected in this AR, that:

- City programs be administered in an unbiased manner and without favoritism for or against any political party or group or any member in order to promote public confidence in government, governmental integrity, and the efficient delivery of governmental services;
- All employees be free from any express or implied requirement or any political or other pressure of any kind to engage or not engage in any activity permitted by this AR; and,
- Employees not engage in activities that are inconsistent, incompatible, in conflict with, or are harmful to their duties as City employees.
- Employees may not be a candidate for election to Mayor or City Council of the City of Phoenix or be appointed to serve as Mayor or a member of the City Council. If an employee applies to be appointed as a City Council member to serve on an interim basis, the employee must take an unpaid leave of absence beginning no later than the date on which they apply.
- Employees may only run as a candidate for partisan political office or hold a non-City of Phoenix elected position if it is determined that the elective office is not inconsistent, incompatible, in conflict with, or harmful to duties as a City employee.

This AR shall be construed according to this public policy statement.

Nothing contained in this AR shall be construed as denying employees of their civil or political liberties as guaranteed by the United States and Arizona Constitutions.

III. LAWS

Limitations on the political activities of City employees can be found in Chapter XXV, section 11 of the Phoenix City Charter, Phoenix City Code §§ 2-221, 12-217 and 12-218, Personnel Rules 4b and 4c, and A.R.S. 16-402. This AR explains permitted and prohibited activities and is based on those provisions.

IV. COVERAGE

The provisions of this AR extend to all full-time, part-time, and temporary employees and officers in both classified and unclassified positions.

Employees whose pay is fully-funded by federal funds are covered by the Hatch Act (5 USC §§1501-1508), a federal statute that sets forth specific limitations on the political activities of some public employees. Departments or employees who have questions regarding whether an employee is covered by the Hatch Act should contact the Human Resources Department at (602) 495-5700. The Law Department should be consulted with questions about the specific limitations of the Hatch Act for covered employees.

V. PERMITTED ACTIVITIES

A. City Elections

Activities listed in this section apply to City of Phoenix elections, including recall elections, elections for Mayor and City Council, and elections for charter amendments, bond issues, referenda, or issues of similar character. These activities are permitted for an individual on his or her own time but are not permitted while on duty, on City property, in City uniform, using City resources, or in any context that implies an employment relationship with the City. However, in some cases, a polling location may be on City property. In this instance, uniformed employees may vote at this location with supervisory approval.

All City of Phoenix employees may register and vote in any City election. With the exception of the limited and specific City staff who conduct or give advice concerning City elections, City of Phoenix employees **may**:

1. Express a private opinion on candidates for Mayor and City Council, including:
 - a. Signing nomination or recall petitions for City elections;
 - b. Posting private opinions on personal or nongovernmental social media accounts;
 - c. Displaying a sign on nongovernmental property; and,
 - d. Communicating with another person or group of people regarding City elections when the employee does not do so in an official capacity.

2. Be politically active in connection with a charter amendment, bond issue, referendum, or issue of similar character.

Limited and specific City staff who conduct or give advice concerning City elections include: City Manager; Assistant City Manager; Special Assistant to the City Manager; City Attorney; the Assistant City Attorney assigned to elections; City Clerk; City Clerk Management Assistant II; Deputy City Clerk; Election Coordinators; Election Specialists; Election Aides; the Accuracy Certification Board; and ballot scanning staff, for a total of approximately 34 staff members.

B. National, State, County Elections

Activities listed in this section apply to national, state, and county elections, and to municipal elections outside the City of Phoenix. They are permitted for an individual on his or her own time but are not permitted while on duty, on City property, in a City uniform, using City resources, or in any context that implies an employment relationship with the City. However, in some cases, a precinct polling place may be located on City property. In those instances, uniformed employees may vote at those locations with supervisory approval.

Subject to the information described in the paragraph above, City of Phoenix employees, including employees in activities financed through federal funds, **may**:

1. Register and vote in any election;
2. Solicit votes in support of or in opposition to a political candidate or issue;
3. As an individual, express an opinion on political subjects and candidates;
4. Sign, initiate, or circulate a political nomination or recall petition;
5. Take an active part in the management of political campaigns;
6. Display bumper stickers, posters, or pamphlets on private property for the endorsement of candidates or issues;
7. Be politically active in connection with a constitutional amendment, bond issue, referendum, or issue of a similar character;
8. Directly or indirectly solicit, receive, or account for funds for a political purpose except as prohibited by this AR;
9. Make a financial contribution to a political party or candidate;
10. Be a member of a political party and participate in its activities consistent with this AR;
11. Serve as a delegate, alternate, or proxy to a political party convention;

12. Serve as an officer of a political party; a member of a national, state, or local committee of a political party; an officer or member of a committee of a partisan political club; or be a candidate for any of these positions;
13. Endorse or oppose a candidate for public office or political party office in a political advertisement, broadcast, campaign literature, or similar material; and
14. Drive voters to the polls on behalf of a political party or candidate.

VI. PROHIBITED ACTIVITIES

- A. Activities permitted in the section entitled Permitted Activities above are prohibited when an employee is on duty, including break periods. They are also prohibited on City property, in a City uniform, using City resources, or in any context that implies an employment relationship with the City. However, in some cases, a precinct polling place may be located on City property. In those instances, employees may vote at those locations with supervisory approval.

Certain activities **are prohibited**. City employees:

1. **May not** use any official City authority or influence for the purpose of interfering with or affecting the results of an election.
 2. **May not** participate in the management or affairs of any City candidates' campaign for Mayor of Phoenix or Phoenix City Council including, but not limited to, soliciting or making financial contributions to candidates.
 3. **May not** display bumper stickers and posters on City vehicles or display bumper stickers, posters, literature, buttons, or other campaign material on City property or at their individual work sites.
 4. **May not** use an official City title or designate employment with the City in political advertisements, endorsements, or speeches.
- B. Activities prohibited for an individual employee are also prohibited for groups or organizations of employees, even if the specific activities are being performed by a non-employee as a representative of the employee group.
- C. The use of City resources or employees to influence the outcome of elections is prohibited by state law. A.R.S. § 9-500.14. This prohibition has been interpreted to prohibit the use of *any* City funds or resources to advocate for or against a measure that will be on the ballot. The obvious exception to this general prohibition is when the City Council proposes a measure that will appear on the ballot. But even then, the use of City funds and resources is limited to informing the public of this action. City funds and resources cannot be used to "campaign" in support of the measure.

- D. Moreover, while the City is permitted to respond to citizen inquiries, it must do so in a neutral manner that does not urge support or opposition to the measure. The information provided by the City must therefore be “full and impartial” and cannot “amount to improper campaign activity.” Ariz. Op. Atty Gen. No. 100-020 (09/11/2000).

VII. CANDIDATE FOR ELECTIVE OFFICE

- A. An employee **may not** be a candidate for election to Mayor or City Council of the City of Phoenix. An employee may not be appointed to serve on an interim basis while they are still employed with the City. If an employee applies to be appointed as a City Council member to serve on an interim basis, the employee must take an unpaid leave of absence beginning no later than the date on which they apply. During this leave of absence, the employee will be relieved of all duties. The leave of absence will continue until the Council makes the appointment between 12-15 days after the vacancy occurs (Phoenix City Charter Ch. III, Sec. 5). If the employee is appointed, they must resign or retire from their position with the City no later than the date on which they are sworn into office.
- B. An employee covered by the Hatch Act **may not** be a candidate for election to a partisan political office. Such employee **may not** be granted a leave of absence for the purpose of becoming a candidate for election.
- C. An employee may be a candidate for a partisan political office not covered by paragraphs A and B in this section and maintain his or her City employment under certain circumstances. He or she must notify the director of his/her department in writing of the candidacy and the political office sought no later than date that nomination papers for candidacy are filed. Consideration will be given to the circumstances of the election and whether such office is inconsistent, incompatible, in conflict with, or is harmful to his/her duties as a City employee. The department head will forward this information to the City Manager’s Office for review. The City Manager’s Office will determine the impact of the candidacy on the City.
1. If the City Manager’s Office finds the partisan political office is not inconsistent, incompatible, in conflict with, and is not harmful to duties of the employee, the City Manager’s Office may allow the employee to be a candidate for the partisan office and maintain his City employment. The employee may not use an official City title in political campaigning, nor should official authority be used to affect the result of the election.
 2. If the candidacy or the partisan political office is inconsistent, incompatible, in conflict with, or is harmful to the employee’s duties, the City Manager will determine whether the employee can continue City employment.
- D. Except for City of Phoenix elections, an employee may be a candidate for a non-partisan elective position, such as a school board.

VIII. ELECTED POSITIONS

An employee may be elected to a political office and maintain his or her City employment unless it is determined by the City Manager that such elective office is inconsistent, incompatible, in conflict with, or is harmful to duties as a City employee. Consideration shall be given to the circumstances of the election and whether such office is inconsistent, incompatible, in conflict with, or is harmful to his duties as a City employee. The City Manager may require that the employee be placed on a leave of absence, or lesser restrictions be imposed. If the public policy concerns of the City are undermined, the employee may be required to terminate City employment prior to assuming the elected position.

IX. QUESTIONS

Questions regarding this AR should be directed to the Human Resources Department at (602) 495-5700.

ED ZUERCHER, City Manager

By: _____
Toni Maccarone
Special Assistant to the City Manager



City of Phoenix

Elected Positions

Acknowledgement Form

(Refer to A.R. 2.16)

I hereby acknowledge that I have reviewed this form below in its entirety and understand that as an employee elected to a non-city political office or an applicant for appointment to the Phoenix City Council, I am prohibited from engaging in the following activities as they are considered inconsistent, incompatible, or present a conflict of interest or have the appearance of a conflict of interest with my duties as a City employee.

1. Using official City authority or influence for the purposes of interfering with or affecting the results of an election.
2. Using an official City title or designated employment with the City in political advertisements, endorsements, or speeches.
3. Conducting any political business related activities on City time and using City funds, equipment, facilities, supplies, or other City staff members' time.
4. Displaying bumper stickers and posters on City vehicles or displaying bumper stickers, posters, literature, buttons, or other campaign material on City property or at your individual worksites.
5. Performing work which the employee or his immediate associates will subsequently be required to act upon in an official City capacity.
6. Performing research, investigative, consultative, or other work in which the City employee has access to City records or correspondence which is not otherwise generally available to the public
7. Performing work that results in excessive employee absences, tardiness, a general decline of City job performance, or reduced usefulness or efficiency of the employee on the City job.

Signature: _____

Print Name: _____

Date: _____



City of Phoenix

ADMINISTRATIVE REGULATION SUBJECT CITY EMPLOYEE GIFT POLICY	A.R. NUMBER
	AR 2.93 Revised
	FUNCTION Human Resources and Payroll
	Page 1 of 9
	EFFECTIVE DATE November 20, 2017
	REVIEW DATE

Summary of Changes

This Administrative Regulation (AR) was last revised in September 1996. This AR has been revised to incorporate changes made to the City of Phoenix Ethics Policy by the City Council at its February 15, 2017 meeting.

I. PURPOSE

To give direction, provide guidance, and assist City employees and volunteers to comply with the City ethics and gift policies and avoid conflicts of interest.

II. DEFINITIONS

- A. **City Business** – for purposes of this AR and the Employee and Volunteer Ethics Handbook only, means an activity on behalf of or at the request of the City of Phoenix or an activity that directly benefits the City of Phoenix.
- B. **Community Event** – means an event, activity, or function located in Arizona and sponsored by the City of Phoenix, a non-profit organization, a professional association, a business association, a charitable organization, a cultural/arts organization, or a community organization.
- C. **Compensation** – means money, a tangible thing of value, or a financial benefit.
- D. **Conflict of Interest** – means an employee's use of their position for direct or indirect monetary gain or benefit.
- E. **Employee** – means a person who is not an elected official, Board or Commission member, or City of Phoenix Municipal Court Judge, and who is employed full-time or part-time by the City of Phoenix. For the sole purpose of this AR, the term "employee" also includes City volunteers.
- F. **Gift** – means a tangible thing of value given to an employee in the course and scope of their duties other than or in addition to their regular compensation. Gift does not mean:
 - 1. A political campaign contribution as permitted by law;

2. Compensation received by an employee from the person's relative or partner;
 3. Compensation in the form of a personalized plaque or similar personalized award received by an employee for the person's service to the City of Phoenix consistent with the duties and responsibilities of the person's position or office;
 4. Compensation in the form of admission, food, beverages, transportation, or accommodations received by an employee in their capacity as a City of Phoenix representative and related to City business;
 5. Compensation associated with a relative's or partner's elective office; or
 6. Compensation in the form of admission, food, or beverages received by an employee to attend a community event.
- G. **Honoraria** – means a gift or money received by an employee for participating in a speaking engagement, lecture, conference, or a panel while representing the City.
- H. **Partner** – means a person in a domestic partnership as defined in Phoenix City Code (P.C.C.) §18-401.
- I. **Professional Organization** – means an organization that seeks to promote a particular profession or the interests of individuals engaged in a profession.
- J. **Relative** – means the spouse, child, grandchild, parent, grandparent, brother or sister of the whole or half blood and their spouse, and the parent, brother, sister, or child of a spouse, as defined in P.C.C. § 2-52(A).
- K. **Special Occasion** – means an engagement or wedding involving an employee, an employee's relative, partner, or relative of a partner; the birth or adoption of a child; or the death of a relative, partner, or relative of a partner.
- L. **Third Party** – means any person or entity, public or private, other than the City or the employee.
- M. **Undue Influence** – means when a person causes an employee to improperly change an act or decision. This is especially true when the improper change is not in the best interest of the City.
- N. **Vendor** – means any individual or organization whose primary business is to sell goods or services.
- O. **Volunteer** – means a person, or the person's relative or partner, other than a Board or Commission member, who provides their services to the City of Phoenix without any express or implied promise of compensation and serves as a hearing officer, intern, extern, contractor, vendor, or otherwise serves in the administrative offices of an elected official, the City Manager, or a City of Phoenix Department or Function Head. In this AR, the term "employee" also includes City volunteers.
- Board and Commission members are covered under P.C.C. § 2-52.
 - A Block Watch Captain is not a volunteer for purposes of this policy.

III. POLICY

To uphold the public's trust and promote transparency in City government, an employee must:

- conduct all aspects of City business in an honest, professional, and legal manner;
- display personal integrity by exercising good judgment and common sense in their decision-making and dealings with others;
- comply with City policies, the City Code, and all applicable department policies;
- adhere to City values;
- avoid situations that create an actual or perceived conflict between the employee's personal interest and those of the organization;
- ask for help when uncertain if an action or circumstance violates City policy; and
- remember that a City employee is a representative of the City in all activities during their work hours, but may be considered to be representing the City while off duty if they:
 - identify themselves as a City employee verbally, in writing, or in other ways where it is made clear that the person is an employee;
 - wear a City badge, uniform, or wear or present other attire or merchandise that identifies them as a City employee; or
 - take an action that leads a reasonable person to believe that a person is a City employee.

A. Prohibited Gifts

A gift in any amount received or accepted by an employee is prohibited if the gift creates the appearance of undue influence or if the gift creates a conflict of interest.

B. Permissible Gifts and Disclosure

A gift with a known or reasonably estimated fair market value of \$50.00 or less received or accepted by an employee is permissible if the gift is not otherwise prohibited by law and is not a prohibited gift as discussed in Section III. A. above. A gift with a known or reasonably estimated fair market value of \$50.00 or less does not need to be disclosed.

A gift with a known or reasonably estimated fair market value greater than \$50.00 received or accepted by an employee is permissible if the gift is not otherwise prohibited by law and is not a prohibited gift as discussed in Section III. A. above. An employee who receives or accepts a gift with a known or reasonably estimated fair market value greater than \$50.00 must disclose it as required below.

A gift with an unknown value that is received or accepted by an employee must be disclosed as "Unknown" if a reasonable estimate of the gift's fair market value is greater than \$50.00.

C. Employee Responsibilities

Employees must:

1. Discuss and obtain approval from their supervisor **prior to** accepting a gift of any value. If that is not possible, the employee should discuss the gift with their supervisor no later than one business day after receipt of the gift.

2. Not use, consume, distribute, or utilize any gift prior to discussing the gift with their supervisor and receiving supervisor approval to do so.
3. Submit a disclosure form if they accept a gift with a value of more than \$50.00 or if the gift has an unknown value, as required by this policy.

D. Supervisor Responsibilities

All supervisors must:

1. Determine whether accepting or keeping a gift by an employee creates the appearance of undue influence or creates a conflict of interest. If it does, the offer must be declined and the gift may not be accepted or kept. If the gift has already been received, it should either be returned or, if that is not practicable, donated or otherwise disposed.
2. Consult with their Department Ethics Representative, Department Director, Function Head, or the City Manager's Office prior to allowing an employee to accept a gift, as described in Section III. C. 1.
3. If an employee is allowed to accept a gift with a value of more than \$50.00 or of unknown value, ensure that the employee submits a disclosure form as required by this policy.

E. Gift Disclosure Requirements

If a gift must be disclosed by an employee, the employee must file a disclosure form with the City Clerk within five business days of receiving the gift.

The City Clerk shall post the disclosure form and maintain the posting of each disclosure form on the City of Phoenix website.

A copy of the disclosure form is attached to this AR as Exhibit A. A copy of the disclosure form is also available at phoenix.gov/ethics or hr.phoenix.gov.

F. Special Occasion Waiver

An employee is not required to obtain a waiver to accept normal and customary gifts such as flowers, food, or donations to charitable organizations made by others to recognize the special occasions listed in Section II. K. However, for other gifts that may violate this AR, the City's gift policy, or the City's ethics policy, an employee may request a waiver from the City Manager's Office or designee to accept a gift for the special occasions listed in Section II. K. An employee who receives a waiver is not required to disclose the gift, but must file the waiver form with the City Clerk within five days of approval. An employee who seeks a special occasion waiver should contact their Department's Ethics Representative for assistance.

IV. EXAMPLES

Because of the size and complexity of the City, it is impossible to list every circumstance that may occur for every employee. There is no way to develop a comprehensive, detailed set of rules to cover every situation. The following examples are some common situations that may arise that may create the appearance of undue influence or a conflict of interest.

A. Gifts from Contractors, Consultants, or Vendors

An employee that receives a gift from a contractor, consultant, or vendor that is not otherwise impermissible should share or distribute the gift amongst their division or department. Examples of such gifts include cookies, fruit bouquets, and candy. Gifts of alcohol, money (cash, check, money order), gift certificates, or gift cards must not be accepted or used by an employee under any circumstances.

A greeting card is not a gift and may be kept by the employee who receives it.

B. Tips from Members of the Public

An employee may not accept or keep tips from members of the public.

C. Tickets or Admission to Entertainment or Sports/Athletic Events

An employee may attend entertainment or sports/athletic events as a representative of the City of Phoenix if their attendance is within the course and scope of their job duties and their attendance has been approved by the City Manager or designee.

An employee may accept or keep tickets to entertainment or sports/athletic events when the tickets have no monetary value or were made available to a large group of City employees; or there is an agreement or other contractual arrangement between the City and the event organizer. An employee should not accept special entrance to entertainment or sports/athletic events unless the entrance has no monetary value and is equally available to all members of the public or all individuals present at the event, or there is an agreement or other contractual arrangement between the City and the event organizer.

An employee should not accept or keep any other entertainment or sports/athletic event tickets under any circumstances.

The City Manager or designee may grant exceptions for employees who attend entertainment or athletic events as part of their job duties.

If an employee is offered tickets as a gift, they may not offer to purchase the tickets that were offered as a gift from the person or organization that initially offered the tickets. An employee may still independently purchase tickets to the same event by using the standard ticket purchasing method for that venue.

An employee may not accept tickets and then make a charitable donation for the value of the tickets. Additionally, employees may not accept the tickets and offer to reimburse the donor money for the tickets.

D. Tickets, Discounts, or Gift Cards for Travel

An employee must not accept any kind of ticket, gift card, or discount from a “common carrier” that may be used for travel or to purchase travel at a discount. Examples of “common carriers” include but are not limited to railroads, airlines, and taxi companies, including Uber and Lyft.

E. Donations for Charitable Causes

An employee may accept items donated for a City-sponsored charitable purpose (e.g., Community Service Fund Drive) on behalf of their department unless it creates the appearance of undue influence. Within one business day, the employee must notify their supervisor of the donation. Within five business days, the charitable donation must be given to the employee(s) designated by the department or division as responsible for accepting these donations or coordinating the charitable event.

An employee may not accept items donated for charitable purposes that are not City-sponsored or affiliated when acting in their role as a City employee. For example, an employee may accept a donation for the Community Service Fund Drive but may not accept a donation intended for a church or a private charity when acting in their role as a City employee.

F. Refreshments

An employee may accept food or refreshments that are generally available to meeting attendees, such as a sandwich or juice and bagels, on infrequent occasions in the ordinary course of a breakfast, lunch, or dinner meeting or other meeting where an employee may properly be in attendance.

An employee should avoid accepting offers of food or refreshments that create the appearance of undue influence or create a conflict of interest. For example, an employee should not accept refreshments from a current vendor or a vendor who is in the bidding process for a contract. However, it may be appropriate for an employee to accept food or refreshments at an event that celebrates the completion of a project, subject to department approval.

G. Community Events and Incidental Items

An employee may attend and consume refreshments offered at community events as a guest of a third party if the employees’ participation is a part of or relates to their job duties. An employee may accept incidental items, such as coffee mugs, t-shirts, or pens, only if such items are offered to all attendees. If the value of incidental items exceeds \$50.00, the items must be disclosed pursuant to Section III. E.

H. City-Sponsored Events

An employee may occasionally be asked to attend City-sponsored events, such as the Dr. Martin Luther King Jr. Day Breakfast and the Mayor’s State of the City speech as a guest of a third party. An employee’s attendance at City-sponsored events under these circumstances is subject to the approval of the City Manager or designee.

I. Business Meals and Expenses

An employee may participate in periodic or rotating business functions hosted by other agencies at which a meal is served if the meeting is scheduled during a time of day when breakfast, lunch, or dinner occurs and the meal is generally available to all meeting attendees.

