

The filing officer may set a response deadline not to exceed 30 calendar days. Upon request by the respondent and for good cause shown, the filing officer may grant a reasonable extension of the response deadline. The respondent must make the request to the filing officer in writing, and the filing officer must copy the complainant on the filing officer’s decision on the extension request.

---

### **3. Submitting a Reply**

Within ten business days after receiving a response, the filing officer will send the complainant a copy of the response and a letter that explains the opportunity for the complainant to submit a reply.

There is no prescribed format for replies and complainants are not required to file a reply. However, the reply is the complainant’s opportunity to address issues raised in the response and/or buttress the complaint’s original allegations. The reply may not raise new issues that were not addressed in the original complaint.

The filing officer may set a reply deadline not to exceed 14 calendar days. The filing officer may not take any action on the complaint or referral (other than dismiss the matter) until this time period has passed. Upon request by the complainant and for good cause shown, the filing officer may grant a reasonable extension of the reply deadline.

---

## **C. Decision by Filing Officer**

After the reply period (and any extension, if granted) has passed, the filing officer will evaluate the complaint, response, and reply (if any) to determine whether there is reasonable cause to believe a violation occurred. The filing officer should also consider any relevant campaign finance reports or documents on file with the filing officer and any other information available in the public record. The filing officer does not possess subpoena powers to compel production of evidence or attendance of witnesses concerning a potential campaign finance violation (nor may any party to the proceeding conduct discovery). However, the filing officer may request voluntary production of information to assist in evaluating the complaint or response. [A.R.S. § 16-938\(D\)](#).

---

### **1. Determining Whether a Violation Occurred**

A filing officer may take one of three courses of action: find reasonable cause, dismiss the matter, or find no reasonable cause.

#### ***a. Finding Reasonable Cause***

---

To refer a matter to an enforcement officer, a filing officer must find “reasonable cause to believe a person violated” campaign finance law. [A.R.S. § 16-938\(C\)](#). A reasonable cause finding is not a definitive finding that the respondent violated campaign finance law but simply means that the filing officer believes a violation may have occurred.

In determining whether there is reasonable cause, the standard of review is akin to “probable cause” to support the complainant’s allegations, which generally means there is reasonably

trustworthy information and circumstances that would lead a reasonable person to conclude there is substantial likelihood that the respondent committed a violation. *See In re Shaheen Tr.*, 236 Ariz. 498, 501, 341 P.3d 1169, 1172 (Ct. App. 2015); *State v. Keener*, 206 Ariz. 29, 32, 75 P.3d 119, 122 (Ct. App. 2003).

### **b. Dismissal of Complaint**

---

In their discretion, a filing officer may dismiss a matter that does not merit further use of government resources. The filing officer may take into account the following factors when deciding whether to dismiss a complaint:

- Whether there is a small dollar amount at issue;
- The insignificance of the alleged violation;
- The vagueness or weakness of the evidence;
- Whether the alleged violation has been remedied and not likely to be repeated; and
- Whether the alleged violation was unintentional.

If dismissal is warranted, the filing officer may send a letter cautioning or reminding the respondent regarding the relevant legal obligations going forward.

### **c. Finding No Reasonable Cause**

---

A filing officer should find “no reasonable cause” if a violation occurred when the complaint, response, and reply (if any), along with any publicly available information, taken together, fail to give rise to a reasonable inference that a violation has occurred (or even if the allegations were true, would not constitute a violation of the law).

## **2. Issuance and Notification of Decision**

---

A filing officer should issue a reasoned decision explaining the basis for the filing officer’s determination. Absent extenuating circumstances, a filing office shall render a decision within 150 days after the deadline for submitting a reply if a response was submitted, or within 150 days after the deadline for a response if no response was submitted. However, if the filing officer’s deadline to issue a decision falls within 30 days of an election in the filing officer’s jurisdiction, the decision shall be issued within 60 days after the election. The filing officer should keep the parties reasonably apprised of the projected decision timetable and shall notify all parties in writing of the decision.

If the filing officer dismisses the complaint or finds no reasonable cause, the matter is closed and no notification is given to the enforcement officer. A dismissal or finding of no reasonable cause are not considered appealable actions.

If the filing officer finds reasonable cause, the filing officer must notify the enforcement officer and provide all relevant documentation from the case:

- For matters investigated by the Secretary of State as filing officer, the Secretary must notify the Attorney General;

- For matters investigated by a county filing officer, the county filing officer must notify the county attorney; or
- For matters investigated by a city or town filing officer, the city or town filing officer must notify the city or town attorney.

[A.R.S. § 16-938\(C\)\(1\)-\(3\)](#).

If the filing officer determines there is reasonable cause to believe that knowing and intentional misrepresentations were made, the filing officer may refer the matter to the enforcement officer for possible criminal prosecution as well. [A.R.S. § 16-1021](#).

OCTOBER 1, 2021 SUBMISSION

## **CHAPTER 17: APPENDICES AND SAMPLE FORMS**

The sample forms contained in this manual are subject to revisions. Please contact the Secretary of State's Office, Election Services Division, for the most current version.

OCTOBER 1, 2021 SUBMISSION