Under most circumstances, when acting in the course and scope of their duties, employees may not accept a “one-on-one” meal from a person outside the City, regardless of the cost of the meal. “One-on-one” meals include any situations where one or more persons outside the City host one or a very small number of employees with or without spouses or partners at a restaurant or private club where the meal is purportedly the reason for the individuals to meet at that time. “One-on-one” meals would also include a meal that occurs prior to, after, or during a break from a longer meeting or event.

An employee may not accept a meal or any refreshments from a vendor who contracts with the City or is looking to contract with the City if the employee is involved in the procurement process for the contract or vendor or administers or manages the contract, vendor, good, or service. An employee should not attend a dinner, sit at a sponsored table or attend a sponsored event as a guest of a vendor who contracts with the City or is looking to contract with the City if the employee is involved in the procurement process for the contract or vendor or administers or manages the contract, vendor, good, or service.

J. Employee Participation in Conferences, Events, or Activities

Travel, conferences, or training for employees that is funded by a third-party at no cost or at reduced cost to the City requires approval by an employee’s Department Director, Function Head, or the City Manager’s Office. The Department Director, Function Head, and/or the City Manager’s Office have sole discretion in making this decision.

An employee may participate in all events hosted by the conference organizers as part of the scheduled activities and paid admission if all attendees have a similar opportunity to participate in the event and it does not create a conflict of interest.

An employee may participate in a dinner hosted and paid for by a third-party at a conference for City Business as long as all attendees have a similar opportunity to participate in the event and attendance at the dinner does not create, or appear to create, a conflict of interest. Optional activities not included with the conference registration, such as golf or tickets to an entertainment event, cannot be accepted under any circumstances.

Except for conference registration and travel-related costs described above, an employee may not accept payment or other honoraria when they speak or give a presentation as a City representative. Incidental items, such as coffee mugs, t-shirts, or pens, given to the employee for their participation are acceptable if accepting the items does not create a conflict of interest. If the value of these items exceeds \$50.00, they must be disclosed pursuant to Section III. E.

An employee attending a conference, event, or activity while representing the City must avoid any appearance of undue influence or a conflict of interest.

Please refer to [AR 3.41, "Business, Conference, and Training Travel and Related Expenses"](#) for additional information and procedures.

K. Raffles

With supervisory approval, an employee may accept complimentary prizes or raffle drawings issued at City-approved conferences, events, or activities, if the opportunity to win the prize or drawing is offered to all attendees. An employee's supervisor must approve the employee retaining the prize after it has been won. Anyone in the employee's chain of command can require the employee to decline or return the prize. An employee will be required to submit a disclosure form as required by this policy if they are approved to keep a prize with a value greater than \$50.00.

An employee may participate in raffles that require the employee to personally purchase a ticket at conferences, events, or activities if the opportunity to participate in the raffle is offered to all attendees. Because employees personally pay to enter these raffles, the prizes are not considered gifts; therefore, the employee need not submit a disclosure form regardless of the prize's value.

L. Attending a Business Conference as a Board Member while also a City Employee

An employee who attends conferences for City Business because they are a member of a City-affiliated Board (e.g., COPERS, PEHP/DCP) must comply with the rules for gifts and disclosures that apply to **both** City employees and Board and Commission members.

V. CITY ETHICS REPRESENTATIVES

The lead HR person for each department is designated to serve as the department's Ethics Representative. For departments that utilize the shared services model, the department's assigned HR Officer will serve as the designated Ethics Representative.

Ethics Representatives will serve as the department's ultimate authority to:

- Determine whether a gift must be disclosed;
- Receive disputes related to gifts;
- Maintain records of the resolution of any dispute about a gift, including the name of the employee, the gift in question, the reason for the dispute, the decision, and the reasoning for the decision;
- Make recommendations to the City Manager's Office regarding the ethics and gift policy and conflicts of interest; and
- Perform other ethics duties as assigned by the Department or City.

VI. VIOLATION OF GIFT POLICY

An employee who violates this policy will be subject to the appropriate disciplinary action, up to and including dismissal. An employee who violates this policy may also be subject to criminal prosecution.

VII. REFERENCES AND APPLICABLE LAWS

- City of Phoenix Ethics Policy, Phoenix City Code Chapter 2, Article II, Section 2-52
- City of Phoenix Gift Policy, Phoenix City Code Chapter 2, Article II, Section 2-52.1
- City of Phoenix Conflict of Interest Statutes, Phoenix City Charter, Chapter XI
- AR 3.41, Business, Conference, and Training Travel and Related Expenses

VIII. QUESTIONS

Questions regarding this AR should be directed to the Human Resources Department at 602-495-5700.

ED ZUERCHER, City Manager

Toni Maccarone
Acting Deputy City Manager

CITY OF PHOENIX
PERSONNEL RULES

Amended June 2023

These Personnel Rules are pursuant to
Chapter XXV of the City Charter of the City of Phoenix

CITY OF PHOENIX PERSONNEL RULES
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RULE 1

DEFINITIONS

"Applicant" means a person who has filed an application for a position.

"Appointing Power, Authority, or Officer" means the City Manager or other legally designated official having the power of appointment and removal of employees.

"Apprentice" means an unclassified employee in a formalized apprenticeship program.

"Board," when used alone, means the Civil Service Board of the City of Phoenix.

"Break in Service" means dismissal, resignation, retirement, or status change to part-time.

"Calendar Days" shall be used for all employees regardless of work schedules when specified in the Rules. Unless otherwise specified, "days" shall mean calendar days within these Rules.

"Candidate" means a person participating in an examination or selection process.

"Class or Classification" means a position or group of positions sufficiently similar in respect to their duties and responsibilities that the same requirements as to education, experience, knowledge, ability, and other qualifications are required of the occupants, and substantially the same tests of fitness are used to choose qualified employees, and substantially the same schedule of compensation can be made to apply with equity under the same or substantially the same employment conditions.

"Class Title" means the designation given to a class, to each position allocated to the class, and to the occupant of each position.

"Classification Schedule or Plan" means the plan, system or schedule for the classification of all positions in the classified service, based upon the duties, responsibilities, and qualifications of each position, which is approved by the City Council.

"Classified Service" means all offices, positions, and employments in the service of the City of Phoenix except those expressly exempt or designated as unclassified by the Charter of the City of Phoenix.

"Competitive Promotional List" means a list of names of employees who successfully completed promotional competitive tests of fitness for a class of position, ranked according to the results of the evaluation process.

"Demotion" means the transfer of an employee from a position in a higher class to a position in a lower class for which the maximum rate of pay is lower. Removal of special assignment pay or the transfer of an employee into an equivalent

classification in a different Meet and Confer Unit does not constitute demotion. Equivalency shall be determined by the Human Resources Director.

"Discharge, Dismissal, or Removal" means the separation of an employee from City employment.

"Discipline" means the suspension, demotion, or dismissal of an employee.

"Eligible" means a person whose name is recorded on a current original employment eligible, reinstatement, promotional, or recall list.

"Employee" means a person who is legally an occupant of a position in the City service or who is on an authorized leave of absence, and whose position is held open for them upon their return.

"Employment Lists" means lists of persons who successfully qualified for employment as determined by the various methods of evaluating qualifications. Employment lists include: 'Recall Lists,' 'Reinstatement Lists,' 'Promotional Lists,' and 'Eligible Lists.'

"Equivalent Classification" means two or more classifications that are judged to be sufficiently similar in qualifications that an employee who is successful in one can reasonably be expected to be successful in the other, or a list of eligibles for one can be utilized in making appointments to position vacancies in the other.

"Examination" means the objective testing of applicants to create a list of eligible candidates. This includes written examinations, as well as demonstration, practical, or assessment examinations administered by staff designated by the Human Resources Director.

"Full-Time Employment" means being employed with a work schedule consisting of the number of full-time hours (minimum 40 hours per week) designated for the position, and with a work schedule intended to be continuous over a period of 12 months.

"Hourly" means a position that is subject (non-exempt) to the provisions of the federal Fair Labor Standards Act (FLSA).

"Interim" means appointment of a classified employee to an unclassified position that is limited in time and is for the purpose of accommodating the absence of an employee on extended leave or for the purpose of accomplishing a special limited-time project. The classified employee receiving an interim appointment shall retain his classified service status.

"Inactive Status" means an employee who is absent from work on a leave of absence, and has exhausted their paid leave banks.

"Job Sharing" means employment of two people in the same position that is budgeted on a regular full-time basis, where the two employees share the full-time work hours of the position. Job sharing is in the unclassified service, and such

employment shall not earn credits toward the completion of probationary period requirements.

"Non-Competitive Promotional List" means a list of employees whose increased knowledge and skill in an entry-level classification in a career series, as attested to by the appointing authority and approved by the Human Resources Director, qualifies the employees for promotion to a journeyman level classification in the same career series. Such list shall not be used for sworn public safety classifications.

"Part-Time Employment" means being employed in a position which is less than full-time, but which has a regular schedule on a year-round basis as determined by the needs of the employing department. Such employment shall not earn credits toward the completion of probationary period requirements, and is not part of the classified service.

"Position" means a specific office or employment, whether occupied or vacant, calling for the performance of certain duties and the carrying out of certain responsibilities, either on a full-time, part-time, seasonal, or temporary basis.

"Promotion" means an advancement from a lower class to a higher class involving an increase in responsibility. The higher class has a salary range that goes beyond the limit fixed for the lower class. Additional pay ranges allowed for special assignments within the class shall be considered part of the pay range of the class, and shall not constitute a promotion. Transfer of an employee to an equivalent classification in a different Meet and Confer Unit does not constitute a promotion. Equivalency shall be determined by the Human Resources Director.

"Provisional" means an appointment of a person to a regular position without an examination in the absence of an appropriate eligible list or availability of eligibles. Such appointment shall be for not longer than sixty working days, and shall earn credits toward the completion of probationary period requirements.

"Public Notice" means notice given either by posting or publication, or both.

"Recall List" means a list of names of persons who were laid off from a class, or from service on account of lack of work or funds or any other cause, and whose names were placed on said list in accordance with these Rules.

"Regular Employment" means being employed in a full-time budgeted position in the classified service.

"Reinstatement List" means a list of names of persons who separated from service under satisfactory conditions or who were demoted as a result of reduction in force or reclassification, and whose names were placed on such list upon request of eligible applicant.

"Salaried" means a position that is exempt from the provisions of the federal Fair Labor Standards Act (FLSA) and is designated in the pay plan of the City of Phoenix.

"Selection Process" means the objective evaluation of certified eligible candidates to fill vacant positions. This includes selecting candidates to interview, conducting interviews, performing reference checks, and completing the required background check. Interviews may include requests to perform functions which simulate the requirements of the job.

"Service" means:

Personal service of any discipline notice by delivery to the person named or to any member of their family over the age of sixteen residing at their usual place of residence;

Or

Deposit of the order in the United States mails, certified return receipt requested, postage prepaid, addressed to the last known address of the person to be served.

"Suspension" means the temporary separation of an employee from the employee's position for disciplinary reasons. Salaried employees shall be suspended in full-day increments consistent with the federal Fair Labor Standards Act.

"Temporary Employment" means being employed in a position that is temporary in nature and is not an established regularly budgeted position. Such employment shall not earn credits toward the completion of probationary period requirements, and is not part of the classified service."

"Trainee" means an employee in an unclassified transitional classification designed to provide instruction and work experience and approved by the Human Resources Committee.

"Transfer" means the assignment of an employee from one position in the City service to another position for which the employee possesses the qualification requirements, and the pay range of the new position is determined to be equivalent by the Human Resources Director.

"Vacancy/Vacant Position" means a position that does not have an incumbent, and the position has been approved for filling by the City Manager.

"Work Day - 56-Hour Employee" - In these Rules, the following equation shall be used when considering employees who are assigned to a 56-hour work schedule:

3 consecutive work days	=	2 shifts
5 consecutive work days	=	3 shifts
30 work days	=	14 shifts
60 work days	=	27 shifts

RULE 2

ORGANIZATION AND ADMINISTRATION OF THE CIVIL SERVICE BOARD

2a. **Officers of the Board**

The Officers of the Board shall be a chair and a vice chair who shall serve for one year beginning July 1 of each year and until their successors are elected. The Human Resources Director, or designee shall be Secretary of the Board.

2b. **Board Minutes**

Insofar as possible, the Board shall meet regularly. The time schedule of the meetings shall be determined by the Board. The Secretary of the Board shall post notice in advance of the regularly scheduled meetings of the Board. Information of the Board's schedule of meetings shall be given by the Secretary to anyone inquiring for such information.

Special meetings may be called by the Chairman, or any three Board members upon giving reasonable advance notice to the members of the Board.

Board meetings shall be open to the public, except under the following circumstances:

- 2b1. When an employee requests and the Board approves a private hearing pursuant to Rule 22a;
- 2b2. When the Board deliberates over the evidence and testimony presented at a hearing pursuant to Rule 22a;
- 2b3. When the Board consults with its attorney; or;
- 2b4. When the Board votes to consider other matters in executive session consistent with the Arizona Open Meeting Law.

2c. **Quorum**

Three members of the Board shall constitute a quorum for the purpose of transacting official business and holding hearings.

2d. **Record of Board Actions**

Actions taken by the Civil Service Board shall be recorded in its minutes. The Secretary shall perform this duty for the Board. The time and place of each meeting of the Board, the names of the members attending the meeting, all official acts of the Board, and identification of a dissenting vote together with the reasons if stated, shall be recorded. Copies of the minutes shall be approved at a following meeting, including the amendments if there are such. The minutes shall be certified by one of the officers of the Board and be open to public inspection.

RULE 3

ADMINISTRATION OF THE PERSONNEL SYSTEM

3a. General Duties of the Human Resources Director

- 3a1. As permitted in Chapter XXV, Section 6, Charter of the City of Phoenix, the City Manager has delegated certain powers and duties as Personnel Official to the Human Resources Director. This delegation and delegation to other individuals shall be as specified by Administrative Regulation.
- 3a2. Under the direction and control of the City Manager and in cooperation with the department heads, the Human Resources Director shall be responsible for safety and compensation administration, benefit and service award programs, personnel and labor relations, research studies, and employee training and counseling.

The Human Resources Director shall also be responsible for the recruiting, evaluating, selecting, and referring of personnel; classification administration; administration of the performance rating system and personnel rules; and maintenance of employment records.

3b. Roster of Employment

The Human Resources Department shall be responsible for supervising the maintenance of official records of all employees in the City service. The records shall include all positions, names, addresses, position titles, rates of pay, changes of status, leave records, and such other information as may be considered necessary in order to provide a complete employment record of all employees. Each department head shall transmit to the Human Resources Director on appropriate forms all information required for the establishment and maintenance of employee records.

RULE 4

FAIR EMPLOYMENT PRACTICES

4a. **Discrimination**

No person in the City service shall be appointed or promoted to, or demoted or dismissed from, any position or in any way favored or discriminated against with respect to employment because of a political or religious opinion or affiliation; nor shall there be any discrimination in favor of, or against any applicant because of age, race, color, sex, disability, sexual orientation, or national origin.

An applicant, eligible, or employee shall be considered solely on the basis of their qualifications as required by the position they seek or hold relative to experience, training, personal and physical fitness, abilities, skills, and knowledge.

Physical fitness shall relate to the position that the applicant or eligible seeks or the employee holds, taking into consideration reasonable accommodations that may be made for an individual.

4b. **Political Contributions**

No officer or employee of the City shall directly or indirectly solicit or receive or be in any manner concerned in soliciting or receiving any assessment, subscription, or contribution on behalf of any candidate for a City of Phoenix elective office from any person holding a position with the City.

4c. **Participation in Politics**

No person holding a position with the City, except elected officials, shall take any part in political management, affairs, or campaigns in any election for City of Phoenix elective office other than to vote and privately express opinions.

RULE 5

CLASSIFICATION PLAN

5a. **Establishment of Job Classifications**

The Human Resources Director is responsible for the establishment and maintenance of job classifications. Departments will work with Human Resources to identify new and emerging business needs that may warrant a new classification, or to identify changes to the business environment that necessitate changes to the title, minimum qualifications, or responsibilities of a job or job family.

All positions which have similar closely-related essential functions (e.g., duties, tasks, and responsibilities, bearing the same relationships to other classes and levels and calling for substantially the same test of knowledge, skills, and abilities) shall be included in the same classification. Classifications may also be grouped into job families or functions.

5b. **Classification Specifications**

The Human Resources Director shall maintain and have on file copies of current classification specifications (i.e., job descriptions) for all classes in the classified service. The specifications shall include such information as title, statements of distinguishing features of work, essential functions, required knowledge, skills, and abilities, and for classes requiring necessary special requirements, a statement of such shall be included. Essential functions listed in a classification specification are descriptive only and are not restrictive in nature. The appointing authority, as circumstances require, may assign different tasks to a position when such duties are similar in kind and rank with those specified in the class of the position.

5c. **Minor Changes to Classification Specifications**

Changes to a job description may be requested by a Department and shall be reviewed by Human Resources. If the classification is used by multiple Departments, Human Resources shall consult with all affected Departments regarding potential changes. If the changes are determined by the Human Resources Director to be minor in scope, they shall be considered updates only and shall not change the level of the classification or the allocated grade and salary range. The Human Resources Director shall post the updated classification specifications when such changes are made.

5d. **Changes to Classification Plan**

Changes to a classification impacting the pay grade or range, as well as the establishment of new classifications, will be submitted to the City Council for final approval. Additional guidance regarding this process is provided in an Administrative Regulation. This section does not supersede the Meet and Confer or Meet and Discuss Ordinances in Phoenix City Code Chapter 2, Article XVII, Employer-Employee Relations.

5e. **Allocation of New or Reallocation of Vacant Positions to Classifications**

Each position in the classified service shall be allocated to a classification based on the position's duties, responsibilities, and essential job functions as determined by the Human Resources Director.

5f. **Reclassification of Filled Positions**

The Human Resources Director shall from time to time, or upon request of the appointing authority, investigate any or all positions in the classified service. The findings of the Human Resources Director shall be reported to the appointing authority, incumbent(s) of the position(s), and the Human Resources Committee. Affected employees and their authorized labor representative shall be given a reasonable opportunity to be heard by the Human Resources Committee. The Human Resources Committee shall reclassify such positions as it finds improperly classified to the correct classes. If the supervisor verifies an incumbent has been successfully performing the substantial portion of duties of the new classification for at least one year immediately prior to the effective date of the change, they shall not be required to serve the one-year period of probation stipulated in Rule 10; and for incumbents who have not completed probation, any probation they have served in the previous classification will count towards probation in the new classification. For seniority calculations under Rule 14 and 16, or in cases where a probationary period is required, the time in the new classification shall begin when the reclassification action approved by the Human Resources Committee becomes effective if an incumbent has not been successfully performing the substantial portion of duties of the new classification for at least one year immediately prior to the effective date of the change. If an incumbent has been successfully performing the substantial portion of duties of the new classification for at least one year, their prior length of time in the previous classification shall continue without interruption. If a filled position at any time is reclassified to a different classification in order to correctly and accurately classify it, the incumbent shall be assigned by the Human Resources Committee as follows:

1. Position moved to a higher graded classification: The incumbent shall be moved into the higher classification. If the incumbent does not meet the minimum qualifications of the higher classification, they shall be allowed to underfill the position for up to one year.
2. Position moved to a different classification in an equivalent pay grade: The incumbent shall be moved into the new classification. Pay ranges with slight differences because of labor-negotiated rates shall be considered equivalent and the Human Resources Director is authorized to rule on such matters.

3. Position moved to a lower graded classification: The incumbent shall be transferred into a vacant position in the higher classification. If no vacancy exists, the incumbent shall retain their current rate of pay, consistent with the Y-rating policy in effect, and shall overfill the position until a position vacancy occurs. If no vacancy becomes available and the period of Y-rating expires, or in the absence of a Y-rating policy, the Human Resources Director may place the employee in an equivalent classification with similar qualifications. If all other options are unsuccessful, the employee shall be entitled to bump as provided in the layoff/recall rule.

Classification changes as a result of reclassification shall not be considered a promotion, transfer, or demotion, regardless of whether the grade assignment changes or not. Pay changes as a result of a reclassification action are defined and described in the pay ordinance in effect at the time of the personnel action.

RULE 6

REQUIREMENTS FOR EMPLOYMENT

6a. **Physical and Mental Fitness**

All applicants for City employment shall meet the physical and mental performance requirements of the positions they seek. Impairments shall be favorably considered if the disabilities are such that the applicant can be expected to perform the essential functions of the position requirements with reasonable accommodation, if necessary. The physical and mental qualifications of persons entering the employment of the City may be evaluated by medical professionals, to be designated by the City. The City will provide reasonable accommodations as required by law.

6b. **Qualification Requirements**

All applicants for City employment may be required to submit completed requested documentation to the Human Resources Department. The requested documentation shall include such information as experience, training, residence, and other necessary qualification information. The Human Resources Director will use the information to determine whether the applicant is eligible for a given class of employment and whether they can perform the essential functions with or without a reasonable accommodation.

The Human Resources Director may require documentary evidence of any of the qualification requirements. The Human Resources Director may for any particular class require special experience and training in terms of years and specific qualifications.

Selection for positions funded by other governmental agencies may be limited to applicants who meet the employment guidelines of the funding agency.

When written or oral examinations are administered, applicants shall be required to achieve the passing grade prescribed for the class to which they seek appointment, in order to qualify for employment.

The following is a provision of State law. It is included here as a guide to be used for employment with the City of Phoenix:

AGE - VETERANS

Any veteran who served on active duty in any part of the military branch of the United States Government during time of war, holds an honorable discharge or proper release therefrom, meets all other City employment requirements, and is below the regular retirement age at the time of accepting employment with the City, shall be exempt from any age requirements established for original employment.

RULE 7

RECRUITMENT, EXAMINATION, AND QUALIFICATION EVALUATION

7a. Notice of Recruitment Needs

The Human Resources Director shall release recruitment notices and publicity deemed necessary to secure qualified applicants for City employment. Recruitment notices shall be posted on the Human Resources Department website and in locations designated by the Human Resources Director.

7b. Recruitment Schedule

The Human Resources Director shall recruit applicants for classes of employment to meet the needs of City operations.

7c. Disqualification of Applicants

The Human Resources Director may reject any application or exclude the name of any applicant from the eligible list or deny certification of any eligible who:

- 7c1. Is found to lack any of the qualification requirements specified in the position classification plan.
- 7c2. Does not meet the physical and mental health requirements of the class of position to which the applicant seeks appointment. This does not include disabilities that can be accommodated as provided in Rule 6a.
- 7c3. Does not meet the background screening standard established for the position within the job class. Refer to Administrative Regulation 2.81.
- 7c4. Has received a positive test result, failed to appear, or refused to submit to the drug, alcohol, or other substance screening which is a requirement for the job class to which the applicant seeks appointment.
- 7c5. Has been dismissed from previous employment for delinquency or other good cause.
- 7c6. Has been dismissed previously from the City service for just cause, or whose performance rating was below standard at the time of resignation.
- 7c7. Has made a materially false statement in the application or in the examination or has practiced or attempted to practice deception or fraud in connection with such application or examination.

- 7c8. Has taken an examination for the class as many times as allowed for a given period by the Human Resources Director.
- 7c9. Has been passed over for appointment for good cause, or has failed to appear without good cause after accepting a notice of interview.
- 7c10. Is lacking in any other qualifications or standard of conduct of equal gravity or exceeding those specifically enumerated in 7c1 - 7c9.

An applicant who is rejected, whose name is not posted, or whose name is removed from an eligible list shall be notified of the action. The rejected applicant or eligible may request a review of the action taken. This request shall be submitted to the Human Resources Director in writing within seven days after the notice of action is mailed. Such request for review shall not prevent the selection and hiring procedure from going forward during the review period. The decision of the Human Resources Director shall be final.

7d. **Scope and Character of Qualification Evaluation**

Screening of applicants shall consist of any qualification measurements that will establish and confirm the qualifications of applicants required by the class for which applicants are being evaluated.

7e. **Examinations of Applicants**

Examinations to measure the qualifications of applicants shall be conducted by the Human Resources Director, or designee.

If requested, special test accommodations will be made for a disabled applicant if the needed accommodations are consistent with the reasonable accommodations that may be made on the job.

In order to qualify for employment, a candidate may be required to make a passing grade in each part of the examination. This is in reference to any test type or rating including, but not limited to, knowledge, demonstration, physical, personal fitness, or other related testing measurements.

Written examination records and documentation that are proprietary shall not be made available for public inspection or copying.

7f. **Suspension of Recruitment**

The Human Resources Director may, in case of a vacancy in a position requiring peculiar and exceptional qualifications of a scientific, professional, or expert character, upon satisfactory evidence that recruitment is impractical and that the position can best be filled by the selection of some designated person of recognized attainments, suspend recruitment.

7g. **Promotional Examinations**

Applications for promotions shall be subject to the requirements and procedures provided in these Rules, except that applicants for promotion shall not be entitled to disability or veterans' preference. Positions in classes above the entrance level classes shall be filled by competitive or non-competitive promotional examinations whenever there is a sufficient number of employees who have the experience, training, and other qualifications required by the higher level classes. If qualified applicants for position vacancies in the higher classes are not present in the City service, or the best interests of the City service would not be served, then the position vacancies in the higher classes shall be filled by open competitive examinations. The class qualification requirements shall be complied with in any promotional examination.

Promotional examinations are open to employees in the City service and to individuals on recall lists, each of whom meets the requirements specified in the Rules and the Position Classification Plan.

The total length of authorized service shall be allowed as a seniority score in one part of the promotional examination. An employee who is receiving pension benefits as a result of retirement from the City under the Arizona Public Safety Personnel Retirement System shall not receive seniority credits for the service time under the Arizona Public Safety Personnel Retirement Plan. Two points for each complete year of authorized service shall be allowed. For an incomplete year, proportionate credits shall be allowed in the same ratio as the completed months of an incomplete year relate to a complete year. Part-time and temporary employees shall not receive seniority credits. A job sharing employee who had service as a regular full-time employee immediately preceding the job share appointment, shall be credited with the appropriate seniority score based on the individual's full-time employment plus pro-rata credits earned in job share status.

7h. **Examination Results**

Once examination results have been completely evaluated and scored, the applicants shall be notified of their examination results.

7h1. **Written Examinations**

For three business days beginning on the first business day following the examination, a candidate who participated in any city of Phoenix developed examination may, in the presence of Human Resources staff, review a keyed copy of the written examination and file a written notice of protest, stating the item or items objected to and the reason for the objection. The written notice must be filed by the end of the three-day review period. Protests based upon purely personal opinions and without cited authority will not be entertained. Properly made protests will be considered by the Human Resources Director before final examination scoring and release of examination results. This review process and item objections will not be available for proprietary tests obtained from a vendor.

For city of Phoenix developed examinations completed on a computer, an applicant may review their full examinations results immediately after or in lieu of the review of the keyed copy of the written examination. Applicants may not submit a written notice of protest on any items after viewing their full examination results.

For examinations completed on written scoresheets, an applicant may review their full examination results within five business days from the date that the notice of examination results was sent. If the review should disclose any errors, the examination record shall be modified to show a correct record. If the modification affects the records of other applicants, their records shall also be modified.

Such written protest shall not delay the next phase of the testing process or the certification and appointment of qualified eligibles.

Examination records and documentation that are proprietary (i.e. vendor procured, validated exams) are not public documents.

7h2. **Demonstration, Practical, or Assessment Examinations**

The purpose of this type of examination is to objectively measure an applicant's ability to perform in practical situations which simulate the requirements of the job.

Within five business days from the date that the notice of examination results was sent, an applicant may request and be told the sections of the objective exercise where points were deducted from their score, however, they will not be able to challenge the results or view the actual score sheets, as to protect the integrity of the test.

The review period will be the same as set forth in Personnel Rule 7h1.

- 7i. The following is a provision of State law. It is included here as a guide to be used for employment with the City of Phoenix:

PREFERENCE POINTS

The laws of the State of Arizona require that cities provide preference points for veterans of the Armed Forces of the United States, for the spouse or surviving spouse of certain veterans, and for a person with a disability. These preference points do not apply on promotional examinations.

- A. A veteran of the Armed Forces of the United States, separated from the Armed Forces under honorable conditions following more than 180 consecutive calendar days of active duty, who takes an entrance examination for employment with the City shall, in the determination of their final rating on such examination, be given a preference of five points. The preference shall be added to the grade earned by such veteran, but only if such veteran earns a passing grade without preference.
- B. A person with a disability who takes an entrance examination for employment with the City shall, in the determination of their final rating on such examination, be given a preference of five points. The preference shall be added to the grade earned, but only if such person earns a passing grade without preference.
- C. For the purposes of subsection 7iB of this section, "a person with a disability" means anyone who has a physical or mental impairment which substantially limits one or more of their major life activities or has a record of such an impairment or is regarded as having such an impairment.
- D. A person qualified for a preference pursuant to both subsection 7iA and subsection 7iB shall be given a ten-point preference.
- E. A spouse or surviving spouse of any of the following, otherwise qualified pursuant to subsection 7iA, shall be given a five-point preference as if such spouse or surviving spouse were an eligible veteran pursuant to subsection 7iA:
 - 1. Any veteran who died of a service-connected disability.
 - 2. Any member of the Armed Forces serving on active duty who, at the time of application, is listed by the Secretary of Defense of the United States in any of the following categories for not less than ninety days:
 - a. Missing in action.
 - b. Captured in the line of duty by a hostile force.
 - c. Forcibly detained or interned in the line of duty by a foreign government or power.
 - 3. A person who has a total, permanent disability resulting from a service-connected disability or any person who died while such disability was in existence.

- F. An honorably separated veteran who served on active duty in the Armed Forces at any time and who has a service-connected disability and is receiving compensation or disability retirement benefits under laws administered by the Veterans Administration, Army, Navy, Air Force, Coast Guard, or public health service shall be given a ten-point preference pursuant to this section.
- G. No person eligible for a preference pursuant to this action shall be allowed more than a ten-point preference.
- H. Proof of Qualification - Proof of eligibility for veteran preference or preference for a person with a disability shall be presented to the Human Resources Department upon request.

RULE 8

EMPLOYMENT LISTS

8a. **Types of Employment Lists**

Employment lists consist of five types including recall list, reinstatement list, transfer list, promotional list, and original employment eligible list.

8b. **Posting of Names to Employment Lists**

All persons whose names appear on employment lists shall have attained positions on such lists by the successful demonstration of their fitness for employment in the class. The Human Resources Director shall approve the posting of names to employment lists in accordance with the provisions of Rules 8c-8h inclusive. Persons whose names are approved on employment lists shall be eligible for employment.

8c. **Duration of Eligibility**

An eligible may normally have eligibility on an employment list up to a maximum of two years. The maximum time of eligibility on a recall list shall be three years. If the Human Resources Director believes that an employment list should be supplemented with additional eligibles, may direct a new recruitment for the classification, with existing eligibles being automatically placed on the new list for such time as may remain on their original eligibility. The Human Resources Director may modify the length of eligibility at the onset of a recruitment procedure and in unusual situations, may extend an eligible list for an additional year.

Names of eligibles may be removed from any employment list by the Human Resources Director for any of the reasons stated in these Rules. Eligibles whose names are removed from employment lists shall be sent notice of such action.

An employee whose name appears on an existing promotional list when entering military service with the Armed Services of the United States of America during time of war shall continue to have eligibility on such list until ninety days after being honorably discharged or released from military service.

8d. **Promotional Lists**

Promotional lists shall consist of the names of employees, or individuals on recall lists, who have qualified by competitive or non-competitive promotional examination. An eligible shall not continue on a promotional list if they separate from City employment, but may have their name returned to the promotional list if they return to City employment and the time limit of eligibility has not expired.

8e. **Employment Eligible List**

An employment list shall consist of the names of applicants who successfully demonstrated that their qualifications were suitable for the class of employment named in their applications. Such lists shall result from recruitment open to applicants both outside and inside the City service. The names on an employment list shall be listed according to the excellence demonstrated by the applicants, through the qualification measurements used.

Employment lists may be placed on an open basis to allow continuous posting of successful applicants.

Eligibility for Trainee classifications may be limited to present City employees, or those enrolled in a City-sponsored pre-employment training program. A Trainee may have their name placed on the eligible list of the class for which they are training, when it has been demonstrated that they have successfully completed the prescribed training program.

The name of an individual who has successfully completed the requirements of a City-sponsored pre-employment training program may be placed on the eligible list for the entry-level class for which the individual is trained, after passing the appropriate examination.

8f. **Recall List**

A recall list shall consist of the names of laid-off employees whose applications for positions on such list were approved by the Human Resources Director. The ranking of names on recall lists shall be in the order provided by layoff rules.

8g. **Reinstatement List**

A reinstatement list is one consisting of the names of former employees who resigned or for active employees who voluntarily demoted from a class of the City service and whose applications for positions on such a list were approved by the Human Resources Director. When an employee who has been certified to a reinstatement list continues to work on a part-time or temporary capacity in the same classification, the period of eligibility will continue until such time as the employee is either reemployed in a regular position or has failed to work in a temporary or part-time capacity for a period of six months. The names on such list shall be in accordance with the provisions of these Rules.

8h. **Transfer Lists**

A transfer list shall consist of the names of employees who

- 8h1. Are unable for physical reasons, as certified by a licensed physician, to perform the essential functions of their present assignment;

8h2. Voluntarily request the placement of their names on such a list;

8h3. Are placed on the list at the request of their department head.

Placement of an employee on a transfer list requires the approval of the Human Resources Director.

RULE 9

CERTIFICATION AND APPOINTMENT

9a. Method of Filling Vacancies

All vacancies in any class of position in the classified service shall be filled by an eligible from an appropriate eligible list or by a provisional appointment in the absence of an eligible list by one of the following methods:

- 9a1. Demotion;
- 9a2. Certification and Appointment from recall list;
- 9a3. Certification and Appointment from transfer list;
- 9a4. Certification and Appointment from promotional list;
- 9a5. Certification and Appointment from open competitive eligible list;
- 9a6. Certification and Appointment from reinstatement list;
- 9a7. Provisional Appointment of non-eligibles.

9b. Method of Certification

- 9b1. Requisition: When a vacancy is to be filled, and when the appointing authority requests, the Human Resources Director shall make certification of eligibles on a form provided by the Human Resources Department.
- 9b2. Certification: The Human Resources Director, except as otherwise provided in this Rule, shall certify to the appointing authority the names of persons on the appropriate employment list or lists who have indicated a willingness to accept appointment to a position vacancy. If the list of qualified persons is excessively long, the Human Resources Director may certify names in workable numbers to the appointing authority in the order of their placement on the eligible list.

Whenever the establishment of special qualifications for the particular position has been requested by the appointing authority and approved by the Human Resources Director, certification shall be limited to those eligibles on the appropriate list possessing the special qualifications established.

In the case of promotional examinations in the Police and Fire Services, the names of the five persons ranked highest on the appropriate list who have indicated a willingness to accept appointment to a position vacancy shall be certified. When more than one vacancy is to be filled, the number of names submitted shall equal the number of vacancies plus four.

In the case of a recall list, the highest name in accordance with the layoff provisions of these Rules shall be certified to the appropriate authority for a position vacancy.

- 9b3. Certification of Eligible to a Lower Class: An eligible may be certified to a position in a lower class or an equivalent class. Acceptance of appointment to a position in such class shall not affect their eligibility for certification to a position vacancy in the class in which they established eligible rights through examination, provided eligibility exists when the vacancy occurs.

9c. **Notification of Eligibles to Report for Interview**

When eligibles are certified to the appointing authority to fill a vacancy in the classified service, said eligibles shall report for interview if requested. The notice shall contain the title of the position to which eligibles have been certified, the pay range, the location of the interview, and the time limit allowed to report for interview without forfeiting eligibility rights.

9d. **Waiver of Certification**

The Human Resources Director may allow an eligible to waive certification to any employment list. The eligible must make such request to the Human Resources Director in writing, stating if the request is temporary or permanent, and the reason for the waiver. An eligible whose request is temporary, and approved, shall not again be called for selection of appointment until a request in writing is submitted and approved for the removal of the temporary waiver. If reasons for requesting the removal of the temporary waiver are unsatisfactory, the Human Resources Director may permanently remove the name of the eligible from the employment list. Notice of such action shall be sent to the eligible.

9e. **Appointments**

- 9e1. Selection and Appointment from Certified Eligibles: To fill a position vacancy, the appointing authority shall select and appoint one of the certified eligibles except as otherwise provided in this Rule.

When two or more applicants have equal qualifications in the judgment of the appointing authority, preference in selection shall be given to a Phoenix resident over a non-resident.

The appointing authority shall appoint the one certified eligible from the recall list to fill a position vacancy. Rejection of the one eligible certified from the recall list shall not be allowed other than as provided by Rule 7, except for such acts of conduct occurring between the date of layoff and date of recall which would be cause for dismissal of an employee.

- 9e2. Temporary Appointments: The duration of temporary appointments will be no longer than twelve months without approval of the Human Resources Director. Temporary appointments may or may not be made from an appropriate eligible list. A refusal by an eligible to accept his appointment to a position of limited duration shall not affect his eligibility to a regular appointment.
- 9e3. Provisional Appointments: Whenever the Human Resources Director determines that an appropriate employment list is insufficient for the needs of the City, the Human Resources Director may refer a non-eligible to a vacancy for provisional appointment upon the request of the appointing authority, pending creation of a new employment list. Such provisional appointments for all classes of positions shall continue only for such period as may be necessary to establish an employment list and make certification of eligibles. Such provisional appointment shall not exceed 60 full working days. Time served in a provisional status shall earn credits toward completion of probationary requirements.
- 9e4. "Interim" appointment: Whenever the Human Resources Director determines the need to appoint a classified employee to an unclassified position that is limited in time and is for the purpose of accommodating the absence of an employee on extended leave or for the purpose of accomplishing a special limited-time project. The classified employee receiving an interim appointment shall retain their classified service status.

RULE 10

PROBATION

10a. **Period of Probation**

Every employee shall work satisfactorily for a period of probation equal to full-time in each class for which they have qualified by examination, certification, and appointment in order to satisfy the requirements for regular employment in that class. A temporary appointment cannot satisfy regular employment status. Only an employee with a regular or an interim appointment can be granted appeal status after probationary requirements have been satisfied. The period of probation shall consist of twelve continuous months of full-time service in the class except as herein provided.

Time taken on paid vacation, sick leave, military leave, administrative leave, light duty status, or while drawing compensation awarded by the Arizona Industrial Commission, not in excess of thirty calendar days, shall be allowed the probationer as creditable time served. If the period exceeds thirty calendar days, the entire period of absence from normal duties shall be added to the probationary period.

An employee who demotes from a higher class to a lower class after completing probation shall be required to serve a new probationary period in the higher class if subsequently promoted to that class.

See Rule 20 for a voluntary demotion while serving a promotional probationary period.

A new probationary period shall be served following any break in service.

10b. **Entitlement to Civil Service Board Hearing**

A dismissed, suspended, or demoted probationary employee shall not be entitled to a Civil Service Board hearing, except as provided below.

A promoted probationer who has been dismissed or suspended shall be entitled to a hearing for their dismissal or suspension if they have completed a probationary period in another class and has had continuous City employment since that time. The appeal of a dismissed, promoted probationer shall be for reinstatement to the lower class from which they were promoted.

An employee who has not completed probation in any class shall be entitled to a hearing if they completed twelve months of continuous full-time regular service in no more than two classifications and has not been demoted. This hearing entitlement only applies to dismissals and suspensions. The appeal of a dismissal shall be for reinstatement to the class from which they were promoted. If reinstated, the employee must serve a new probationary period in the original classification.

The establishment of Civil Service Board hearing rights is not intended to shorten the probationary period the employee must serve in the new classification.

Time spent in a trainee/apprenticeship or intern classification shall not be counted toward completion of probation or establishment of hearing rights as specified in this Rule. Nothing in this Rule is intended to change the twelve-month probationary period for the Police and Fire Departments.

An employee promoted from a trainee, apprenticeship, or intern classification shall not be entitled to a hearing to return to the trainee, apprenticeship, or intern classification.

A classified employee who has been given an interim appointment and who has completed the probationary requirements specified in these rules shall be entitled to a hearing. This hearing entitlement only applies to dismissals and suspensions. The appeal of a dismissal shall be for reinstatement to the classification held by the employee in the classified service prior to the interim appointment. Removal from an interim appointment shall not be deemed a demotion and shall not entitle the employee to a hearing. An employee removed from an interim appointment shall be returned to the classification held by the employee immediately prior to the interim appointment.

10c. **Confirmation of Probationer to Regular Status**

A performance rating report of satisfactory, made by the rating authority to the Human Resources Director, shall confirm the probationer to regular civil service status on completion of the probationary period in a regular position.

RULE 11

PERFORMANCE RATING

11a. Performance Rating System

- 11a1. Who is Rated: Performance ratings shall be made for all full-time employees in the service of the City and each employee rated shall be given a copy of the rating.
- 11a2. Purpose: The purpose of the performance rating system is to properly evaluate the performance of employees of the City in the accomplishment of their assigned duties and responsibilities. In evaluating an employee's performance, it is necessary to take into consideration only factors which have a direct relationship to the accomplishment of work assignments. These factors used in rating performances should be as objective as possible. The performance rating system shall be used as a tool of management to improve the performance level of all employees, particularly of those who measure below satisfactory.
- 11a3. Administration: The administering of the performance rating system required by this Rule shall be the responsibility of the Human Resources Director. A detailed manual of instruction shall be prepared by the Human Resources Director.

11b. Performance Rating System Procedures

- 11b1. Report Forms: All performance ratings of employees shall be made upon report forms adopted by the Human Resources Director. The forms shall be filled out by rating authorities, as defined herein, in accordance with these Rules and the performance manual.
- 11b2. Rating Authority: The rating authority shall be that person or committee of persons who directly supervises the work of the employee rated. The rating authority shall be determined by the department head.
- 11b3. Reviewing Authority: The reviewing authority shall be the department head, but the function of reviewing may be delegated to any division head or other supervisor by direction. When a department head is the rating authority and when an employee in that case disagrees with the rating received, the next higher authority shall review such rating. In no case shall the reviewing and rating authorities be one and the same person.

- 11b4. Rating Periods: Each department head shall ensure that an annual performance rating is prepared for all regular employees under the department's jurisdiction.
- 11b5. Probationary Employee Performance Rating: A performance rating is required for all probationary employees at three months, six months, and final from the date the probationary employee starts work in that class as a probationary employee. Management has the ability to use unscheduled reviews as appropriate. Probationary employee ratings shall be completed pursuant to the provisions of this Rule and in addition, any overall rating of less than "meets job requirements" must be specifically explained in writing. All probationary employee overall ratings of less than "meets job requirements" shall be reviewed and approved by the department head. The department head may delegate this duty to another administrator, but in no event shall that administrator be at a level below division head. The person reviewing and approving the overall rating of less than "meets job requirements" cannot be the same person who issued that rating.
- 11b6. Factors for Rating Performance: The factors to be considered in the performance rating system shall be the factors and requirements included in the job of the employee being rated. Detailed information on job factors and requirements are given in the performance management guidelines.
- 11b7. Rating: The rating shall be based on the rating authority's assessment of work performance, taking into consideration the factors which are related to the ratee's class of work.
- 11b8. Appeal: An employee may appeal any unsatisfactory rating through the chain of command. The decision of the department head, or designee, shall be final on such appeals. When a department head is the rating authority, the next higher authority shall hear the appeal and make the final decision.

RULE 12

TRANSFERS

12a. **Qualifications for Transfer**

An employee may be transferred from a position in a department to a position in another department for which the employee possesses the qualification requirements, and the pay range of which is determined to be equivalent to that of the employee's present classification by the Human Resources Director.

12b. **Approval of Transfer**

All transfers, except as otherwise provided in this Rule, shall require the approval of the department heads concerned in the transfer, the City Manager, and the Human Resources Director. If the City Manager determines that the needs of the City can be best served by the transfer of an employee, the City Manager may direct that the transfer be accomplished.

The transfer of an employee resulting from a certification of their name from an employment list shall not require the approval of the department head from whose department the employee is being transferred.

12c. **Request for Transfer**

The requested transfer of an employee shall be registered on the transfer form provided for such purpose by the Human Resources Department. The appointing authority or the employee may request that the employee be transferred.

12d. **Notification of Transfer**

The employee affected shall be given advance notice of the transfer.

12e. **Transfer of Employee's Employment Record**

The employment record of the transferred employee shall be transferred to the department receiving the employee.

RULE 13

EMPLOYEE RESIDENCE

13a. Residency Requirements

For the purpose of this Rule, residence means the occupancy of a dwelling unit, and not merely use for the receipt of mail. Employees shall keep the City informed of their current residence address, and shall notify the City within ten days of a change in residence.

The following employees shall reside within the boundaries of the City of Phoenix within twenty-four months of appointment or promotion.

1. The City Manager and such other professional staff of the Mayor, the City Council, and the City Manager's Office as the City Manager shall designate.
2. All Deputy City Managers, Department Heads, Assistant Department Heads, and other such classes as are officially included in the Executive category.

13b. Exemptions

Current City employees who are promoted into Executive positions from non-executive positions, and whose address (as noted in eCHRIS) is not within the City of Phoenix boundaries at the time of promotion, will be allowed to remain at their current non-City of Phoenix address. The employee must send notification within 10 days of their promotion to Human Resources that they qualify for this exemption. This exemption applies only to the employee's address that is on file, in eCHRIS, at the time of promotion into the executive category. If the employee's home address changes at any time after promotion into an executive position, the employee will be required to move within the City of Phoenix boundaries.

13c. Waivers

The City Manager may approve a waiver to reside outside of the designated residency area when in the best interest of the City or for extreme hardship cases.

RULE 14

SENIORITY

14a. **Determination of Seniority**

Seniority constitutes length of certified status within a class of the City service. When two or more employees have the same length of time in the class, the employee with the longest certified City employment time shall be the senior. If a tie still exists, the appointing authority shall make the determination. Any break in service such as dismissal, resignation, retirement, or status change to part-time, shall cancel all prior seniority credits. Part-time employees do not accrue seniority credits.

14b. **Use of Seniority**

14b1. Seniority shall be used in the determination of layoffs. Application of seniority to layoffs shall be according to the provisions of Layoff Rule 16 of these Rules. Rule 7g provides for seniority in reference to promotions.

14b2. Citywide class seniority shall be used as a factor in choice of work assignments and vacation schedules. The use of seniority in determining the order of vacation of employees shall be by class. In choice of work assignments within a class, seniority shall determine the choice of assignment when qualifications of employees concerned for kind of assignment are equal in the sound discretion of the department head, except that a department head may rotate employees to provide training and experience in all tasks within a class. Qualifications for an assignment pertain to aptitude, ability, skill, knowledge, physical fitness, interest, enthusiasm, and other pertinent qualifications. Nothing in this Rule shall prevent or hamper the appointing authority in assigning each employee of a class to any assignment within a class for which the employee is best fitted, nor shall the appointing authority be restricted from assigning an employee without a change in pay to another class for brief periods for purposes of training and to meet emergencies.

Resignations, dismissals, and retirements shall cancel all prior seniority credits as they apply to choice of work assignments and vacation schedules. An employee who goes from full-time classified regular employment to job sharing employment shall have their full-time seniority credits frozen. If the individual returns to full-time employment without a break in service, the frozen credits will be returned and will be added to the pro-rata credits earned in the job share status.

- 14b3. Classified employees who have been absent from work on an inactive status for more than two years shall have their classification date adjusted to reflect the duration of the absence.

RULE 15

LEAVES OF ABSENCE

Nothing in this Rule shall be interpreted or applied in a manner that conflicts with federal, state, or local leave laws or regulations. If any part or provision of this Rule is in conflict or inconsistent with such applicable provisions of federal, state, or local leave laws or regulations, or is otherwise held to be invalid or unenforceable by any court of competent jurisdiction, such part or provisions shall be suspended and superseded by such applicable law or regulations, and the remainder of the Rule shall remain in effect.

15a. Requesting Leaves of Absence

15a1. All requests for leaves of absence with or without pay shall be made to the department head concerned for approval on forms approved by the Human Resources Director. All requests shall be submitted in advance of the beginning date of the leave (except requests for unanticipated sick leave which shall be submitted for approval at the earliest possible time) and the duration and kind of leaves shall be recorded on the payroll. Paid leaves of absence are subject to available leave credits and the scheduling of vacations is subject to the control of the department head. All requests for leaves of absence (excluding industrial leaves) without pay of more than thirty working days shall be subject to the control of the department heads concerned and shall require the approval of the appointing authority and the Human Resources Director.

The Human Resources Director shall administer the leave program.

15a2. Job Sharing Program: An employee in a job sharing position shall receive a pro-rata share of full-time leave credits in a manner determined by the Human Resources Director.

15a3. All leaves of absence for personal illness of the employee; for the birth, adoption, or foster placement of a child; or for the care of a spouse, child, or parent of the employee when those family members have a serious health condition shall be integrated with the leave requirements of the Family and Medical Leave Act of 1993.

15a4. All leaves of absence qualifying for the use of Earned Paid Sick Time under Arizona law shall be integrated with the leave requirements of Arizona Revised Statutes (A.R.S.) Title 23, Article 8.1.

15a5 Salaried (exempt) employees shall not receive deductions from their compensation for absences from work of less than one full work day, except as permitted under the Fair Labor Standards Act, the Family Medical Leave Act, or the Americans with Disabilities Act. If a salaried employee is absent for less than one-half of a work day, leave balances will not be reduced except as permitted under the Fair Labor Standards Act, the Family Medical Leave Act, or the Americans with Disabilities Act. If the employee is absent for one-half of a work day or more, a full day of leave will be deducted.

15b. **Vacation Leave With Pay**

15b1. Eligibility and Vacation Allowances: Every full-time hourly employee who works a schedule at full-time 52 weeks of the year shall be credited with vacation credits for every completed calendar month of paid service according to the following schedule:

8 hours per month	Through 5 years of service
10 hours per month	beginning 6th through 10th year of service
11 hours per month	beginning 11th through 15th year of service
13 hours per month	beginning 16th through 20th year of service
15 hours per month	beginning 21st year of service & thereafter

Salaried employees shall receive the following annual vacation accruals, prorated monthly based on an eight-hour day:

12 days	Through 5 years of service
15 days	6th through 10th year of service
16.5 days	11th through 15th year of service
19.5 days	16th through 20th year of service
22.5 days	21st year of service and thereafter

An employee in the City of Phoenix Employees' Retirement Plan who is receiving pension benefits as a result of retirement from the City under the Arizona Public Safety Personnel Retirement System shall be considered as a new employee in determining vacation credits.

Any absence without pay in excess of ten working days in any two consecutive pay periods shall not be allowed as creditable service for vacation benefits.

Leaves of absence compensated under the City of Phoenix Industrial Leave Program in excess of one year (2,080 hours, or 2,912 hours for 56-hour Fire employees) per injury or illness shall not be considered as paid service. While return to working status shall reinstate leave accrual, additional industrial leave for the same injury or illness shall not be considered paid service. Full-time regular employees who have been absent from work in an inactive status for more than two years shall have their rate of vacation accrual adjusted to reflect the duration of the absence.

- 15b2. Accrual of Vacation Credits: Vacation credits shall not be allowed to accumulate in excess of an amount equal to two times the employee's current annual rate at the end of any calendar year, except on the recommendation of the employee's department head and approval of the appointing authority or as established in the applicable Memorandum of Understanding/Agreement. Approved excess vacation carryover shall be subject to the provisions and limitations imposed by the City Manager or applicable Memorandum of Understanding/Agreement. The City Manager may establish limits beyond which the employee shall not accumulate further leave credits and for which the employee shall not be compensated.

The written authority to carry over vacation credits in excess of an amount equal to two times the employee's current annual accrual rate shall be placed on file in the Human Resources Department. Any unauthorized carryover of vacation credit in excess of an amount equal to two times the employee's current annual accrual rate or established amount in the applicable Memorandum of Understanding/Agreement becomes void at the end of the calendar year into which such excess credits are extended. Fire Department employees on a 56-hour schedule shall be allowed a carryover proportional to the amount allowed general service employees.

- 15b3. Vacation Rate of Pay and Assessment: The department head is responsible for the scheduling of vacations for employees regularly each year. Vacation is charged against the employee's credits in the amount equal to the number of regularly-scheduled working hours that the employee is on vacation leave. The full-time employee shall receive the same amount in vacation pay that they would receive if the employee worked their normal daily work schedule. Vacation leave in an amount of less than a day for a full-time hourly employee shall be charged to the nearest fifteen minutes involved in the leave.

Vacation leave for salaried employees shall be charged as stipulated in Rule 15a5.

For operational needs, an employee may be allowed or required by the department head to forego part or all of their annual vacation. No employee shall be required to forego the use of vacation credits without the department head approving the carryover of credits in excess of an amount equal to two times the employee's current annual accrual rate.

15b4. Termination Pay of Vacation Credits: Every employee who has vacation credits that do not exceed the limitations established by the City Manager or applicable Memorandum of Understanding/Agreement shall have such credits paid at the time of leaving the City's employment, whether by resignation, retirement, layoff, dismissal, or death. No such payment shall be made unless the employee has completed six months of employment and no payment shall be made for hours in excess of limitations established by the City Manager.

15c. **Sick Leave With Pay**

15c1. Entitlement and Allowance:

- A. Every full-time hourly employee who works a schedule at full-time, 52 weeks of the year, shall accrue sick leave credits at the rate of 10 hours for each month of paid service. Salaried employees shall accrue sick leave credits at the rate of a day and one-quarter for each month of paid service. A portion of these accruals, not to exceed 40 hours per year, will be designated for use as Earned Paid Sick Time in accordance with state law (A.R.S. Title 23, Article 8.1). See Rule 15d.
- B. Sick leave is designated in two different ways: Earned Paid Sick Time and Sick Leave with Pay. Earned Paid Sick Time shall be used in accordance with state law (A.R.S. Title 23, Article 8.1). See Rule 15d and Administrative Regulations 2.30(A) and 2.30(B). Sick Leave with Pay shall be used pursuant to City policy. See Rules 15c2-15c6 and Administrative Regulations 2.30(A) and 2.30(B). When requesting sick time, employees shall choose which type of sick leave they want to use as specified by Administrative Regulation.
- C. Leaves of absence compensated under the City of Phoenix Industrial Leave Program in excess of one year (2,080 hours, or 2,912 hours for 56-hour Fire employees) per injury shall not be considered as paid service. Sick leave credits shall accrue without limitation. Any absence without pay of more than ten working days in any two consecutive pay periods shall not be allowed as creditable sick leave time. Upon reemployment within five years, 20% of sick leave credits at the time of termination shall be reinstated to the employee and be available for use after one month of reemployment. However, employees rehired from a layoff eligibility list shall have full sick leave credits and use of sick leave accumulated during previous employment. An employee who is receiving pension benefits as a result of retirement from the City under the Public Safety Retirement System and who received cash payment for accumulated sick leave at time of retirement shall not be entitled to the 20% return of sick leave credits.

15c2. Qualifications for Sick Leave

Sick leave shall only be allowed when:

- A. Personal Incapacity, Preventative Care, or Treatment. The employee is too ill or injured to be able to work safely.

Employees may also be allowed to use sick leave for examinations by a licensed physician or dentist, or medical treatments prescribed by a licensed physician or dentist, when it is not possible to arrange appointments on off-duty hours.

Employees may be allowed sick leave to provide the supplemental pay differential between industrial pay and regular net take-home pay under the provisions of Rule 15g1, after the one-year supplemental pay has been exhausted.

- B. Care for Family Member. The employee needs to assist with care of a family member who is ill, injured, or requires treatment.

“Family Member” means:

1. Regardless of age, a biological, adopted or foster child, stepchild or legal ward, a child of a domestic partner, a child to whom the employee stands *in loco parentis*, or an individual to whom the employee stood *in loco parentis* when the individual was a minor; or
 2. A biological, foster, stepparent or adoptive parent or legal guardian of an employee or an employee’s spouse or domestic partner or a person who stood *in loco parentis* when the employee or employee’s spouse or domestic partner was a minor child; or
 3. A person to whom the employee is legally married under the laws of any state, or a domestic partner of an employee as registered under the laws of any state or political subdivision; or
 4. A grandparent, grandchild or sibling (whether of a biological, foster, adoptive or step relationship) of the employee.
- C. A police officer who has no other accumulated paid leave may use up to ten hours of accumulated sick leave per year for non-emergency home care or medical treatment of a member of the employee's immediate family, subject to operational and scheduling factors.

- D. Parental Leave. The employee qualifies for leave for the birth, adoption or placement of a child under the Family and Medical Leave Act (FMLA). The employee may use vacation or sick leave for any qualified FMLA absence if the employee's paid parental leave benefit is exhausted. Refer to the paid parental leave provisions under rule 15J (effective October 1, 2022).
- E. Family and Medical Leave Act (FMLA). the employee may use vacation or sick leave for any qualified FMLA absence.
- F. Other Appropriate Circumstances. The City Manager or designee determines that other reasons of a similar nature exist to warrant the use of sick leave. The use of sick leave in these circumstances shall be issued by Administrative Regulation.

15c3. Rate of Sick Leave Pay and Assessment: A full-time hourly employee while on sick leave shall be charged sick leave credits in the amount equal to the number of working hours the employee is absent. The rate of pay while on sick leave shall be the rate at which the employee is being paid when taking leave. Sick leave for salaried employees shall be charged as stipulated in Rule 15a5. In no event shall more than the regularly-scheduled daily work hours be allowed the full-time employee for each of the scheduled work days on which the employee is absent. Sick leave of less than a full day shall be charged to the full-time employee's sick leave credits to the nearest fifteen minutes involved in the leave. If sick leave occurs on an authorized holiday, and the employee was scheduled to work on that holiday, sick leave shall not be charged and the employee shall receive the appropriate holiday compensation as provided in City Administrative Regulations.

15c4. Leave Authorization: Except for Earned Paid Sick Time in 15d, requests for sick leave shall include the reason for the leave and shall be submitted for approval to the supervisor who is authorized by the department head to approve sick leave. The department head may require a certificate of incapacity from the employee's medical provider for an absence of over three days. Such certification may be required for absences of less than three days when the employee's sick leave record indicates excessive one- or two-day absences.

An employee, before returning to duty from an illness of more than twelve working days, may be required to submit a statement from their medical provider qualifying them for their class of work.

- 15c5. Fit for Duty Examinations: Whenever, in the opinion of the department head, the work record or the attendance record, or both, of an employee indicates concerns regarding the employees fitness for duty due to a health condition, the department head must consult with Human Resources for approval and referral to have the employee examined by the City's contracted medical provider.

Supervisors in consultation with Human Resources shall immediately inform the department head of any undue lowering of the quality of work of any employee or any undue absences which may be a result of the employee's physical condition.

The medical findings of each examination shall be transmitted to the employee and their physician when, in the opinion of the City's contracted medical provider, corrective treatment steps should be taken. The medical findings of the City's contracted medical provider shall be made available to the employee's family physician upon request of the employee or their physician.

When the medical findings disclose a disability that limits the employee's ability to perform the essential functions of the job, the department shall investigate the reasonable accommodations that may be made to assist the employee.

When, in the opinion of the City's contracted medical provider, a leave of absence is necessary for treatment, the employee shall be entitled to such sick leave credits as stand to their account. In the event an employee is found to need a leave of absence to recover from their health condition and would be required to take sick leave with or without pay, the employee shall have the right to obtain a second opinion with a provider of their choosing. If the second opinion differs from the original findings, the City will schedule a third and final examination with another medical provider. The majority opinion of the three in writing shall be binding upon the employee to take or not to take a leave of absence with or without pay. The cost of the consulting physician shall be in accordance with the provisions of the preceding section as to this cost responsibility.

15d. Earned Paid Sick Time

15d1. Entitlement: Employees shall accrue a minimum of one hour of earned paid sick time for every 30 hours worked, but employees shall not be entitled to accrue or use more than 40 hours of Earned Paid Sick Time per year.

15d2. Earned Paid Sick Time is different than Sick Leave with Pay. Employees shall be permitted to use Earned Paid Sick Time in accordance with state law (A.R.S. title 23, Article 8.1) and as specified by Administrative Regulation. Employees who choose to use Earned Paid Sick Time should refer to Administrative Regulations 2.30(A) and 2.30(B).

15e. Military Leave

15e1. National Guard: Leave for National Guard shall, at a minimum, comply with State law (A.R.S. Section 26-168) and be issued by Administrative Regulation.

15e2. Military Reserve: Leave for Armed Services Reserve shall, at a minimum, comply with State law (A.R.S. Section 38-610) and be issued by Administrative Regulation.

15e3. United States Armed Services in Wartime: All employees shall be entitled to an indefinite leave of absence without pay while serving on active duty in the military branch of the United States Government during time of war. This leave allowance also shall cover absences resulting from compulsory military training orders in peacetime. The position from which an employee is on military leave, if filled, shall be subject to the return of the employee from military leave.

The employee returning from military leave shall be reinstated to their position upon their request and presentation of their military termination papers to the Human Resources Director if they are physically fit to perform the duties of their former position. If the former position is no longer in existence, the employee shall be entitled to such employment or reinstatement rights as their seniority and performance rating entitle them. They shall be allowed ninety days to report to the department head for duty after the date of discharge or proper release from the Armed Services.

Employees on military leave of absence will be awarded a merit increase upon their return in accordance with USERRA.

15f. Special Leave Without Pay

An employee holding a position in the City service may, upon written request, be granted special leave of absence without pay for any of the following reasons:

15f1. To enable an employee to engage in a course of study such as will increase their usefulness to the City service;

15f2. To enable an employee to take a position in the unclassified service of the City;

15f3. To enable an employee who is physically or mentally incapacitated to recover their health;

15f4. To enable employees to attend to their own maternity medical needs, after paid leave has been exhausted;

15f5. To enable an employee to take up to twelve weeks upon the birth or adoption of a child or to care for a seriously ill member of the immediate family, as required by the Family and Medical Leave act;

15f6. Other equally good reasons considered valid by the City Manager.

All requests for leave of absence without pay not in excess of thirty working days shall require only the approval of the department head concerned. All other requests for leave of absence (excluding industrial leaves) without pay more than thirty working days shall be subject to the control of the department head concerned and shall require the approval of the City Manager and the Human Resources Director. All leaves requested or granted under the requirements of the Family and Medical Leave Act of 1993 shall comply with the guidelines of that Act.

Original requests for special leave of absence without pay shall be for a period not to exceed one year in duration, except for a classified employee who takes leave to accept appointment to a position in the unclassified service. A leave to hold a position in the unclassified service shall terminate when the classified employee either resigns or is returned to a classified position. Any request for extension of leave, except as otherwise provided herein, shall be subject to all the requirements of the original request. The requesting employee shall state the reasons why the request should be granted, the date when the desired leave begins, and the probable date of return. Upon the termination of said leave of absence, such employee shall be returned to the position in the department from which they obtained leave of absence, if same is in existence, and the employee has prior rights over one or more persons in the class; otherwise they shall be transferred to another position or be laid off in accordance with the rules on transfer, seniority, and performance rating.

If during leave from a position in the classified service, an employee holds a position in the unclassified service and is dismissed therefrom, such dismissal shall not abrogate rights to a hearing with respect to their position in the classified service.

If, in the opinion of the appointing authority, an employee is incapacitated and unable to work on account of illness, such employee may be required to submit to a physician designated or approved by the City for examination, but the employee shall have the right to be represented at such examination by a physician of their own choice at their own expense. If the report of the physician shows the employee to be in an unfit condition to perform the assigned duties, the appointing authority shall have the right to compel such employee to take sufficient leave of absence to provide the employee an ability to become fit for duty, assign the employee to light duty, or separate the employee from City service.

15g. **Industrial Leave**

- 15g1. Entitlement: A certified regular full-time employee who works a schedule at full time fifty-two weeks of the year who is disabled and absent from work as a result of an industrial injury or occupational disease shall be kept on the City payroll and be paid an amount equal to but not to exceed the employee's regular net take home at the current rate of pay for up to one year total per injury.

A Police Reserve Officer who is also a certified regular full-time City of Phoenix employee shall be paid at the same rate as if the employee had been injured while performing their regular duties as a full-time employee, except that if the beginning Police Officer salary is higher than the employee's regular rate of pay, the beginning Police Officer pay shall be used for determining net take-home pay for up to one year total per injury.

An employee must meet each of the following conditions to qualify for the rate of pay specified in this section:

- A. Be under the jurisdiction of the Industrial Commission of Arizona and be receiving workers compensation for time lost due to an industrial injury received while employed by the City of Phoenix.
- B. Meet the specific requirements of the state of Arizona workers compensation law.
- C. Meet the requirements contained in negotiated Memorandum of Understanding (MOU).

If a decision on compensability of a claim is pending with the Third-Party Administrator or Industrial Commission, and it is determined by the Human Resources Director that the injury or disease falls within the definition of an industrial injury or occupational disease, the rate of pay specified above shall be granted.

An individual who separates from City employment or from Reserve Officer status shall only be entitled to the compensation required under Arizona workers compensation law.

* Amended June 28, 2023, Ordinance #S-49971.

15g2. Definitions:

A. "Industrial Leave" is defined as absence from work as the result of:

1. An injury by accident arising out of and in the course of City employment as defined by the Workers Compensation Laws of the State of Arizona.
2. Those occupational diseases arising out of and in the course of City employment as defined by the Occupational Disease Laws of the State of Arizona.

B. "Net Take-Home Pay" is defined as the biweekly base rate of pay for a full-time employee, less deductions for federal and state income tax, social security tax, and pension plan contributions. It does not include earnings for bonus pay, overtime differential, stand-by pay, or any other pay that is normally not a constant condition of work for the class. In no event shall "net take-home pay" be less than the amount the employee or Police Reserve Officer is entitled to under the State Workers Compensation Laws.

15g3. Conditions: The employee must meet the following conditions to qualify for industrial leave:

- A. An employee or Police Reserve Officer who refuses to make an election of remedy pursuant to Arizona Revised Statute 23-1023 in event of injury or who rejects the conditions of Workers Compensation Laws of the State of Arizona prior to an industrial injury or illness shall not be entitled to Industrial Leave.
- B. If the employee or Police Reserve Officer elects to sue a third party defendant involved in the accident, and proceeds against such other person, the City of Phoenix shall have a lien on the amount actually collectible from such other person to the extent of the monies paid by the City of Phoenix.

The amount actually collectible shall be total recovery less the reasonable necessary expenses including attorney fees actually expended in securing such recovery.

15h. **Bereavement Leave:**

A full-time employee may be allowed paid leave time for the purpose of attending to family needs that arise in connection with the death of a member of the employee's immediate family.

"Member of the employee's immediate family" means the mother, father, or stepparent of the employee; spouse, child, stepchild, brother, sister, step-brother, or step-sister of the employee; grandparent or grandchild of the employee; the mother and father of the employee's spouse; domestic partner of the employee; children or parent of the domestic partner; and person residing in the employee's household as a member of the family. A relative who, because of family circumstances, has been a parent substitute to the employee, may be considered as a substitute for mother or father in this definition.

The duration of the paid bereavement leave shall not exceed three working days. Additional air travel time shall be allowed when the burial occurs out of state and the employee travels to that location.

15i. **Work Assignments for Short-Term, Unscheduled Emergency Situations:**

In the event of a short-term, unscheduled emergency, including closure of a City facility, the City Manager, or designee, may assign full-time employees to a home assignment or an alternate work location. The home assignment will not replace approved leave that may fall within the same period.

15j. **Paid Parental Leave**

15j1. **Eligibility and Entitlement:**

Effective October 1, 2022, an employee may be allowed up to 480 hours of city-paid leave upon the birth, adoption, or foster care placement of a child. To be eligible for paid parental leave, an employee must meet the family and medical leave act (FMLA) eligibility requirements. An employee must have been employed by the City for at least 12 months and have performed at least 1,250 hours of work during the 12-month period immediately preceding the commencement of the leave. Paid parental leave will run concurrently with an employee's FMLA entitlement. Employees who have exhausted their FMLA entitlement for reasons other than the birth, adoption, or foster care placement of a child may be allowed up to 480 hours of paid parental leave. Paid parental leave does not extend FMLA leave protections and entitlement hours. When both parents are City employees, each employee may be allowed up to 480 hours of paid parental leave. A maximum of 480 hours of paid parental leave is available only once during a consecutive 12-

month period. The 12-month period begins upon the date of the birth, adoption, or foster care placement of a child.

15j2. **Usage:**

Eligible employees may use up to 480 hours of paid parental leave during the 12-month period beginning on the date of the birth, adoption, or foster care placement of a child. Paid parental leave must be scheduled in advance and be taken continuously or in increments of at least one full day at a time. Paid parental leave will be substituted for other leave types for up to 480 hours during the 12-month period beginning on the date of the birth, adoption, or foster care placement of a child.

RULE 16

LAYOFF/RECALL

16a. Procedures of Notification:

Whenever it becomes necessary, through lack of work or funds, or any other cause, to reduce the number of employees in any given class, the head of the department concerned shall notify the Human Resources Director of the number of employees to be laid off from each class within the department. The Human Resources Director shall thereafter transmit to the department head whose employees will be affected by the layoff a listing of the names of the employees who shall be laid off within the department in accordance with the provisions of these Rules. Employees in job sharing position shall be excluded from the layoff process. However, if the position that two job sharers occupy is eliminated from a department's budget, the incumbent job sharers shall have seniority rights based on the seniority rating score (SRS) specified in this Rule.

16b. Order of Layoff:

The order of layoff will be based upon the SRS of employees in the affected class. The employee in the affected class who has the lowest SRS shall be laid off first. If additional layoffs are necessary, they shall be made in like manner. Provisional employees of the same class within the City service shall be laid off ahead of certified employees.

16b1. Except as otherwise provided in this Rule, an employee whose layoff is anticipated, as hereinabove provided, shall:

- A. Assume a position (i.e., "bump back") in the next lower class in which the employee has certified City service, provided that:
 - 1. The employee's SRS in the lower class is higher than that of the lowest employee in that class; and
 - 2. The employee meets the physical requirements of the class and can perform the required duties;

Or, if possible:

- B. Be transferred to a vacant position in a related equivalent or lower classification without examination, provided that such lower classification is equal to or higher than the next lower class in which the employee has certified service and provided further that the employee meets the requirements for performance in that class as determined by the Human Resources Director and the appointing authority.

- C. An employee who refuses a transfer or reduction, as described in 16b1.B above, shall be considered to have forfeited further protection of this Rule and shall be considered to have resigned.
- D. An employee who is reduced to a class at a pay range lower than that from which the employee was promoted, because the employee is physically unable to perform the duties of the higher class, shall be deemed to have had their "bumping rights" satisfied.
- E. The provisions of this Rule in no way affect an employee's rights under the provisions of Rule 10: Probation.

16b2. The employee with the lowest SRS in the lower class shall have rights as in Rule 16b1 above, or be laid off.

16b3. In all cases, if in the judgment of the Human Resources Director and with the approval of the City Manager, retention of employees with special skills is required, or if those employees remaining would not have the demonstrated ability and qualifications to perform the required services, layoffs may take place out of the order of SRS.

16b4. When two or more employees in the same class have an identical SRS, the one with the least amount of certified time in City employment shall be laid off first. If further determination is necessary, the appointing authority shall make the determination.

16c. **Determination of Seniority Rating Score:**

Seniority shall be computed by adding one point for each full month of service within the classification from which layoffs are under consideration, and 1/30th of a point for each additional calendar day of service in the class. Points may only be added for service in regular full-time positions of the classified service. In addition, the following shall apply:

16c1. Time served in a part-time, hourly, or temporary position, including all federally-funded positions of a temporary nature, shall not receive seniority points under the provisions of this Rule; provided, however, that a regular City employee who is placed in a temporary position in connection with an approved leave of absence and whose employee benefits have not been terminated shall have points credited for such period of service, and job share employees will have a combination of their regular employment and the pro-rated credits earned in job share, if there has not been a break in service.

- 16c2. Creditable time in a class shall date from the earliest certified appointment date to a position in that class, except that time served prior to any break in service such as resignation, retirement, dismissal, or status change to part-time will not be credited for seniority in conjunction with this Rule. Time of any officially-approved leave of absence of less than two years shall be allowed as creditable time in determining the SRS of an employee.
- 16c3. Length of creditable time served in a higher class shall be allowed as creditable time in computing SRS in a lower class in which the employee actually served, provided service in the higher class occurred subsequent to service in the lower class.
- 16d. **Recall List:**
Recall lists shall be maintained for each class of position in which layoffs have occurred. Such lists shall consist of names of persons laid off from a position in the class and who were granted recall privileges in accordance with the provisions of this Rule. The names of the employees with the highest SRS in the class shall be placed highest on the recall list. When the scores of two or more laid-off employees are equal, they shall all be certified to the appointing authority for selection.
- 16e. **Recall Eligibility:**
- 16e1. Any department with a position vacancy in a class with a recall list will give absolute selection preference to the individual with the highest SRS on the recall list for that particular class, who possesses the required knowledge, skills and abilities for the position vacancy. If the highest-scored employee on the list is not selected because of a failure to possess the required knowledge, skills, and abilities for the position, such employee shall retain their position on the recall list.
- 16e2. When an employee whose name is on the recall list is reemployed as described above, that employee shall be restored with the SRS held prior to layoff in the class to which reemployed, and seniority points shall begin to accrue on the date of reemployment.
- 16e3. The name of any employee which is placed on a recall list pursuant to Rule 16e may be maintained on such list for a period not to exceed three years from the date that the employee was laid off.
- 16e4. If an employee on a recall list is offered a position in that class and refuses it, the employee's name shall be removed from the recall list for that class.

RULE 17

RESIGNATION

17a. **Resignation:**

An employee wishing to leave the classified civil service in good standing shall file with the appointing authority a written resignation in the form prescribed by the Human Resources Director, giving at least two weeks' notice of their intention to leave the service, unless the appointing authority consents to the employee leaving sooner. The written resignation shall be forwarded to the Human Resources Department forthwith. An employee who is absent without authorized leave for one work week (three shifts for fifty-six-hour employees) shall be considered to have abandoned their position.

17b. **Withdrawal of Resignation:**

Any employee who has resigned in writing may, with the consent of the appointing authority affected and the Human Resources Director given after investigation, withdraw the resignation and be restored to the position vacated, if it is still vacant or filled by a temporary employee; and if it is not vacant or temporarily filled, the resigned employee may have their name placed on the reinstatement list for the class of position for which they resigned.

In the event that the resigned employee has in the intervening period withdrawn or applied for withdrawal of the amount standing to their credit as their contribution into the City Retirement System, the Human Resources Director shall determine that the employee has returned or agreed to return said funds to their retirement account pursuant to the provisions of Chapter 24, Article 2, Section 13.1 of the City Charter, prior to approving the withdrawal of resignation.

RULE 18

REINSTATEMENT

18a. **Reinstatement Lists:**

Reinstatement lists shall be maintained for each classification. Such lists shall consist of the names of persons who previously had occupied positions in the class and have been granted reinstatement privileges in accordance with the provisions of these Rules.

18b. **Application for Reinstatement:**

Written application for placement on reinstatement lists must be made within two years of the date of resignation. Application shall be filed with the Human Resources Director.

18c. **Eligibility (for Reinstatement):**

18c1. Any employee who has been certified and appointed to a regular, full-time position with the City and who resigns from such position may apply for reinstatement within two years after date of resignation.

18c2. Any employee who qualifies for reinstatement may also, if requests in writing, have their name placed on the reinstatement list of lower classifications in which the probationary period had been satisfactorily completed.

18c3. Any employee who resigned from City service and applies for reinstatement pursuant to Rule 18c1 will have their name maintained on this list for a period not to exceed two years from the date that the name is posted to this list.

18c4. Any employee who requests reinstatement within 90 days following the date of resignation may have their name placed on the reinstatement list if they satisfy the other provisions of this Rule, and if the Human Resources Director determines that in the event that the resigned employee has in the intervening period withdrawn or applied for withdrawal of the amounts standing to their credit as their contributions into the City Retirement System, the employee has returned or agreed to return said funds to their retirement account pursuant to the provisions of Chapter 24, Article 2, Section 13.1 of the City Charter. Failure of the employee to return such funds in full shall constitute grounds for immediate discharge of such employee at the expiration of six months following return to City employment.

18d. **Disqualifications:**

Any employee who resigns while under charges brought against them by the appointing authority shall not be eligible for reinstatement. Any employee who resigns shall not be eligible for reinstatement if their overall performance rating at the time of resignation was not satisfactory.

RULE 19

SUSPENSIONS AND DISMISSALS

19a. **Length of Suspension:**

The appointing authority may, for disciplinary reasons, suspend an employee for a period not to exceed thirty work days at any one time by notifying the employee of the suspension and stating the reasons for the suspension. The notification requirements of Rule 21 shall be followed in giving this notice.

19b. **Appeal from Suspension Order:**

An employee who has completed the probationary period in their class, or who has satisfied the requirements of Rule 10b, shall be entitled to a hearing on a suspension order made by the appointing authority in accordance with the hearing procedures provided in Rule 22.

19c. **Reasons for Dismissal:**

The appointing authority may dismiss an employee for unacceptable conduct or unsatisfactory performance of duties. The employee shall be informed of the dismissal and the reasons for the dismissal in accordance with the notification requirements of Rule 21.

19d. **Appeal from Dismissal Order:**

An employee who has completed the probationary period in their class or who has satisfied the requirements of Rule 10b shall be entitled to a hearing on a dismissal order if the employee meets the appeal requirements specified in Rule 22a.

RULE 20

DEMOTIONS

20a. **Reasons for Demotion:**

The appointing authority may demote an employee from their classification to a lower classification for the purpose of discipline or for reasons of the employee's failure to meet the requirements of the class of work. The appointing authority shall serve the employee with a written notice of demotion, including in the order of demotion statements of the reasons therefor. The notification requirements of Rule 21 shall be followed in giving this order.

20b. **Appeal from Demotion Order:**

An employee who has completed the probationary period in the class shall be entitled to a hearing before the Civil Service Board on a demotion order made by the appointing authority in accordance with the hearing procedures provided in Rule 22.

20c. **Voluntary Demotion for Promotional Probationary:**

An employee who requests a voluntary demotion during their promotional probationary period may be placed in a vacant position in the prior classification that the employee has passed probation with approval from the Human Resources Director.

RULE 21

DISCIPLINE

21a. Notice of Discipline:

The appointing authority shall sign an order in writing which shall constitute the notice of discipline, and shall also state in the notice the specific charges which shall be set forth clearly and with such particularity as will enable the employee to understand the charges and to answer them. Such order shall be personally served on the employee forthwith or mailed by certified mail to the employee's most recent reported address. Return receipt from addressee shall be retained by the serving department head and a copy of the notice shall be filed with the Civil Service Board. An employee with probationary requirements completed may have the hearing benefits provided in Rule 22.

21b. Reasons for Discipline:

The tenure of every employee in the classified service shall be during acceptable conduct and satisfactory performance of duties. Failure to meet such standards of conduct and work performance for any of the following listed reasons, such list not to be considered all-inclusive, shall be considered sufficient by the Board to uphold the action of the appointing authority in disciplining an employee.

- 21b1. That the employee is incompetent or inefficient in the performance of their duties.
- 21b2. That the employee has been abusive or threatening in attitude, language, or conduct towards fellow employees, customers of the City, or the public.
- 21b3. That the employee has violated any lawful or official regulation or order, or failed to obey any lawful and reasonable direction given by the supervisor, when such violation or failure to obey amounts to insubordination or serious breach of discipline which may reasonably be expected to result in lower morale in the organization, or to result in loss, inconvenience, or injury to the City or the public.
- 21b4. That the employee has solicited or taken for personal use a fee, gift or favor in the course of the assigned work or in connection with it, which would lead toward favoritism or the appearance of favoritism or a conflict of interest.

- 21b5. That the employee is in possession of a deadly weapon (as defined in ARS 13-3101), excepting a pocket knife (as provided in ARS 13-3102) at a City worksite¹, unless such employee is a police officer.

¹ (A worksite includes not only City buildings and property, but also City vehicles and private vehicles while being used on City business, and other assigned work locations.)

- 21b6. That the employee is in possession of an alcoholic beverage or an illegal drug while on duty at a worksite.¹ An exception is allowed for an alcoholic beverage in a sealed container that is a gift to be given or has been received at the worksite.

¹ (A worksite includes not only City buildings and property, but also City vehicles and private vehicles while being used on City business, and other assigned work locations.)

- 21b7. That the employee, through negligence or willful conduct, has caused damage to public property or waste of public supplies or work time.

- 21b8. That the employee has been absent without leave, contrary to these Rules, or has failed to report after leave of absence has expired, or after such leave of absence has been disapproved or revoked and cancelled by the appointing authority.

- 21b9. That the employee has participated in prohibited political activities as outlined in applicable City of Phoenix Administrative Regulations.

- 21b10. That the employee has participated in a strike against the City of Phoenix as that term is defined in 2-220(17), Code of the City of Phoenix. ("Strike" means the failure by concerted action with others to report for duty, the concerted absence of employees from their positions, the concerted stoppage of work, mass picketing, or the concerted abstinence in whole or in part by any group of employees from the full, faithful, and proper performance of the duties of employment with a public employer, or the concerted engagement in a work action for the purpose of inducing, influencing, or coercing a change in wages, hours, or working conditions, or terms of employment.)

- 21b11. That the employee has some permanent or chronic physical or medical ailment or illness which incapacitates them for the performance of the essential functions of the position after accommodations and placement efforts stipulated in City Administrative Regulations have been pursued.

- 21b12. That the employee has intentionally falsified records or documents made, kept, or maintained for or on behalf of the City of Phoenix.
- 21b13. That the employee has stolen or is in unauthorized possession of City property or the property of another employee or citizen.
- 21b14. That the employee is under the influence of alcohol or illegal drugs on the job.
- 21b15. That after investigation, the employee has violated City of Phoenix anti-harassment or anti-discrimination policies.
- 21b16. That the employee has failed to cooperate in an administrative investigation by refusing to attend scheduled meetings, refusing to answer questions to the best of their knowledge, or willful obstruction of the investigation.
- 21b17. That the employee has retaliated against another employee for exercising their rights to participate in or appear as a witness at a Civil Service Board hearing.
- 21b18. That the employee has violated the City's Ethics Policy, including failure to provide complete accurate and truthful information.
- 21b19. That after investigation, it is reasonable to conclude the employee's actions brought discredit or embarrassment to the City.
- 21b20. That the employee's actions meet the elements of a felony.
- 21b21. That the employee has been guilty of any other conduct of equal gravity to the reasons enumerated in 21b1 through 21b20.

RULE 22

HEARING PROCEDURES

- **22a – Definitions Applicable to This Rule:**
- **22b – Enforcement of This Rule:**
- **22c – Computation of Time Under This Rule:**
- **22d – Hearing Rights:**
- **22e – Request for Hearing:**
- **22f – Hearing Schedule:**
- **22g – Hearing Officer Role and Responsibilities:**
- **22h – Hearing Procedure:**
- **22i – Board Disposition of Appeals:**
- **22j – Record Filed:**
- **22k – Call to the Public:**
- **22l – Rule Interpretation:**

22a Definitions Applicable to This Rule:

Definitions found in the City of Phoenix Personnel Rules remain applicable to this Rule 22. The following definitions are applicable to Rule 22 only.

The singular of a word includes the plural and the plural includes the singular.

“Appeal” means a written request filed with the Board by an eligible employee to challenge a Qualified Disciplinary Action that has been timely filed and meets the requirements of this Rule.

“Certified Police Officer” means an employee of a law enforcement agency who has met the qualifications, training requirements and has been approved for certification by the Arizona Peace Officer Standards and Training Board.

“For Cause” means the employee’s failure to meet the standards of conduct, duties, or work performance for the reasons listed in Rule 21 of the City of Phoenix Personnel Rules.

“Hearing” means a proceeding conducted by a Hearing Officer to hear and evaluate evidence presented by the parties as part of a challenge to a Qualified Disciplinary Action from which a report and recommendation is made to the Board.

“Hearing Officer” means an arbitrator, fact finder, or other administrative hearing officer hired by the Board to preside over a Hearing of an Appeal.

“Hiring Authority” means the department director or function head within the City of Phoenix for the employee filing an Appeal.

“Just Cause (for a Certified Police Officer)” has the same definitions as provided in A.R.S. § 38-1101(7).

“Police Department Operations Orders” means the policies and procedures adopted by the Chief of Police that apply to the employees within the City of Phoenix Police Department.

“Preponderance of the Evidence” means that the evidence as a whole shows the fact sought to be proved is more probable than not.

“Qualified Disciplinary Action” means a suspension, demotion, or dismissal of an employee in the classified service who is eligible to pursue an Appeal.

22b Enforcement of this Rule:

Any alleged violation of these Rules shall first be brought to the attention of the Hearing Officer assigned to the Appeal for consideration. Such alleged rule violations shall be ruled on by the assigned Hearing Officer. These alleged violations or issues may arise prior to the commencement of the Hearing, or during the Hearing. Hearing Officer rulings on alleged violations of these rules can be appealed immediately to the Board only (1) if both parties certify to the Hearing Officer that the ruling is of such significance that it has the potential to materially prejudice the rights of one or both of the parties, or (2) the Hearing Officer certifies to the Board that the ruling has the potential to materially prejudice the rights of one or both of the parties. If such a certification is made to the Board, the Hearing should be suspended pending the outcome of the Board’s decision on the issue. All other rulings by the Hearing Officer related to alleged violations of these rules will be addressed by the Board after the Hearing Officer has provided the Board with the report and recommendation for the Appeal. The Board and the Hearing Officer have the authority to impose such sanctions as they deem appropriate given the nature of the alleged violation and the potential prejudice to the opposing party. The Board may issue sanctions up to and including dismissal of the Appeal, vacating the discipline, or imposing monetary sanctions on a party, or counsel.

22c Computation of Time Under This Rule:

In computing any period of time prescribed or allowed by these rules, the day of the act or event from which the designated period of time begins to run will not be included. The last day of the period so computed will be included unless it is a Saturday or Sunday, or a City of Phoenix holiday, in which event, the period runs until 5:00 p.m. of the next day that is not a Saturday, Sunday, or City of Phoenix holiday. All days are Calendar Days.

22d Hearing Rights:

The employee pursuing an Appeal shall be entitled to appear personally, to have counsel or a representative of their choosing at their own expense, produce relevant evidence, and to have a public or private hearing. The Hiring Authority

may also be represented by counsel. All hearings and investigations before the Board shall be governed by these rules of practice and procedure; and in the conduct thereof, the Board shall not be bound by technical rules of evidence, nor shall informality in any of the proceedings or in the matter of taking testimony invalidate any order, decision, rule or regulation made or approved by the Board.

The Board may appoint a paid Hearing Officer to conduct the Hearing.

22e **Request for Hearing:**

1. **Appeal Procedures.** An employee in the classified service must follow these procedures to appeal a Qualified Disciplinary Action to the Board.
2. **Filing of Appeal.** A Notice of Qualified Disciplinary Action, generally referred to as a Discipline Notice or a Letter of Discipline, must be delivered to the employee by hand or sent by certified mail. If notice of Qualified Disciplinary Action is hand delivered to the employee, the employee must file an Appeal of discipline in writing within 14 days of receipt of the notice of discipline. If notice of Qualified Disciplinary Action is delivered by certified mail, an employee must file an Appeal of discipline in writing within 21 days of the date the notice of discipline was mailed. An Appeal of Qualified Discipline must be in writing and may be hand delivered to the Executive Secretary, or sent by e-mail, or sent by First Class U.S. mail postmarked by the applicable deadline. The Executive Secretary will provide a copy of the Appeal to the Hiring Authority and City Attorney.
3. **Appeal Requirements.** A written appeal must include the following information:
 - A. The name, address, email address, and telephone number of the employee who requests the appeal, and the name, address, email address, and telephone number of the employee's representative if the employee is represented.
 - B. The employee shall specify in the written appeal whether they are asserting that they did not commit the alleged violation(s), or that the discipline imposed is too severe, or both. A form that can be used to submit an appeal will be provided to an employee who is eligible to pursue an appeal with the Discipline Notice.
 - C. The employee's preference for a public or private hearing.
 - D. If there are special conditions that may warrant an expedited hearing, a request for expedited hearing must be made at the time the written appeal is first filed, and the appeal must include the legal and factual grounds for an expedited hearing. Any request for an expedited hearing will be considered by the Recording Secretary as part of the Hearing Officer assignment process.

4. **Failure to Timely Appeal.** Failure on the part of a suspended, demoted or dismissed employee to file a request for hearing within the time allowed in this Rule shall terminate the employee's right to a hearing and the order of suspension, demotion or dismissal made by the Hiring Authority shall be deemed final.

22f **Hearing Schedule:**

1. **Scheduling of Hearing.** Upon receipt of a timely and properly submitted Appeal, the Recording Secretary will assign each Appeal a docket control number. The Recording Secretary will request five available dates during a specified timeframe for the Hearing from the parties. The parties shall respond as soon as reasonably possible, however, the Hearing Officer and the Hearing date will be assigned at the expiration of 14 days. Hearing Officers will be assigned to the greatest extent possible on a rotating basis, but also consistent with their availability on the date(s) proposed by the parties. The Recording Secretary will inform the parties about the assigned Hearing Officer and Hearing date. The Recording Secretary will maintain the appeal docket, all legal papers, documents and other information submitted by the parties as part of the Appeal, and the record on Appeal.
2. **City Disclosure.** Within 14 days of receipt of an Appeal, the City shall provide to the Appellant a copy of the disciplinary file maintained by the Hiring Authority in issuing the discipline that is the subject of the Appeal. Production of these documents does not limit the exhibits that can be used at the Hearing.
3. **Length of Hearing.** The presumed length of the Hearing for an Appeal is one day, or less. If either of the parties reasonably believes that the Hearing will take more than one day, the party seeking the longer Hearing will inform the Recording Secretary not later than 14 days after the Hearing Officer is assigned. The parties shall then participate in a Scheduling Conference with the Hearing Officer as directed in Rule 22f4.
4. **Scheduling Conference.** For Hearings predicted to take more than one day, the Hearing Officer and the parties' representatives, or the employee if they are not represented, shall participate in a telephonic, or in person, Scheduling Conference. The purpose of the Scheduling Conference is to confirm the time, date, and place of the Hearing, resolve any concerns about the deadlines established in the Standard Scheduling Order required by Rule 22f6, rule on any request for an Expedited Hearing, and discuss the exchange of documents, witness information, and potential exhibits.
5. **Subpoenas Duces Tecum.** Except for good cause shown, or agreement of the parties, no later than 45 days before a scheduled Hearing, either party may request that the Recording Secretary issue a subpoena duces tecum requiring the production of documents or other materials. The documents or

items requested through the subpoena duces tecum will be produced no later than 21 days after service of the subpoena.

- A. Any party requesting a subpoena duces tecum must provide a copy of the request to the other party at the time the request for the issuance of the subpoena is made.
 - B. The party who would be responding to the subpoena duces tecum has 7 days from receipt of the request for the subpoena, or service of the subpoena, whichever is sooner, to submit written objections to the Hearing Officer. The party requesting the subpoena is not entitled to submit a written response to the objections. The Hearing Officer shall rule on the objections as soon as practical and may set a telephonic conference with the parties to discuss the objections. The Hearing Officer has the authority to uphold the objections and refuse to issue, or withdraw the subpoena, modify the scope of the subpoena, or overrule the objections and issue the subpoena duces tecum as submitted.
 - C. Service of the subpoena duces tecum may be by certified mail, or email to the party, or the party's representative.
- 6. Standard Scheduling Order.** Within 3 days after the Hearing date has been set, the Recording Secretary will provide to the parties a Standard Scheduling Order. The Standard Scheduling Order will set out the following:
- A. The date, time, and place for the Hearing.
 - B. Exchange of Witnesses and Exhibits. No later than 14 days before a scheduled hearing, the parties will exchange the names and contact information for all witnesses, a brief summary of each witness' proposed testimony, and copies of all documents or exhibits the party anticipates offering into evidence at the hearing.
 - C. Supplemental Information. Any supplemental hearing information must be exchanged by the parties no later than 7 days before a scheduled hearing.
 - D. Except for good cause as determined by the Hearing Officer, a party is prohibited from presenting any witness or exhibit that was not timely disclosed and exchanged.
 - E. Filing of Written Motions. If any party anticipates filing a written motion prior to the hearing, the Hearing Officer will specify a schedule for filing any written motions. All pre-hearing motions must be filed 10 days prior to the scheduled hearing to allow at least 5 days for the opposing party to respond. This provision is not intended to preclude oral motions, or objections to evidence, that may arise at the start of, or during, the hearing.

- F. **Request for Subpoenas.** No later than 5 days before a scheduled hearing, a party shall submit all requests for subpoenas for the appearance of witnesses to the Recording Secretary. Any party requesting a subpoena must provide a copy of the request to the other party at the same time the request is made. The Recording Secretary will not issue the subpoena absent confirmation that the other party has received notice of the request.
- 7. Objection to Proposed Hearing Officer.** Any objection to an assigned Hearing Officer for an Appeal must be filed with the Recording Secretary no later than 14 days from the date of notice that identifies the assigned Hearing Officer, or such objection shall be deemed waived. If an objection is made, the Recording Secretary will assign a new Hearing Officer. After the new Hearing Officer is assigned, the party that did not object to the original Hearing Officer may object to the new Hearing Officer within 5 days of the notice of the new Hearing Officer. If any objection is made, the Recording Secretary will assign a different Hearing Officer. Each side may submit only one objection to an assigned Hearing Officer for each Appeal. There shall be no administrative change of the assigned Hearing Officer without the consent of both parties.
- 8. Request for Expedited Hearing.** After the assignment of the Hearing Officer, the Hearing Officer will rule on any request for an expedited hearing. If the request is granted, to the extent all parties and a Hearing Officer are available and agree, and good cause appearing, the expedited hearing will be placed in priority order for scheduling and to the extent necessary, the other time limits set forth in this Rule may be modified.
- 9. Request to Continue Hearing.** Each party may request to continue a scheduled hearing for good cause by providing a written motion. Said motion is to be provided to the assigned Hearing Officer, the Recording Secretary, and to the opposing party. If the request to continue is based on the lack of availability of a material witness due to vacation or other identified schedule conflict, the written request must be made within 14 days after the Recording Secretary or the Hearing Officer sets the Hearing date. Each written request must include detailed information to support the continuance, confirm the opposing party has been notified of the request, and list alternative hearing date(s). The opposing party shall have an opportunity to agree to the request to continue the hearing, or object. The assigned Hearing Officer may grant or deny the request with or without argument. Oral argument may be conducted by telephone conference. Emergency requests made less than 28 days before the Hearing may be handled by a conference call before a written motion is filed and should only be granted for good cause shown. The party making the emergency request should submit the request in writing after the emergency call, and include the same information required for all other motions. If the granting, or failure to grant, an emergency request for a continuance is of such significance that it has the potential to materially prejudice the rights of one, or both, of the parties, the aggrieved party may

appeal that ruling to the Chairman of the Board, or in their absence, the Vice Chairman, who shall have the authority on their own to affirm or modify the decision of the Hearing Officer on the emergency request for a continuance. A delay in a response to a Freedom of Information Act, or public records request, shall not be considered good cause for a continuance.

- 10. Service of Subpoenas.** Subpoenas issued by the Board for the attendance of witnesses must be served by personal service, unless alternative means have been agreed to by the witness or a party. If a Board subpoena is issued at least 5 calendar days prior to the hearing date, a party seeking service on a City employee may contact the human resources representative for the employee's department for purposes of pre-arranging a specific date, time and place during the employee's shift where service can be completed. Upon receiving such request, it shall be the duty of the department to establish a date, time and place reasonably convenient to the employee and the party seeking to serve the subpoena, unless said employee is on leave or vacation.

22g **Hearing Officer Role and Responsibilities:**

- 1. Hearing Officer Responsibilities.** The Hearing Officer shall hear and review all evidence presented at the Hearing, hear all arguments by the parties, make findings of fact, and recommend whether to sustain, modify, or rescind the discipline. The Hearing Officer presiding over a Hearing shall possess all power necessary and appropriate to conduct a full, fair, and impartial Hearing, including the power to exclude irrelevant, immaterial, or unduly repetitive evidence, witnesses, or exhibits. This power includes but is not limited to the following:
- A. To administer oaths and affirmations;
 - B. To receive relevant evidence;
 - C. To rule upon evidentiary objections and consider offers of proof;
 - D. To regulate the course of the hearing and the conduct of the parties and their representatives;
 - E. Set reasonable time limits for the presentation of evidence based on the nature and circumstances of the Appeal.
 - F. To rule on requests for telephonic testimony where witnesses cannot attend as a result of undue hardship, providing that the telephonic testimony will not cause undue prejudice to any party and the proponent of the telephonic testimony assumes responsibility for costs;
 - G. To consider and rule upon procedural requests;

- H. To sanction parties for violations of these Rules, including but not limited to, excluding undisclosed witnesses or exhibits, limiting testimony or limiting claims or defenses, or issuing monetary sanctions. See Rule 22b.
 - I. To examine witnesses and direct witnesses to testify, limit repetitive or cumulative testimony, and set reasonable limits on the amount of time each witness may testify based on the nature and circumstances of the Appeal;
 - J. To conclude the hearing at such time as all relevant testimony has been presented; and,
 - K. To rule on objections to subpoenas duces tecum in order to keep discovery within reasonable limits.
- 2. Hearing Officer Report and Recommendation.** The Hearing Officer shall provide all records and a written report and recommendation to the Recording Secretary within 14 days of the conclusion of the Hearing. The Recording Secretary will deliver a copy of the recommendation to each party and their representative within 2 days of receipt of the Hearing Officer's report.
- 3. Contents of Hearing Officer Report and Recommendation.** The Hearing Officer's written report and recommendation shall contain:
- A. Date or dates of the hearing.
 - B. Name of employee who is appealing the discipline.
 - C. Discipline being appealed.
 - D. Name of employee's representative, if any.
 - E. Name of City's representative.
 - F. Administrative and/or Personnel Rules cited.
 - G. Whether the hearing was private or public.
 - H. List of all witnesses (City and Appellant).
 - I. List of all exhibits admitted (City and Appellant).
 - J. Brief description of the issue/discipline being presented.
 - K. A summary of the relevant evidence presented.
 - L. Summary of findings of fact based on the evidence submitted during the hearing.

- M. Positions of the parties.
- N. Hearing Officer's conclusions.
- O. For Cause finding or a failure to find cause (Just Cause for a Police Officer).
- P. Final recommendation, including whether the discipline imposed was appropriate, or should be modified or rescinded.

22h **Hearing Procedure:**

1. **Ex Parte Communication Prohibited.** A party shall not communicate with the Hearing Officer regarding the merits of a case except: 1) in the presence of all parties to the hearing including a telephonic conference; or 2) unless all parties to the hearing are notified of the communication in advance. The Hearing Officer shall not initiate ex parte communications with any interested person or party, directly or indirectly, in reference to any substantive issue on the Appeal.
2. **Routine Matters.** Nothing shall prevent the Hearing Officer from communicating about routine matters such as requests for continuances or motions, as long as all parties are informed of the substance of the communication. The date and type of communication, the persons involved and the results of such routine communications shall be made part of the record.
3. **Order of Hearing.** The Hearing Officer shall manage the order of the Hearing as efficiently as possible including taking witnesses out of order. As a general matter, the order of the Hearing shall be:
 - A. Hearing Officer to identify the appeal, identify parties present, and witnesses for the record.
 - B. Stipulations will be entered into the record.
 - C. Presentation, argument, and disposition of motions preliminary to the Hearing.
 - D. Opening statement by the City, unless waived.
 - E. Opening statement by the employee, unless waived or reserved until after the City has presented its case.
 - F. Presentation of the City's case.
 - G. Presentation of the employee's case.
 - H. Rebuttal testimony by the City.

- I. All witnesses shall be subject to cross examination at the time they testify, schedules permitting. The party calling the witness is allowed to question the witness on redirect after cross examination, but redirect testimony shall be limited to matters raised during cross examination.
 - J. Closing arguments by the City.
 - K. Closing arguments by the employee.
 - L. Rebuttal closing arguments by the City.
- 4. Public and Private Hearings.** Hearings shall be open to the public unless the employee requests a private hearing. Any employee request that the Hearing be private must be made no later than 14 days prior to the Hearing date. Once the private Hearing option is selected, it cannot be changed by the Appellant less than 14 days before the Hearing. In the event of a private hearing, the Hearing Officer shall clear the room of all persons not directly involved in the Hearing. If the Hearing is open to the public, the Hearing Officer or Board Chairperson may order that no cameras or recording take place if it is deemed to be disruptive to a fair hearing process. The Hearing Officer has the authority to limit, or prohibit, the use of cell phones while testimony is being taken.
- 5. Recording of Hearings.** All Hearings, and to the greatest extent possible, conferences between the Hearing Officer and the parties, shall be recorded by an audio recording device. If either party desires, a court reporter may take down the proceedings. The party requesting a court reporter must make arrangements for and pay the court reporter. If a conference with the Hearing Officer has not been recorded, the Hearing Officer will create a written record of the issues discussed and the outcome of the conference for the record.
- 6. Exclusion of Witnesses.** Witnesses shall be excluded from the hearing room at the request of either party, or by the Hearing Officer. When exclusion of witnesses has been requested, the City may have counsel and a representative of the Hiring Authority present and the appealing employee may have counsel and a union representative present.
- 7. Burden of Proof.** The City must sustain the burden of proof by a Preponderance of the Evidence presented. The rule and policy violations alleged in the Discipline Notice, and only those rules and policy violations, shall be considered by the Hearing Officer and the Board.
- 8. Exchange of Legal Papers.** In accordance with these rules, parties to an appeal shall furnish copies of any pleadings, documents, or written motions to the other party. The Hearing Officer may refuse to admit any document, pleading, or motion that is not timely submitted, that is not disclosed to the other party, or that does not otherwise comply with these rules. A document

or piece of physical evidence sought to be admitted into evidence during the Hearing must first be identified for the record and produced to each party and the Hearing Officer for review. The Hearing Officer retains the discretion to admit or exclude evidence as necessary.

9. Recorded Information. It is the responsibility of the offering party to provide the means for presenting any audio or video evidence being offered.

10. Conduct of Parties and Witnesses. At all times during a Hearing, the parties to the Appeal are expected to observe professional and respectful conduct. Each party must treat all other parties and witnesses with courtesy, respect and dignity.

11. Retaliation Prohibited. No employee shall be disciplined or retaliated against for appealing a disciplinary action to the Civil Service Board, or for participating in a Civil Service Board proceeding.

22i **Board Disposition of Appeals:**

1. Board Consideration of Hearing Officer Report and Recommendation. The Board shall consider and rule upon the Appeal at either a regularly scheduled, or special meeting, of the Board following the procedures outlined in this Rule.

2. Hearing Officer's Report. The Hearing Officer's report and recommendation will be forwarded to the parties or their representatives within two days after the Recording Secretary receives the report and recommendation from the Hearing Officer. The Hearing Officer's report and recommendation will be provided to the Board members prior to the Board meeting during which the Appeal will be heard and decided.

3. Exhibits. The Recording Secretary will have available at the proceeding before the Board all exhibits that were admitted into evidence by the Hearing Officer. Except for audio recordings or video exhibits, either party may present to the Board copies of exhibits admitted into evidence by the Hearing Officer.

4. Use of Recorded Information Before the Board. If either party wishes to present an audio or video recording to the Board that was admitted as evidence by the Hearing Officer, the party proposing to use the recording or video must inform the other parties no less than 7 days before the Board meeting. If any party objects to the use of the audio or video, the parties are required to attempt to resolve their objections. If there has been timely disclosure, but there are unresolved objections, those objections are to be submitted to the Board for its determination. If the offering party fails to timely disclose its intention to use the audio or video at the Board meeting, the Board shall not hear the audio recording, or allow the video to be used, in the absence of good cause.

- 5. Presentation by Parties.** Each party to the Appeal will have 15 minutes to present the reasons why the Board should accept, modify or reject the Hearing Officer's report and recommendation and address any perceived errors of fact in the report. The party who disagrees with the Hearing Officer's recommendation shall present first. The employee or employee's representative, but not both, may address the Board. The Chairperson may permit more time for each of the parties if a majority of the Board members deem it beneficial. No party, including the employee, may present evidence that was not admitted into evidence at the Hearing. Nothing in this Rule precludes either party from submitting to the Board any issue related to a decision made by the Hearing Officer to exclude the testimony of a witness, or to fail to admit an exhibit offered during the hearing.
- 6. Presence of Parties.** The appealing employee and/or his or her representative, and a City representative, are expected to be present at the Board meeting when the Appeal is scheduled to be considered. If either party or a representative is not present at the Board hearing, and no request for a continuance has been received by the Recording Secretary, or the Board, the Board can, on its own motion postpone deciding the Appeal, or move forward and decide the Appeal. If a request for a continuance has been made, for good cause shown, the Board may grant a postponement.
- 7. Open Meeting Law.** If the Hearing for the Appeal was conducted as a private hearing, unless waived by the parties, the Board shall vote to go into executive session in compliance with Arizona law to hear the presentation of the parties. All votes to resolve an Appeal will be held in open session. The Board may go into executive session for any reason permitted by law and as indicated in the meeting agenda.
- 8. Board Consideration of Evidence.** The Board will consider the Hearing Officer's report and recommendation, the presentation of the parties, and any of the admitted exhibits that it wants to review in rendering its decision. Each Board Member may ask questions of the parties, or of the Hearing Officer, to clarify any aspect of the presentation, or the report and recommendation. The Board will not require the Hearing Officer to defend the recommendation.
- 9. Board Discretion.** The Board may in its discretion:

 - A. Uphold, modify, or reject the recommendation of the Hearing Officer.
 - B. Direct the preparation of a transcript of the hearing and review the transcript and exhibits before making a determination of an Appeal.
 - C. Make a determination of back pay for terminations and demotions. The Board may order restoration of the employee to their previous position with or without back pay for the period of time between the beginning of the dismissal or demotion and the decision on the Appeal. Law enforcement officers who prevail on their Appeal shall be awarded back pay consistent

with the provisions of A.R.S. §38-1106.J. (2016), or the then current version of that statute as amended. In making a back pay determination, the Board may consider (a) amounts earned during the time the employee was separated from the City, (b) delays in resolving the appeal, and (c) any other relevant considerations. If the decision of the Board orders reinstatement without back pay, time off in excess of 30 working days caused by the Board's hearing procedure shall not be considered a suspension in violation of Personnel Rule 19 and shall not be compensated. Unpaid time off in excess of 30 days will be noted as unpaid leave in the employee's record.

10. Voting Required. Board members present shall not be excused from voting. A failure to vote or a voluntary abstention shall count as an "aye" vote unless excused by an announced conflict of interest. If a Board member fails to vote, or voluntarily abstains, the Board member shall explain the reason(s) for not voting.

11. Conflict of Interest. Each Board member must comply with Phoenix Charter Chapter XI and provisions of state law governing conflict of interest of officers and employees (Arizona Revised Statutes Sections 38-501 and following). Consistent with Arizona law, a Board member must make known a substantial conflict of interest and must not participate in any form or manner in the disposition of the matter.

12. City of Phoenix Ethics Policy. Each Board member must comply with the City of Phoenix Ethics Policy, Phoenix City Code section 2-52. Accordingly, a Board member should maintain the utmost standards of personal integrity, truthfulness, honesty and fairness in carrying out their public duties, avoid any improprieties in their role as public servants, and never use a Board position or power for improper personal gain.

13. Tie Vote. If there is a tie vote of the Board on any motion pending before it, that motion shall be considered defeated. An initial tie vote on a motion related to an Appeal does not bring consideration of the Appeal to a conclusion. If there has been a tie vote, the Board will first conduct a vote on whether the City met its burden of proof that cause exists for discipline. If the Board continues to be tied, or votes no, then the employee prevails on the Appeal. If the Board votes yes, it will then vote to determine the appropriate level of discipline.

14. Board Decision Final. The findings and decision of the Board shall be final and shall be certified to the Hiring Authority for action.

22j **Record Filed:**

For Appeals conducted as public hearings, the Recording Secretary will retain as the public record the notice of discipline, the Hearing Officer's report and recommendation, the exhibits admitted by the Hearing Officer, any motions filed during the course of the Appeal, the audio recordings of both the Hearing and the

Board meeting where action was taken, and a record of the final action of the Board. For Appeals conducted as private hearings, the Recording Secretary will retain the entire record, but the only records to be made available to the public for inspection and copying will consist of only the conclusions and recommendation of the Hearing Officer adopted by the Board and a record of the final action by the Board.

22k **Call to the Public:**

1. **Open Meeting Law.** Board proceedings are subject to the Arizona Open Meeting Law, A.R.S. § 38-431, *et seq.*, ("Open Meeting Law"). For Board proceedings that satisfy the definition of meeting under the Open Meeting Law, the Board may discuss, consider, or take action only those matters properly posted and listed on an agenda. Each meeting agenda may include a Call to the Public where members of the public may present information to the Board. During Call to the Public, Board members may listen to the information, but may not discuss or take action on the information received.
2. **Public Speakers.** Members of the public who wish to speak during Call to the Public must complete a public comment card, which will be made available at each meeting. A public comment card must be submitted to the Recording Secretary as soon as possible, but no later than before the Call to the Public begins.
3. **General Guidelines for All Speakers.** The Board adopts the following guidelines for all speakers. These guidelines will be available in print at each Board meeting.
 - A. When speaking, a speaker should first state their name for the record.
 - B. No profanity or threats will be tolerated. Each speaker should present comments in a respectful and courteous manner.
 - C. Each speaker will be called in the order recognized by the Chairperson.
 - D. Members of the public attending the meeting should refrain from clapping or otherwise creating distractions that prevent the Board from the orderly conduct of business.
 - E. Comments during Call to the Public are heard at the discretion of the Chairperson. A speaker shall receive one opportunity to make comments to the Board during Call to the Public.
 - F. A speaker may speak for up to three minutes to make comments to the Board during the Call to the Public. The number of speakers permitted to speak at any meeting will be determined by the Chairperson and may be limited by the time of day and any remaining agenda items that must be addressed at the meeting.

- G. A speaker must address the Board and not staff or members of the public.
- H. When the time for a speaker has expired, the Chairperson may ask the speaker to conclude any comments.

22I **Rule Interpretation:**

If a dispute arises over the interpretation of a Personnel Rule, an aggrieved party shall file in writing a request for Rule interpretation by the Human Resources Director. This request shall be filed within fifteen calendar days of the date that the dispute arose.

Within ten calendar days of the receipt of the request, the Human Resources Director shall respond to the aggrieved party. If the party is still dissatisfied with the interpretation, he may submit a request in writing for a review by the Civil Service Board. This appeal shall be submitted within ten days of the receipt of the Human Resources Director's reply.

The Civil Service Board may assign a Hearing Officer to investigate the complaints and the Hearing Officer shall submit findings to the Board within two weeks of the completion of the investigation. The decision of the Board shall be final.

RULE 23

AMENDMENTS TO RULES

23a. **Proposal to Amend Rules:**

Both the Civil Service Board and the City Manager are empowered to propose amendments to the Personnel Rules. A notice containing the proposed amendments, and the date and place at which a hearing on the proposal will be held, shall be issued by the proposing body at least seven days before the hearing. Copies of the proposed amendments shall be sent to all City departments for posting, and shall be made available to interested parties.

The proposing body may request written comments on the proposed amendments from interested parties prior to the hearing date.

23b. **Approval of Amendments:**

After public hearing, the proposing body shall make such modifications that it deems appropriate and if a Rule change is desired, shall refer the modified amendments to the City Council for approval.

All Rules and amendments thereto shall become effective upon the date of their approval by the City Council. Copies of approved Rules and amendments shall be prepared forthwith by the Human Resources Director for distribution.

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City of Phoenix
ETHICS COMMISSION

June 18, 2025

Robert E. Pastor
Montoya, Lucero & Pastor, PA

Sent Via: [REDACTED]

RE: Ethics Complaint EC 23-01 – Next Steps

Dear Mr. Pastor,

This letter is to inform you that during the Commission's monthly meeting on June 12, 2025, the Commission discussed EC 23-01 and the lack of response from Councilwoman Pastor, who is the Respondent in the matter. A summary of the timeline and the Commission's possible next steps are outlined below. The Commission appreciates that you did reach out yesterday to inform the Commission that you are currently out of town and that you intend to provide a response on behalf of Councilwoman Pastor by Friday, June 27, 2025.

Timeline of Request for Information.

On May 5, 2025, the Commission's Investigator requested a follow-up interview with Councilwoman Pastor. On May 6, 2025, you informed the Investigator by telephone and email that you represent Councilwoman Pastor and you requested a summary of Councilwoman's prior statements and a summary of the additional information requested. Your email specifically stated Councilwoman Pastor's intent to promptly provide information to conclude the investigation:

Councilwoman Laura Pastor wants to provide you and the Commission with the information you need to complete your investigation and ensure that there has been no violation of the City's ethical rules. To provide you with that information and hopefully resolve this issue promptly, I would like the information outlined above so that Councilwoman Pastor can provide complete responses and not have to prolong this investigation any further.

In reliance on your May 6 communications, by email dated May 16, 2025, the Investigator provided you with the requested information, including copies of the relevant documents. The Investigator outlined 17 items that Councilwoman Pastor needs to either confirm as accurate or provide a response. The Investigator also asked to discuss the requested information by May 22 so that the information could be produced by May 30.

On May 27, the Investigator sent a follow-up email to schedule a time that week to obtain the information. During that same week, the Investigator confirmed with your office staff that you had received the May 16 and 27 emails.

On June 3, the Investigator sent a third request for information. The Investigator informed you of the June 12 Commission meeting and the fact that a failure to promptly respond may delay resolution of the Ethics Complaint.



City of Phoenix

ETHICS COMMISSION

Potential Commission Action.

During the June 12 meeting, the Commission considered the timeline discussed above and set a **deadline of July 14, 2025** to receive a response to the request for information. The Commission now understands that you are currently out of town and intend to respond to the request for information by June 27, 2025. The Commission appreciates you providing this update and confirmation of your intent to respond.

In the event a response is not provided on June 27, 2025, in the interest of full transparency, the Commission hereby informs you, on behalf of Councilwoman Pastor, as follows:

1. The Commission requests a response to the Investigator's May 16 request for information as set forth in Section C. 1-17 by no later than **Monday, July 14, 2025**. The Commission notes that most of the information merely requests confirmation of specific factual statements (i.e., C.1-4, 8-10, 12, 14). **Therefore, to the extent those statements are accurate, no response is required for those items and only eight items specifically require a response** (i.e, C.5-7, 11, 13, 15-17).
2. If you believe Councilwoman Pastor has a legal basis to not respond, please cite the specific legal basis by **July 14, 2025**.
3. In the event a complete response is not received by July 14, 2025, the Commission will consider further action, which may include a determination that Councilwoman Pastor shall be responsible for the Commission's costs incurred related to the failure to cooperate, in accordance with Rule 6 (e) of the Rules of Procedure for the City of Phoenix Ethics Commission, which state as follows:

All Respondents and Complainants must cooperate with the Commission and its Investigator. All Respondents and Complainants must provide requested information unless the request violates Arizona law. A Respondent or Complainant who fails to cooperate with the Commission or Investigator must cite the specific legal basis for doing so. If the Commission finds there is no legal basis for the Respondent's or Complainant's failure to cooperate, the uncooperative party shall pay for all costs incurred by the Commission directly related to that party's failure to cooperate.

On behalf of the Commission, we appreciate your anticipated cooperation so that we may resolve the Ethics Complaint.

Sincerely,

Sam Leyvas
Ethics Commission Chair

EXHIBIT K

Robert E. Pastor

Attorney at Law

MONTROYA, LUCERO & PASTOR, P.A.

3200 North Central Avenue, Suite 2550

Phoenix, Arizona 85012-2490

Tel: 602-279-8969 Fax: 602-256-6667

July 14, 2025

City of Phoenix
Ethics Commission
200 W. Washington Street
Phoenix, Arizona 85003

Ms. Elizabeth Nilen
Spencer Fane
2415 E. Camelback Road, Suite 600
Phoenix, Arizona 85016

Re: Ethics Complaint – Councilwoman Laura Pastor
August 9, 2023
Complaining Party: Tristan Manos

Sent via Email

Dear Members of the Ethics Commission & Ms. Nilen:

I am writing on behalf of City Councilwoman, Laura Pastor. Ms. Pastor represents Phoenix City Council District 4. District 4 is home to nearly 200,000 residents of the City of Phoenix. District 4 includes central Phoenix stretching from 61st Avenue to the west, 32nd Street to the east and as far north as Glendale Avenue and Van Buren Street to the south. Laura Pastor has represented the people of District 4 since 2013.

On August 9, 2023, Tristan Manos submitted a complaint regarding two emails. The first email was an announcement for a summer “Back-to-School Supply Give Away & Resource Fair.” The back-to-school event was sponsored by the Phoenix Union High School District benefiting students and families; many of whom reside in City Council District 4. The back-to-school event was a community based, charitable event to help students obtain the school supplies they need before beginning the new school year. The second email was “a reminder of the original announcement.” (See Email T. Manos to D. Archibald 08/09/2023). Mr. Manos raises the concern that this charitable event may run afoul of the City’s prohibition against the “use of any government property, including computers and the internet, for any partisan political activities.” (*Id*).

Tristan Manos is a former Maricopa County committeeman and a candidate for the Chair of the Maricopa County Republican Committee. He also seems to have supported baseless allegations of voter misconduct in the 2022 election. See www.rsb.com

Putting aside partisan, political motivations, Councilwoman Pastor takes these concerns seriously. Ms. Pastor agrees, public leaders like herself have a responsibility to perform their duties with the highest standards of personal integrity, fairness and honesty and to not use their positions of trust for improper personal gain. Councilwoman Pastor

MONTOYA, LUCERO & PASTOR, P.A.

City of Phoenix
Ethics Commission
Complaint filed 08/09/2023
July 14, 2025

wishes to provide the Commission with a complete picture of the relevant information to ensure that the Commission, and more importantly, the residents of Phoenix can rest assured knowing that Ms. Pastor and her colleagues on the Phoenix City Council continue to represent the people of this great City with integrity, fairness and honesty.

**Councilwoman Laura Pastor participated in a charitable event
to help students get the school supplies they need.**

In January 2023, then Congressman Ruben Gallego announced his candidacy for the United States Senate. At the time, Senator Gallego represented the Congressional District once represented by Councilwoman Pastor's father, Ed Pastor. Through the spring of 2023 speculation swirled around the field of potential candidates, including speculation about Ms. Pastor's candidacy for the seat her late father once occupied. By May 31, 2023, Councilwoman Pastor announced she intended to run for Congressional District 3, however, she never turned in petitions as an official candidate.

As you all know, public office has many challenges. One of the biggest challenges that often receives little attention, or concern is the impact public service has on children and spouses. In May 2023, Ms. Pastor's son graduated high school and was preparing to begin the next chapter in his life. That summer, Ms. Pastor's youngest daughter was preparing to begin her freshman year in high school. Ms. Pastor spent the summer of 2023 exploring a congressional campaign and doing the necessary soul searching to decide whether a congressional office was in her best interest and in the best interest of her family. By August 2023 Laura Pastor suspended her campaign for Congressional District 7 without ever filing formal petitions. In the process of making her decision, Councilwoman Pastor re-affirmed her commitment the people of Council District 4 and to helping improve the lives of all residents of the City of Phoenix.

Councilwoman Laura Pastor has supported the back-to-school event sponsored by the Phoenix Union High School District every year since 2018. She has also supported other back-to-school drives throughout her political career. As in years past, during the summer of 2023 Councilwoman Pastor collected back packs and other school supplies. The school supplies would then be distributed at the "Back-to-School Supply Give Away and Resource Fair" scheduled for July 29, 2023. The back-to-school event was set up in a large gymnasium with tables along the perimeter so that students and their parents could pass by, collect school supplies, and obtain information to help them begin the 2023-2024 school year. Like other members of the Phoenix City Council, Laura Pastor and her staff set up a table to distribute school supplies and provide information to students and families. At no time did anyone give a political speech of any kind.

The emails that form the basis of the complaint were sent on or about July 28, 2023. Although not specifically stated, Mr. Manos' concern seems to focus on the reference to the Maricopa County Young Democrats. When the emails were sent,

MONTOYA, LUCERO & PASTOR, P.A.

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Councilwoman Pastor's two primary staff members were out of the office; one was on a pre-planned vacation and the other was out on medical leave. Normally, City council is on break during the months of July and August. A third staff member, Brenda Munoz, was in the district office during the month of July. Councilwoman Pastor was well aware of the date of the back-to-school event because Ms. Pastor and her office had been collecting school supplies in the weeks leading up to the event. The emails, however, were not proofread by Ms. Pastor or either of her two senior staff members before they were sent because Councilwoman Pastor and her two senior staff members were out of the office.

Ms. Pastor believes there were many sponsors and supporters of the July 2023 back-to-school event; including the Maricopa County Young Democrats. When emails were sent, Ms. Pastor did not have any personal knowledge as to how or why the reference to "Maricopa County Young Democrats" was included. In retrospect, had she known about the reference to MCYD, Councilwoman Laura Pastor would not have approved the announcements unless they were also reviewed by the City of Phoenix Legal Department.

Councilwoman Pastor's beliefs with respect to this matter are consistent with the protections under the United States Constitution and her duties as a public servant. Councilwoman Pastor knows the First Amendment protects her freedom of speech and her freedom of association. As a public servant, however, Councilwoman Pastor's focus is to serve the people of District 4 and all residents of the City of Phoenix regardless of her personal preferences or the party affiliation of any Phoenix resident.

The ethics complaint in this case raises the concern that Councilwoman Pastor and or her office used government property for partisan political activity. (See Email T. Manos to D. Archibald 08/09/2023). Although the emails should have been drafted differently because of her personal beliefs and perspectives, Councilwoman Pastor does not believe the emails violate the City's ethical standards. The "activity" at issue here was the "Back-to-School Supply Give Away & Resource Fair." Councilwoman Pastor sent an announcement via email to City of Phoenix residents to make students and their families aware of the charitable event. The two emails that form the basis of the complaint were not sent for the purpose of influencing the outcome of an election. (See State of Arizona, Office of the Attorney General, *Use of Public Funds to Influence the Outcomes of Elections*, No. 115-002, 07/30/2015). The emails were sent to promote a charitable event intended to help students in need as they prepared to begin the 2023 school year.

Finally, the Commission's investigator raised some questions regarding conversations Councilwoman Pastor had with City Attorney Kriegh. The questions are ambiguous. As a member of Phoenix City Council, Ms. Pastor has many conversations with members of the City of Phoenix Legal Department, including City Attorney Kriegh.

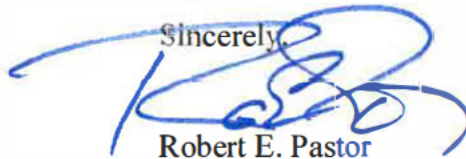
MONTROYA, LUCERO & PASTOR, P.A.

City of Phoenix
Ethics Commission
Complaint filed 08/09/2023
July 14, 2025

Councilwoman Pastor had multiple conversations, both before and after this complaint was filed, regarding training of City staff members. As sitting member of the Phoenix City Council, Councilwoman Pastor wants to ensure the City provides staff members with the training they need to understand some of the issues now before this commission including conflicts of interest, freedoms of speech and association, and conduct that may constitute "partisan political activity." Upon information and belief, members of the City's legal department took steps to provide staff members with the necessary training to ensure staff members perform their duties with the highest standards of personal integrity, fairness and honesty. Upon information and belief, the Chief of Staff for the 11th Floor, Stephanie Bracken, coordinated training sessions for all staff council wide. The training sessions occurred in the fall of 2023.

On behalf of Councilwoman Laura Pastor, thank you for making the necessary inquiry into these important issues involving our democratic system of government. Councilwoman Laura Pastor continues to believe that by working together in a transparent manner we can build trust and ensure the City of Phoenix continues to work efficiently and effectively.

Councilwoman Laura Pastor remains available to answer or clarify any additional questions. Thank you.

Sincerely,

Robert E. Pastor


SUNNYSLOPE FAMILY AND FRIENDS
YOU ARE INVITED TO OUR:

BACK TO SCHOOL

INDOOR EVENT

**SATURDAY
JULY 15, 2023
12PM-3PM**

COMMUNITY PARTNERS
SCHOOL SUPPLY GIVEAWAY
REGISTER ONLINE - [Phoenix.gov/parks](https://phoenix.gov/parks)
FREE HAIR CUTS



Free Health Screenings
HIV Testing
COVID19 Vaccinations

SUNNYSLOPE COMMUNITY CENTER
802 E. VOGEL AVE
PHOENIX, AZ 85020

FOR MORE INFO CALL 602-262-6661



Spanish Flyer

From: Office of Phoenix District 4 Councilwoman Laura Pastor <council.district.4@phoenix.gov>

To: 1708 recipients

Subject: Special Invite from Councilwoman Pastor

[View this email as a webpage](#)



Councilwoman Laura Pastor Invites You to 5k Run Hosted by African American Reconstruction

Celebrate Earth Day with District 4 Councilwoman Pastor and the African American Reconstruction team by participating in a 5k at Steele Indian School Park.

You have the option to run or walk. There will be food, local vendors and music. All proceeds fund the African American Reconstruction scholarship for community youth and their annual teen conference.

Register here: aareconstruction.org **9 clicks**

9 clicks We look forward to seeing you there!

What: Empowering Generations 5k Run

When: Saturday, April 22, 2023 | 8:00 a.m.

Where: Steele Indian School Park, 300 E. Indian School Rd.

Contact: Brenda Munoz Murguia, brenda.munoz.murguia@phoenix.gov



5K Run & Walk Flyer (1).jpg

phoenix.gov



The poster features a pink background with decorative elements including a large pink ribbon, white and pink flowers, and pink leaves. At the top, there are logos for Laura Pastor (District 4 Councilwoman) and Keshia Hodge Washington (District 8 Councilwoman). The main title 'BOOBS, BUBBLES & BRUNCH' is in large, bold, dark blue letters. Below it, a paragraph describes the event's purpose: 'JOIN US FOR A SPECIAL EVENT THAT AIMS TO RAISE AWARENESS, PROVIDE REASOURCES AND INTRODUCE THE LATEST TECHNOLOGY IN BREAST CANCER TESTING.' The date 'SATURDAY, MARCH 2ND' is in a pink box, and the time '11AM-1PM' is in dark blue. The location is '@ GEORGE WASHINGTON CARVER MUSEUM & CULTURAL CENTER, 415 E. GRANT STREET, PHOENIX, AZ 85004'. A dark blue box contains contact information: 'Find more information on our YouTube Video. (Video link down below) If you have any questions, contact: michael.petersen-incorvaia@phoenix.gov'. At the bottom, the URL 'bit.ly/OnLocationWithLauraPastor' is displayed in pink.

LAURA PASTOR
DISTRICT 4 COUNCILWOMAN

KESHA
HODGE WASHINGTON
DISTRICT 8

BOOBS, BUBBLES & BRUNCH

JOIN US FOR A SPECIAL EVENT THAT AIMS TO RAISE AWARENESS, PROVIDE REASOURCES AND INTRODUCE THE LATEST TECHNOLOGY IN BREAST CANCER TESTING.

SATURDAY, MARCH 2ND

11AM-1PM

**@ GEORGE WASHINGTON
CARVER MUSEUM & CULTURAL
CENTER
415 E. GRANT STREET, PHOENIX,
AZ 85004**

Find more information on our YouTube Video.
(Video link down below)
If you have any questions, contact:
michael.petersen-incorvaia@phoenix.gov

bit.ly/OnLocationWithLauraPastor

phoenix.gov

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FooterIen_Placeholder

From: Office of Phoenix District 4 Councilwoman Laura Pastor <council.district.4@phoenix.gov>

To: 1736 recipients

Subject: Join Councilwoman Pastor and Arizona State Legislators for a Free Community Block Party and Resource Fair

[View this email as a webpage](#)



Join Councilwoman Pastor and Arizona State Legislators for a Free Community Block Party and Resource Fair

Arizona State Reps. Analise Ortiz and Cesar Aguilar, along with State Sens. Anna Hernandez, Flavio Bravo and Councilwoman Pastor will be hosting a resource fair for Phoenix's west side this Saturday at Carl Hayden High School.

Get connected with free immigration attorneys, consultations for expungement of drug charges, mobile health clinics and community resources.

This event will also feature family-friendly activities, games, goodies, live music and food trucks.

Los representantes estatales de Arizona, Analise Ortiz y Cesar Aguilar, junto con los senadores estatales Anna Hernandez, Flavio Bravo y la concejal Laura Pastor organizarán una feria de recursos para el lado oeste de Phoenix este sábado en la Carl Hayden High School.

Conéctese con abogados de inmigración gratuitos, consultas para eliminación de cargos por drogas, clínicas de salud móviles y recursos comunitarios.

Este evento también tendrá actividades para toda la familia, juegos, regalos gratuitos, música en vivo y camiones de comida.

What: Community Block Party and Resource Fair

When: Saturday, June 17, 9:00 a.m.

Where: Carl Hayden High School, 3333 W. Roosevelt St.

Who: Councilwoman Laura Pastor, Reps. Analise Ortiz and Cesar Aguilar, Sens. Anna Hernandez and Flavio Bravo, Phoenix Neighborhood Services Department



REP. ANALISE ORTIZ, REP. LYDIA HERNANDEZ,
REP. CESAR AGUILAR,
SEN. ANNA HERNANDEZ, SEN. FLAVIO BRAVO, AND
COUNCILWOMAN LAURA PASTOR
PRESENT

COMMUNITY BLOCK PARTY

**FREE
ENTRY**

**LIVE
MUSIC**

**MOBILE
HEALTH**

**JOIN US
JUNE 17TH
9AM - 2PM**

**CARL HAYDEN
HIGH SCHOOL**
3333 W ROOSEVELT ST,
PHOENIX, AZ 85009

COMMUNITY RESOURCES - FOOD TRUCKS - ACTIVITIES FOR THE KIDS

REP. ANALISE ORTIZ, REP. LYDIA HERNANDEZ,
 REP. CESAR AGUILAR,
 SEN. ANNA HERNANDEZ, SEN. FLAVIO BRAVO, &
 COUNCILWOMAN LAURA PASTOR

PRESENTAN

FIESTA DE BARRIO

ACOMPÁÑENOS

17 DE JUNIO

9AM - 2PM

CARL HAYDEN HIGH SCHOOL

3333 W ROOSEVELT ST,
 PHOENIX, AZ 85009

RECursos COMUNITARIOS - CAMIONES DE COMIDA - ACTIVIDADES PARA LOS NIÑOS

ENTRADA GRATUITA

**MUSICA
EN
VIVO**

**SALUD
MÓVIL**

WEST PHOENIX COMMUNITY BLOCK PARTY

JOIN US **JUNE 17TH** 9AM - 2PM

COMMUNITY RESOURCES - FOOD TRUCKS - ACTIVITIES FOR THE KIDS

CARL HAYDEN HIGH SCHOOL

WEST PHOENIX COMMUNITY BLOCK PARTY

JOIN US **JUNE 17TH** 9AM - 2PM

COMMUNITY RESOURCES - FOOD TRUCKS - ACTIVITIES FOR THE KIDS

CARL HAYDEN HIGH SCHOOL

FREE IMMIGRATION ATTORNEY CONSULTATION

EXPUNCEMENTS OF DRUG CHARGES

FREE VISION TESTING

FREE MAMMOGRAMS' TESTING

FREE DENTAL EXAMS

LOWRIDER SHOW

3 WHEEL INVASION SLINGSHOTS

phoenix.gov

5 clicks

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This email was sent by Office of Phoenix District 4 Councilwoman Laura Pastor from 200 W. Washington Street, Phoenix, Arizona 85003.

From: Office of Phoenix District 5 Councilwoman Betty Guardado <phoenixcitycouncil@phoenix.gov>
To: 429 recipients
Subject: Councilwoman Betty Guardado Hosts 4th Annual Back to School Backpack Giveaway

[View this email as a webpage](#)



Councilwoman Betty Guardado Hosts 4th Annual Back to School Backpack Giveaway

PHOENIX, ARIZ. -- Councilwoman Betty Guardado invites the community to the 4th Annual Back to School Backpack Giveaway on August 3rd at 6 PM at American Family Fields of Phoenix, 3600 N. 51st Ave, Phoenix, AZ 85031. This event underscores her ongoing commitment to ensuring that the youth of our communities are well-prepared for the upcoming school year.

Over the past four years, Councilwoman Guardado has led this initiative to support local families by providing essential school supplies. Last year, the event successfully distributed 1,000 backpacks, and this year the goal has been set even higher with plans to give away over 1,200 backpacks. Each backpack will be filled with pencils, water bottles, notebooks, and other school necessities.

This year's giveaway has been made possible thanks to the generosity of our sponsors: Amazon, Cox, Starbucks, and Mima's Beauty College. We are also excited to announce a partnership with BBB Fashion, which will provide over \$20,000 in gift cards to help families purchase new clothing for their children. Additionally, thanks to the support of Mima's Beauty College, free haircuts will be available to attendees, ensuring students can start the school year with a fresh look.

Councilwoman Guardado states, "It's essential that we come together as a community to support our youth. Providing these resources helps not only to prepare our students for the school year but also alleviates some of the financial burdens on their families. A huge thank you to our sponsors for their support."

The event is open to the public, and supplies will be distributed on a first-come, first-served basis while they last.

For more information, contact (602)262-7446 or email council.district.5@phoenix.gov.

From: Office of Phoenix District 5 Councilwoman Betty Guardado <council.district.5@phoenix.gov>

To: 5608 recipients

Subject: July Neighborhood News: Back to School Backpack Giveaway, Summer Outreach Team, Heat Ready Phoenix, Fire Dept. Hiring and More..

Para versión en español, haz clic aquí **22 clicks**



13 clicks

District 5 Residents and Friends,

July has been a record-breaking hot month, but we continue our community outreach with exciting events and more resources for our residents! Read this month's Neighborhood News to learn about the Back to School Backpack Giveaway, summer outreach team, Heat Ready Phoenix, Fire Department application process, and PlanPHX General Plan survey.

The Third Annual Back-to-School Backpack Giveaway is Tomorrow



BACK TO SCHOOL
Backpack Giveaway!

Mochilas Gratis!

AMERICAN FAMILY FIELDS OF PHOENIX
 3600 N. 51st Avenue
 Phoenix, AZ 85031
 Contact us (602)262-7446 or council.district.5@phoenix.gov
 Limited Supplies Available

JULY 29
6:00PM Saturday
 Útiles son Limitados

Children must be present to receive giveaways
 Niños deben de estar presentes para recibir regalos

Thanks to Our Sponsors:

amazon, Betty Guardado, Rotisserie Cane's, GENEVA FINANCIAL, N106.7FM, PHX PLAYS, ALHAMBRA ELEMENTARY SCHOOL DISTRICT, bbb! FASHION, transdev, Chevron, JMA Petro Inc, AFFINIUM SECURITY & PROTECTION, LLC, IN-POWER MOTORS

Join us this Saturday, July 29th, for our third annual Back to School Backpack Giveaway at the American Family Fields of Phoenix. Each year, we provide 1,000 school aged children backpacks, school supplies, and uniform gift cards, along with kids' activities and free live entertainment. In addition, this year barbers and hair stylists will give free haircuts, and there will food trucks selling shaved ice, ice cream and tacos.

We're grateful for our community partners: the Milwaukee Brewers, the Parks and Recreation Department, La Indiscreta FM, and the Cartwright and Alhambra

From: Office of Phoenix District 5 Councilwoman Betty Guardado <phoenixcitycouncil@phoenix.gov>
To: 431 recipients
Subject: Councilwoman Betty Guardado's Statement on Recent Prevailing Wage Court Ruling

[View this email as a webpage](#)



Councilwoman Betty Guardado's Statement on Recent Prevailing Wage Court Ruling

Phoenix, AZ – I am deeply disappointed by the Maricopa County Superior Court's decision to deny the City the right to ensure those working within its purview receive fair living wages, improved benefits, and safer working conditions.

When we as a Council passed this ordinance, our hope was that we might uplift our hardworking labor force and guarantee higher quality construction projects for our City by eliminating wage disparities caused by market fluctuations. This decision makes it much more difficult to create an environment that promotes fairness and prosperity for every worker.

We work every day to seek solutions for outpaced inflation, the affordable housing crisis, those experiencing homelessness and so much more. Yet we are met with decisions like this that undermine our ability to offer better living wages. It's disappointing that the court has denied us this critical tool to support our workforce.

Our City's workers deserve better, and we will continue to fight for their right to earn a decent living. This is an unacceptable outcome that undermines our efforts to support the backbone of our local economy.

Media Contact: Zul Lopez, council.district.5@phoenix.gov, 623-523-4021

phoenix.gov

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From: Office of Phoenix District 5 Councilwoman Betty Guardado <phoenixcitycouncil@phoenix.gov>

To: 360 recipients

Subject: TOMORROW: Councilwomen Betty Guardado and Laura Pastor to Discuss Prevailing Wage Results

[View this email as a webpage](#)



Councilwomen Betty Guardado and Laura Pastor to Discuss Prevailing Wage Results

Phoenix, AZ – We invite members of the media to join Councilwoman Betty Guardado and Councilwoman Laura Pastor immediately following the January 9th Policy Session vote on a Prevailing Wage ordinance in Phoenix.

The press conference will take place immediately following the Policy Session on the first floor of Phoenix City Hall. Both Councilwomen will discuss how a Prevailing Wage ordinance can contribute to uplifting the labor force and ensuring a higher quality in projects across Phoenix, as well as provide insights on the significance this ordinance could have for Phoenix's future. By addressing wage disparities and market fluctuations, this decision would promote an environment of fairness and prosperity for workers.

The City Council will be voting on Prevailing Wage on January 9, 2024 during the Policy Session, Councilwoman Guardado and Councilwoman Pastor will be providing remarks following that session.

Members of the media are encouraged to RSVP.

Background:

Prevailing Wage is a critical minimum wage requirement specific to ensuring workers receive wages that align with local standards. This initiative echoes the principles of the Davis-Bacon Act at the federal level and has been adopted in various forms by numerous states and cities to ensure fair compensation on state or city-funded construction projects.

Media Event Details:

Location: 1st floor of Phoenix City Hall, 200 W. Washington St. Phoenix AZ 85003

Date & Time: January 9th, 2024 - Immediately following the Phoenix City Council Policy Session

Media Contact & RSVP: Zul Lopez, council.district.5@phoenix.gov, 623-523-4021

From: Office of Phoenix District 5 Councilwoman Betty Guardado <PhoenixCityCouncil@phoenix.gov>

To: 252 recipients

Subject: Councilwoman Guardado Hosts Maryvale Resource Fair to Connect Residents to Opportunities

[View this email as a webpage](#)



Councilwoman Guardado Hosts Maryvale Resource Fair to Connect Residents to Opportunities

Councilwoman Betty Guardado invites Phoenix residents to the Maryvale Resource Fair. This all-encompassing event will include city and community resources, COVID-19 testing and vaccinations, rental and utility assistance, career opportunities, and more.

"The last two years of the pandemic have been hard on so many in our community," Councilwoman Betty Guardado said. "The City of Phoenix and its partners have funding, assistance, and information to help our residents, but it can be confusing to know where to go. This fair will bring resources directly to District 5 residents."

Resources and organizations attending include:

Grand Canyon University
Watts Family YMCA
Phoenix HEAD Start
City of Phoenix Departments: Water Services, Housing, Human Services, Public Transit, and Public Safety
Emergency Rental Assistance Help
City of Phoenix Mobile Career Unit
COVID-19 Mobile Testing and Vaccinations
Local Labor Representatives promoting careers and apprenticeships
Alhambra and Cartwright Elementary School Districts
The Arizona Human Society
Phoenix Union High School District

AND MUCH MORE...

When: Saturday, April 9 from 10 a.m. to 2 p.m.

Where: Maryvale Community Center – 4420 N. 51st Avenue, Phoenix, AZ 85031

More Information: Contact the District 5 Team at 602.262.7446 or Council.District.5@phoenix.gov **1 click**

Media Contacts:

Andrew Wunder: (480) 415-6545 | andrew.wunder@phoenix.gov **8 clicks**

Stephanie Barnes: (602) 316-0958 | stephanie.barnes@phoenix.gov **1 click**

**MARYVALE
RESOURCE FAIR**
WITH COUNCILWOMAN GUARDADO

- *APPRENTICESHIPS
- *SMALL BUSINESS ASSISTANCE
- *JOB OPPORTUNITIES
- *HOUSING OPTIONS
- *UTILITY & RENTAL ASSISTANCE
- *SCHOOL RESOURCES
- *HEAD START & MORE

MARYVALE COMMUNITY CENTER - 4420 N. 51ST AVENUE
SATURDAY, APRIL 9TH | 10 AM TO 2 PM

Contact us at 602-262-7446 or council.district.5@phoenix.gov for info.

Betty Guardado
COUNCILWOMAN | DISTRICT 5

ALHAMBRA
ELEMENTARY SCHOOL DISTRICT

**LA FERIA DE RECURSOS
DE MARYVALE**
CON LA CONSEJAL BETTY GUARDADO

- *Programas de aprendizaje
- *Ayuda para pequeñas empresas
- *Oportunidad de empleos
- *Opciones de vivienda
- *Ayuda con utilidades y renta
- *Recursos escolares
- *HEAD START Y MAS

CENTRO COMUNITARIO DE MARYVALE - 4420 N. 51ST AVENUE
SABADO, EL 9 DE ABRIL | 10 AM TO 2 PM

Contactanos al 602-262-7446 o council.district.5@phoenix.gov para información

Betty Guardado
COUNCILWOMAN | DISTRICT 5

ALHAMBRA
ELEMENTARY SCHOOL DISTRICT

phoenix.gov

2 clicks

Update your profile

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From: Office of Phoenix District 5 Councilwoman Betty Guardado <PhoenixCityCouncil@phoenix.gov>
To: 240 recipients
Subject: Councilwoman Guardado Hosts Second Annual 'Very Merry Maryvale' Holiday Celebration

[View this email as a webpage](#)



Councilwoman Guardado Hosts Second Annual 'Very Merry Maryvale' Holiday Celebration

December 15, 2021

Contact: Stephanie Barnes, 602-316-0958

What: Phoenix Councilwoman Betty Guardado is inviting families to the second annual Very Merry Maryvale Holiday Celebration tomorrow, December 16th, at the Maryvale Community Center. The free event for youth ages 3 - 12 will feature food, music, games, and gifts for registered families. Plus, Santa Claus will be dropping by for a visit!

Who: Councilwoman Betty Guardado, in partnership with Phoenix Parks and Recreation and Cartwright School District

When: Thursday, December 16 from 6 - 9 p.m.

Where: Maryvale Community Center - 4420 N 51st Ave., Phoenix, AZ 85031

Our proud sponsors are the Arizona Coyotes, Chicanos Por La Causa, Mariscos El Nuevo Altata, and the United Phoenix Firefighters Local 495.

Registration for this event is full.

phoenix.gov

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From: Vice Mayor Yassamin Ansari <council.district.7@phoenix.gov>

To: Emily O'Neil <emily.oneil@phoenix.gov>

Subject: Back to School Resource Fair



Back to School Eventbrite (Facebook Event Cover) (1).png

Good morning,

You're invited to join me on August 14th for our 2nd Annual Back to School Resource Fair. This fair will together city departments and local nonprofit partners for an informative, inclusive and fun evening.

Last year, we welcomed 1,500 community members to our inaugural Back to School Resource Fair and provided attendees with information on city programs and resources, free school supplies and more.

This year, we are going even bigger with representatives from over twenty different city and nonprofit organizations, free healthcare screenings, on-site haircuts, free fresh food bags provided by Project Roots, free backpacks, and free dinner from Aioli Gourmet Burgers for the first 150 attendees.

All of this was made possible by our generous sponsors: Amazon, Dignity Healthy, IDM Companies, Redeem Neighborhoods and SRP.

We invite all community members to kick off the school year with us at the brand-new Cesar Chavez Community Center! Please RSVP so we know how many people to anticipate.

RSVP **2 clicks**

Best,

Vice Mayor Yassamin Ansari



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[Update Your Profile and Email Preferences](#)

From: Vice Mayor Yassamin Ansari <council.district.7@phoenix.gov>

To: Emily O'Neil <emily.oneil@phoenix.gov>

Subject: Join us! Weekend of Community Action



Newsletter Headers (12).png

Dear D7 Resident,

Join us this Saturday and Sunday for a weekend of action! As the weather cools down, there are new opportunities to get involved with our District 7 office and various partners working on everything from fentanyl education to healthy eating.

Saturday, October 7th at 9:30 am at Desert West Community Center:
Cafecito with Vice Mayor Ansari



OCT 7 Coffee Cafecito.png

Join our office for conchas and coffee while we discuss new things coming to the neighborhood, community safety and more. Local organizations, Reedem Neighborhoods and Si Se Puede, will be on-hand, while Arizona Labor Trafficking Outreach will provide information on their work in the community.

Please RSVP beforehand, so we know how many conchas to buy **2 clicks** !

Sunday, October 8th at 1:00 pm at the South Mountain Environmental Education Center: ¡Viva Verde! Eco-Cultura Festival with Corazón Latino and Climate Power in Acción



Viva Verde.jpg

Celebrate Hispanic Heritage Month with us at the newly reopened South Mountain Environmental Education Center (10409 S Central Ave, Phoenix, AZ 85042). This free and family-friendly event will feature musical performances, a cooking demonstration with Chef Chilo Chacon, storytelling with Ranger Rick, and more.

I look forward to seeing neighbors and friends this weekend! Please share these FREE events with your network and let's continue to engage neighbors in ways to build a more sustainable and equitable Phoenix! If you need any special accommodations, please email us at council.district.7@phoenix.gov or call 602-262-7492.

Best,

Vice Mayor Yassamin Ansari

P.S. As a reminder, my office is hosting free soccer classes with Tuzos Soccer Club every Thursday from 5:00 pm to 7:00 pm at Smith Park. [Learn more and RSVP](#) [1 click](#) .



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[View As Webpage](#)

From: Office of Councilwoman Yassamin Ansari <PhoenixCityCouncil@phoenix.gov>

To: 231 recipients

Subject: MEDIA ADVISORY: Councilwoman Yassamin Ansari, Mercy Care Host Inaugural Pride On the Block Event on Oct. 24, 2021 from 3-8 p.m. at Portland Park

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Media Contact:

Maria Lopez

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**Councilwoman Yassamin Ansari, Mercy Care
Host Inaugural Pride On the Block Event on Oct.
24, 2021 from 3-8 p.m. at Portland Park**



[Photos available here.](#)

*Bringing together local nonprofits, artists, performers, and businesses
for a pride celebration to build a stronger and healthier Phoenix*

Phoenix, AZ — Join Phoenix City Councilwoman Yassamin Ansari and presenting sponsor Mercy Care for the inaugural Pride On the Block, a LGBTQIA+ block party on Sunday, October 24th, 3:00pm-8:00pm at Portland Park.

Pride On the Block is hosted in partnership with Phoenix Pride and one·n·ten, and is a lead-up event to the Phoenix Pride Festival in November.

“While Phoenix may not have a central LGBTQIA+ neighborhood, the cluster of queer-owned and queer-friendly businesses and nonprofits doing critical work on Central Avenue and Portland Street is something to celebrate and uplift,” said Councilwoman Ansari.

“We’re excited that this is a free event, and we have a goal of raising \$10,000 for one-n-ten to help support the crucial work they do all year long— especially during the COVID-19 pandemic,” she added.

There will be music, performances and food & drink specials provided by local businesses such as Fez and Match Market & Bar. This event will raise visibility for local LGBTQIA+ non-profits and organizations dedicated to offering critical resources such as quality healthcare, mental health resources, housing, advocacy and more.

“Mercy Care is excited to join Councilwoman Ansari for the first ever Pride on the Block event. Mercy Care is dedicated to building bridges and eliminating barriers to care for our LGBTQ+ members. It’s part of our mission to help our members live their healthiest lives and achieve their full potential,” said Mercy Care Chief Administrative Officer Debbie Hillman.

Pride On the Block

What: Hyperlocal block party spotlighting local businesses, nonprofits and artists

Who: Phoenix City Councilwoman Yassamin Ansari – District 7 and Mercy Care

When: October 24, 2021 | 3 p.m. – 8 p.m.

Where: Portland Parkway Park

10 West Portland Street, Phoenix, AZ 85003 (Central Avenue & Portland Street)

RSVP Link: www.eventbrite.com/e/pride-on-the-block-tickets-183782627787 **3 clicks**

Donation Link:

<https://give.onenten.org/give/370597/#!/donation/checkout>

Additional Pride On the Block Details:

***First 100 attendees will receive a free commemorative t-shirt.**

Live Entertainment: Pride On the Block will be hosted by Mya McKenzie and will have live music by DJ Lezbein.

Performing Drag Queens: Aimee V Justice, Sir Nate, Ivy Foxglove, Frankie Fahrenheit, Owen Michael Parker and Tyra Marie.

Resource Fair Featuring: Aunt Rita's Foundation, Downtown Phoenix Inc., Equality Arizona, one·n·ten, Phoenix Gay Flag Football League (PGFFL), Plumaje, Southwest Center for HIV & Aids, The Tea Phoenix and Trans Queer Pueblo.

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ABOUT COUNCILWOMAN YASSAMIN ANSARI

Ansari is the youngest woman ever elected in Phoenix City Council history and the first Iranian American elected to public office in the state of Arizona. Phoenix is the fifth largest and fastest-growing city in the United States. Ansari is determined to build sustainable, equitable communities that serve future generations.

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From: Office of Councilwoman Yassamin Ansari <PhoenixCityCouncil@phoenix.gov>

To: 245 recipients

Subject: Councilwoman Ansari, Chicanos Por La Causa Partner to Provide Free COVID-19 Protective Gear, Vaccinations and Bring City Resources to Maryvale on January 29

View this email as a webpage



Councilwoman Ansari, Chicanos Por La Causa Partner to Provide Free COVID-19 Protective Gear, Vaccinations and Bring City Resources to Maryvale on January 29

Phoenix, AZ — Councilwoman Yassamin Ansari, serving Phoenix City Council District 7, is partnering with Chicanos Por La Causa, Cartwright School District and Vincere Cancer Center to bring an all-inclusive pop-up clinic to Maryvale as they continue their critical work of combating the Omicron spike in Phoenix.

The “Cartwright Clinic,” happening Saturday, Jan. 29, 2022, from 11 a.m. to 3 p.m., will not only have testing and vaccination options for adults and children, but while residents wait in line, they can also talk to various city departments offering rent and utility relief, financial support and more.

Walk-ins are all welcome, but residents can also register by visiting:

<https://www.signupgenius.com/go/cartwrightelementarytesting> **153 clicks**

“Access to affordable rapid tests, KN95 masks and more continues to be a challenge across our city, state and country,” said Councilwoman Yassamin Ansari. “If you work your typical 9-5, this gets even harder. I want to remind folks of the resources available to them – and on their own time. I’m hoping this all-encompassing clinic will be able to achieve that,” she added.

Event: Cartwright Clinic: Vaccines, Resources & Free Combating COVID-19 Kits

What: COVID-19 Vaccination Event and City Resources Pop-up Clinic

Who: Councilwoman Yassamin Ansari, Chicanos Por La Causa, Cartwright School District and Vincere Cancer Center

When: January 29, 2022 | 11 A.M. – 3 P.M.

Where: 2825 N 59th Ave. Phoenix, AZ 85035 (Vaccinations will be offered at the cafeteria)

Sign-up link:

<https://www.signupgenius.com/go/cartwrightelementarytesting> **153 clicks**

Facebook event: <https://www.facebook.com/events/353414286599151> **1 click**

Media Contact:

Maria Lopez at maria.lopez@phoenix.gov [1 click](#) (623) 703-6830

Stephanie Barnes at stephanie.barnes@phoenix.gov (602) 316-0958

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ABOUT COUNCILWOMAN YASSAMIN ANSARI

Ansari is the youngest woman ever elected in Phoenix City Council history and the first Iranian American elected to public office in the state of Arizona. Phoenix is the fifth largest and fastest-growing city in the United States. Ansari is determined to build sustainable, equitable communities that serve future generations.

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From: Phoenix City Council District 8 <council.district.8@phoenix.gov>

To: 2069 recipients

Subject: District 8: Backpack Drive-Thru



District 8 Backpack Drive-Thru

Hello District 8!

As we speed towards the beginning of the school year, I invite families to join my office's Drive-Thru Backpack event this **Saturday, August 3rd from 9AM - 11AM** (or while supplies last) at Zion Institute (1522 E Southern Ave, Phoenix, AZ 85040). Students who start the school year with the supplies they need are more motivated, have higher self-esteem, and enjoy a better learning experience! To help students start their school year the best they can, drive through our event and pick up a **FREE** quality backpack with some essential school supplies that include a notebook, pencils, pens, folders, and more. **Children must be present to receive a backpack.**

Hope to see you this weekend!

Cheers,

Councilwoman Kesha Hodge Washington



Join our

BACKPACK DRIVE-THRU

School Supplies Included



**SATURDAY, AUGUST 3RD
9AM – 11AM WHILE SUPPLIES LAST
THE ZION INSTITUTE,
1522 E SOUTHERN AVE, PHOENIX, AZ 85040**

HOSTED BY:

