

ADM. REG.

REVIEW

COMM.

MEMOS

STATE OF ALASKA
THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

LEGISLATIVE AFFAIRS AGENCY

January 20, 1977

Dear Members of the Administrative Regulation Review Committee:

Enclosed you will find summary of and comment on various regulations filed with the Lieutenant Governor between September 1 and December 1 of 1976, i.e., Registers 59 and 60. Not all regulations filed in that period were reviewed due to limitations of time. Instead, Senator Kerttula suggested that I concentrate on regulations promulgated by the following departments and agencies:

Department of Administration - programs concerning the aged;
Department of Health and Social Services - programs concerning the aged;
Department of Natural Resources - division of lands;
Department of Labor;
Department of Revenue;
Department of Education - student scholarships and loans;
Office of the Governor - Police Standards Council.

In the enclosed summaries and comments I tried out various formats, in an effort to find the most effective and workable mode of presentation of the information. Please be patient with the changes in form. I would appreciate any comments you have regarding the desirability of various ways of presenting the information.

Due the volume of regulations which are filed, it seems unlikely that I would have time to review them all. Therefore, I propose that the committee set some priorities in terms of what regulations I should review.

Regulations adopted or amended in Register 59 and 60 which I have yet to review are found in the following chapters:

Department of Fish and Game - Chapter 81. Hunting; Office of the Governor - Chapter 20. State Commission for Human Rights;

Department of Education - Chapter 6. Government of Schools;

Department of Fish and Game - Chapter 34. King Crab Fishery;

Department of Labor - Chapter 85. Employment Security;
Chapter 2. Banking;

Department of Education - Chapter 18. Employment of Professional Personnel; Chapter 32. Community Schools; Chapter 33. Special Programs;

Department of Health and Social Services - Chapter 29. Uniform Alcoholism and Intoxication Treatment;

Department of Labor - Chapter 30. Public Contracts;

Department of Natural Resources - Chapter 16. Historic, Prehistoric, and Archaeological Resources;

Department of Labor - Chapter 35. Oil and Gas Leases, Local Hire;

Department of Commerce - Chapter 95. Purchasing and New Construction Bidding Procedure; Chapter 52. Operation of Public Utilities;

Department of Fish and Game - Chapter 81. Hunting (feeding of game); Chapter 81. Hunting (small game hunting); Chapter 90. General Provisions (definition of Alyeska pipeline corridor);

Office of the Governor - Part 1. Elections, Chapter 7. Anchorage-Northwest (District 7); Chapter 8. Anchorage-Northeast (District 8); Chapter 9. Anchorage-Spenard (District 9); Chapter 10. Anchorage-East (District 10); Chapter 7. Anchorage-Northwest (District 7); Chapter 11. Anchorage-South (District 11); Chapter 12. Anchorage-West (District 12); Chapter 1. Ketchikan (District 1); Chapter 2. Wrangell-Petersburg (District 2); Chapter 3. Sitka (District 3); Chapter 13. Kenai-Cook Inlet (District 13); Chapter 18. Wade Hampton (District 18); Chapter 20. Fairbanks (District 20);

Department of Education - Chapter 5. Local Education;

Department of Fish and Game - Chapter 81. Hunting (Marine Mammals);

Department of Community and Regional Affairs - Chapter 30. State Aid to Local Governments;

Department of Natural Resources - Chapter 26. Alaska Royalty Oil and Gas Development Advisory Board;

Department of Commerce - Part 9. Alaska State Housing Authority. Chapter 96. Acquisition of Real Property and Improvements; Chapter 97. Disposition of Real Property; Chapter 98, Public Housing;

Of course, I am also available to review any regulations which are brought to the attention of committee members by constituents or the notice of proposed adoption, amendment, or repeal of regulations furnished each legislator pursuant to AS 44.62.190.

I hope the committee can provide me with some guidance concerning what it wishes me to do.

JG:smh

STATE OF ALASKA
THE LEGISLATURE

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LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

January 17, 1977

SUBJECT: Review of Regulations adopted by the Alaska Public
Offices Commission in Register 58, July 1976,
implementing and clarifying AS 15.13 and AS 39.50.

TO Administrative Regulation Review Committee

FROM: Jim McKenzie and Joe Guthrie

Format. This memorandum first summarizes the salient points of a regulation or series of regulations and then comments on possible inconsistencies between the regulation and legislative guidelines. If no comment appears, it is because no inconsistency was found in the regulation just summarized. Regulations of a "housekeeping" nature are not summarized. All italics are mine unless otherwise indicated. "Commission" means the Alaska Public Office Commission.

I. 6AAC 29.010 - 29.090. These regulations implement AS 39.50, the conflict of interest laws pertaining to public officials and candidates. The commission is charged with the duty of administering AS 39.50 under AS 39.50.050. That section also directs the commission to adopt regulations implementing and interpreting AS 39.50. Additional authority to adopt regulations is found under AS 15.13.030, defining the duties of the commission.

6AAC 29.010. Summary. Interprets AS 39.50.030(b)(1), which requires public officials and candidates to report the source of all income over \$100. The regulation provides that the reporting official is not required to list individual customers of a retail business which is conducted on a cash basis, though the business itself must be reported as a source of income. This amends an earlier regulation which required that not only the business be conducted on a cash basis in order to be exempted from the requirement to list individual customers, but also that the business be of a type which typically does not keep records of customers.

6AAC 29.020. Summary. Requires that reports of interests in real property include the nature of the interest held, the location of the property, and the current use of the property.

Comment. AS 39.50.030(b)(4) requires only that the identity and nature of each interest in real property be reported. "Identity"

would certainly include the location of the property, but it is questionable if "identity and nature of the interest" includes the current use of property. The statute might bear this interpretation, however, given the broad statement of purpose in AS 39.50.010(a)(1):

"To discourage public officials from acting upon a private or business interest in the performance of a public duty"

and in AS 39.50.010(b)(2):

"the public has a right to know the financial and business interests of persons who seek or hold public office."

6AAC 29.030. Summary. Interprets the statutory obligation to report information for members of an official's family "to the extent that it is ascertainable" to require an affirmative good faith effort to obtain the information as well as reporting all required information actually known.

6AAC 29.040. Summary. Requires all loans or indebtedness of \$500 or more made during the preceding calendar year to be reported.

6AAC 29.050. Summary. Exempts credit card obligations and retail charge accounts from reporting requirements.

Comment. No intent to distinguish between consumer credit and other loans is discernible in the statutes.

6AAC 29.060. Summary. Makes a public statement by an individual that he will seek public office equivalent to a declaration of candidacy for purposes of having to report financial and business interests.

Comment: This rule seems at variance with the statutory directive in AS 39.50.020, "Candidates for elective municipal office shall file such a statement at the time of filing a nominating petition, declaration of candidacy, or other required filing for the elective municipal office." A public statement by a write-in candidate is not a "filing" of any sort. The commission is, in effect, amending the statute to cover a situation which may have been inadvertently neglected.

6AAC 29.070 and 29.080. Summary, Defines "income" in AS 39.50 to include gross income under Section 61 of the Internal Revenue Code. Defines "controlling interest" in a corporation to mean ownership of more than 50% of the outstanding shares at any time during the year for which a report is being filed. Adopts the rules of constructive ownership in Section 318 of the Internal Revenue Code to determine ownership of a corporation's shares.

6AAC 29.090. Summary. Makes "municipalities" "instrumentalities of the state" for purposes of AS 39.50.

Comment: AS 39.50.200(5) defines "instrumentality of the state" as a state department or agency, whether in the legislative, judicial, or executive branch, including such entities as the University of Alaska and the Alaska State Housing Authority. If the term had been intended to include local agencies or governments, it seems there would have been some reference to them in the definition or examples given. It appears that the regulation is an unauthorized amendment of the statutory definition.

The term "instrumentality of the state" is used only once in AS 39.50. AS 39.50.030(b) provides:

"Each statement filed by a public official or candidate under this chapter shall include:...

7(a) a list of all contracts and offers to contract with the state, or an instrumentality of the state, during the preceding calendar year, held, bid, or offered by him...."

The regulation would probably be a legitimate definition of "instrumentality of the state" if it were not for the rather precise definition in AS 39.50.200(5).

II. 6AAC 29.310 - 29.920. These regulations implement AS 15.13, the laws governing the conduct of state and municipal election campaigns. The commission is authorized to adopt regulations necessary to implement and clarify the provisions of AS 15.13 in AS 15.13.030(10).

6AAC 29.310. Summary. Requires reports to be postmarked by the due date.

6AAC 29.320. Summary. Requires candidates and groups who must report contributions and expenditures to maintain records of all contributions received and expenditures made for a period of four years, to be available for inspection by the commission. Creates an exception to the above regulation for fund-raising events having 25 or more participants in which the price of a ticket does not exceed ten dollars. Directs that reporting of fund-raising events exempted under this regulation must include the number of contributing participants, the date and place of the event, a description of the fund-raising activities, and the cost of the event.

Comment: Such a regulation appears authorized both by the commission's general power to implement AS 15.13 and by AS 15.-

13.030(8), which empowers the commission to investigate reports, statements, and actions required by AS 15.13. The regulation does not appear to change statutory requirements of what must be reported, as distinguished from what must be recorded. One could argue, however, that the commission has no explicit authority to require records to be kept in any greater detail than what must be reported, but this would limit its ability to investigate the accuracy of reports.

6AAC 29.330. Summary. Requires commercial air transportation to be reported at actual cost. Sets mileage rates for reporting non-commercial air transport and transportation by motor vehicle. Exempts personal living expenses of the candidate and campaign workers from reporting requirements.

Comment: It is unclear if this regulation means to exempt the costs of campaign workers' living expenses paid by the candidate. If this is meant, it would seem to be an unauthorized amendment of the requirement in AS 15.13.040(a) that each candidate report all his expenditures. Clarification might be requested.

6AAC 29.340. Summary. Specifies what must be included in a report of an expenditure to an advertising agency.

6AAC 29.350. Summary. Defines "contribution" for purposes of AS 15.13 to include donated services where the services performed are the same kind of service for which the donor has received more than 25% of his income in any one of the three preceding calendar years. Directs that contributed professional services be valued at what the donor receives for that kind of services.

Comment: AS 15.13.130(2) provides in part that "contribution" includes services for which charge is ordinarily made, but does not include "services provided without compensation by individuals volunteering a portion or all of their time on behalf of a candidate or ballot proposition or question, but it does include professional services volunteered by individuals for which they ordinarily would be paid a fee or wage."

The regulation might conflict with the statute in that it appears to define "contribution" in such a way as to include some donated services not ordinarily considered to be professional, and to exclude some donated services which ordinarily are considered to be professional. An example of the former would be a person ordinarily employed as a telephone receptionist who answers phones at campaign headquarters for free. This person would be making a contribution under the regulation. The statute would seem to exempt such services because, although they are services "for which charge is ordinarily made," they come under the ex-

clusion for "services provided without compensation by individuals volunteering a portion or all of their time" and are not re-included as "professional services volunteered by individuals for which they ordinarily would be paid a fee or wage." This conflict is resolved if "professional services" is read to mean "whatever one does for a living, no matter how unskilled," but "professional services" usually denotes some level of skill not possessed by the population at large.

An example of the second possible conflict relates to the 25% figure. A licensed attorney might have earned very little income at the practice of law over a three year period. He might be principally employed in some other capacity. Assume that this attorney represents a candidate in litigation involving his candidacy for free. Under the statute this would be a contribution because it is a professional service volunteered by an individual for which he ordinarily would be paid a fee or wage. Such a service would not be a contribution under the regulation, however, because it is not the kind of service for which the donor has received more than 25% of his income in any of the three preceding years.

Another example of the second possible conflict is a person just starting out in a profession who donates professional services to a candidate. A newly admitted member of the bar might not have received any income for legal services in any of the "preceding three calendar years" but might be earning all of his income for legal services in the current calendar year. The statute would make the donation of legal services by such an individual a contribution. The regulation apparently would not.

The second possible conflict is resolved if the regulation is read as saying only which services will be included in the term "contribution" and as not addressing the question of what will not be considered. It seems likely, however, that a person reading the regulation would reasonably conclude that he would not be making a "contribution" so long as the service he was providing was of a kind for which he had not received more than 25% of his income in any of the preceding three years.

6AAC 29.360. Summary. Subsection (a) requires a municipality which seeks to influence the outcome of an election to report under AS 15.13 in the same manner as a group. Subsection (b) provides that all communications which are paid for by a municipality and which are related to an election are considered to be intended to influence the outcome of an election unless they are only notices of the election or are required by statute, charter, or ordinance. Subsection (c) requires the municipality to file with the commission a list of candidates and their

mailing addresses within seven days following the deadline for filing for municipal office.

Comment: Subsections (a) and (b) of this section implement a 1975 amendment to AS 15.13.010 which makes AS 15.13 applicable to "contributions, expenditures, and communications made by a...municipality... for the purpose of influencing the outcome of a ballot proposition or question as well as those made to influence the nomination or election of a candidate." The 1975 amendment neglected to change other sections of AS 15.13 to refer to municipalities, and some of the information required to be reported under that chapter is by its nature inapplicable to municipalities. Subsection (a), therefore, appears to be necessary to make sense of the 1975 amendment. Subsection (b) gives an extremely broad definition of what communications by a municipality will be considered as attempting to influence an election, but such a definition appears to be within the commission's authority given the vagueness of the statute on this point.

Subsection (c) may not be within the commission's authority. Presumably, it does not apply to municipalities which are not seeking to influence the outcome of an election, although subsection (c) refers only to "the municipality." Subsection (a) however, begins "When a municipality seeks to influence the outcome of an election ..."; so one may infer that "the municipality" in subsection (c) means the municipality which is attempting to influence an election. It might be wise, however, to ask the commission for clarification on this point.

If subsection (c) is intended to apply to all municipalities, it would appear to be an unauthorized extension of the commission's powers under AS 15.13. That chapter does not impose any reporting requirements on municipalities which are not seeking to influence the outcome of an election or ballot proposition. One could argue that requiring municipalities to file a list of candidates and their mailing addresses comes within the commission's power to compel the production of books and records in an investigation, AS 15.13.045(b). An unusually broad meaning would have to be given to "investigation," however, to include the routine filing of election information by municipalities.

If subsection (c) is meant to apply only to municipalities intending to influence an election, the commission is on somewhat firmer ground. These municipalities are required to file reports under AS 15.13. Since the statute does not specify what information a municipality must report, the commission has a duty to adopt regulations clarifying the matter. This it did in subsection (a) by directing that municipalities attempting to influence an election report in the same manner as a group. It then re-

phrased some particular items of information which groups must report so that these items would be applicable to municipalities. The information sought and the deadline imposed by subsection (c), however, has no statutory counterpart. It is not a mere translation of a "group" requirement to a "municipal" requirement. It appears to be an entirely new obligation that the commission lacks the authority to impose.

6AAC 29.370. Summary. Creates an exception to the requirement in AS 15.13.090 that campaign communications must be clearly identified by the words "paid for by" followed by the name of the candidate, group, or individual paying for the advertising. Permits small objects such as pens and buttons to omit such information provided that the advertisement is identified in a regular expenditure report to the commission.

Comment: While such an exception as this regulation creates might be desirable, it appears to be an unauthorized amendment to the plain meaning of AS 15.13.090.

6AAC 29.380. Summary. "EARLY CAMPAIGNING. A person shall comply with AS 15.13.100 by notification to the commission of his candidacy for a particular office if the filing period has not opened."

Comment: AS 15.13.100 provides:

"No political campaign expenditure may be made or incurred by a person in an election or by a person or group with his knowledge and on his behalf before the date upon which he or she files for nomination for the office which the person seeks, except for personal travel expenses or for opinion surveys or polls. These expenditures shall be charged against the spending limitation which applies to the office for which he subsequently files, and shall be included in the first report required under this chapter after filing for office."

The regulation appears to establish procedure for administering AS 15.13.100 by providing that the early campaigner notify the commission before the filing date so that the commission can monitor the candidate's expenditures for travel, opinion surveys and polls.

6AAC 29.450. Summary. Prescribes what information must be contained in a complaint; requires that complaints be in writing and signed by the complainant; and requires that the complainant's signature be notarized.

Comment: The requirement of notarizing the complainant's signature appears to subject the complainant to prosecution for perjury for

any knowing misrepresentations in the complaint. As 15.13.045 does give the commission power to administer oaths. However, the power is granted in a section dealing with the commission's investigatory powers. A complaint is ordinarily filed before an investigation is commenced, and there seems to be no statutory authority for requiring that it be made under oath. Such a requirement seems particularly inapt when one considers that a violation of AS 15.13, including submitting a false report, is a misdemeanor, punishable by imprisonment for no more than one year, or a fine of no more than \$5,000, AS 15.13.120. Perjury committed outside a court of justice is punishable by imprisonment for from one to five years, AS 11.30.020(c).

6AAC 29.460. Summary. Provides for a preliminary investigation if the commission determines that there is cause to credit the allegations in a complaint and for preliminary investigations on the commission's own motion. Requires the executive director to present results of preliminary investigations to the commission for findings.

6AAC 29.910. Summary. Provides that copies of any report required to be filed with the commission may be obtained at cost.

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Register 58, July 1976

GOVERNOR'S OFFICE

6 AAC 29.010

6 AAC 29.030

PART 1A. ALASKA PUBLIC OFFICES COMMISSION

CHAPTER 29. FINANCIAL AND CAMPAIGN DISCLOSURE

Article 1. Financial Disclosure

Section

- 10. Reporting sources of income for retail businesses
- 20. Reporting interests in real property
- 30. Reporting financial data of family members
- 40. Reporting loans and indebtedness
- 50. Retail charge accounts
- 60. Write-in candidates
- 70. Income
- 80. Controlling interest in corporation
- 90. Municipalities as instrumentalities of the state

6 AAC 29.010. REPORTING SOURCES OF INCOME FOR RETAIL BUSINESSES. For purposes of reporting sources of income over \$100 in accordance with AS 39.50.030(b)(1), the reporting official is not required to list individual customers of a retail business which is conducted on a cash basis. However, the business itself must be reported as a source of income. (Eff. 8/20/75, Reg. 55; am 5/16/76, Reg. 58)

Authority: AS 15.13.030(10)
AS 39.50.030(b)(1)

6 AAC 29.020. REPORTING INTERESTS IN REAL PROPERTY. The reporting of interests in real property shall include a description of the nature of interest held in the property, the location of the property, and the current use of the property. (Eff. 5/16/76, Reg. 58)

Authority: AS 15.13.030(10)
AS 39.50.030(b)(4)

6 AAC 29.030. REPORTING FINANCIAL DATA OF FAMILY MEMBERS. For purposes of AS 39.50.030(a), reporting of information for members of the official's family "to the extent that it is ascertainable" means an affirmative good faith effort to obtain the information and also requires reporting of all required information actually known. (Eff. 5/16/76, Reg. 58)

Authority: AS 15.13.030(10)
AS 39.50.030(a)

Register 58, July 1976

GOVERNOR'S OFFICE

6 AAC 29.040

6 AAC 29.090

6 AAC 29.040. LOANS AND INDEBTEDNESS. AS 39.50.030(b) (6) includes all loans or indebtedness of \$500 or more made during the preceding calendar year. (Eff. 5/16/76, Reg. 58)

Authority: AS 15.13.030(10)
AS 39.50.030(b) (6)

6 AAC 29.050. RETAIL CHARGE ACCOUNTS. For purposes of reporting liabilities under AS 39.50.030(a) and 030(b) (6), the reporting official is not required to report retail charge accounts, revolving charge accounts or credit card obligations. (Eff. 5/16/76, Reg. 58)

Authority: AS 15.13.030(10)
AS 39.50.030(a)
AS 39.50.030(b) (6)

6 AAC 29.060. WRITE-IN CANDIDATES. A public statement by an individual that he will seek elective municipal office constitutes a declaration of candidacy under AS 39.50.020. (Eff. 5/16/76, Reg. 58)

Authority: AS 15.13.030(10)
AS 39.50.020

6 AAC 29.070. INCOME. In this chapter and in AS 39.50, "income" includes gross income under §61 of the Internal Revenue Code (26 U. S. C. §61) in effect on May 16, 1976. (Eff. 5/16/76, Reg. 58)

Authority: AS 15.13.030(10)
AS 39.50.030(b) (1)

6 AAC 29.080. CONTROLLING INTEREST IN A CORPORATION. In AS 39.50.200(8), "controlling interest" in a corporation means ownership of more than 50 percent of the outstanding shares of a corporation at any time during the year for which a report is being filed. In this section, the rules of constructive ownership in §318 of the Internal Revenue Code (26 U. S. C. §318) in effect on May 16, 1976 will be used to determine ownership of a corporation's shares. (Eff. 5/16/76, Reg. 58)

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Authority: AS 15.13.030(10)
AS 39.50.200(8)

6 AAC 29.090. MUNICIPALITIES AS INSTRUMENTALITIES OF THE STATE. In AS 39.50.200(5), "instrumentality of the state" includes municipalities. (Eff. 5/16/76, Reg. 58)

Chapter 29. Financial and Campaign Disclosure

Article

2. Campaign Disclosure General Provisions
3. Complaints, Investigations, Accusations, and Hearings

Article 2. Campaign Disclosure General Provisions

Section

310. Filing
320. Record keeping requirements for candidates and groups
330. Contributions and expenditures for air travel
340. Expenditures to advertising agencies
350. Contribution of professional services
360. Municipalities
370. Identification of communications in certain instances
380. Early campaigning

6 AAC 29.310. FILING. All reports required to be filed under provisions of AS 15.13 shall be postmarked no later than the date due. All forms will be available at the central office, district offices, and appropriate municipalities. (Eff. 5/16/76, Reg. 58)

Authority AS 15.13.030(10)
AS 15.13.020(j) and (k)
AS 15.13.110(a)

6 AAC 29.320. RECORD KEEPING REQUIREMENTS FOR CANDIDATES AND GROUPS.
(a) Every candidate and group required to report contributions or expenditures under the provisions of AS 15.13 shall maintain detailed records of all contributions received and expenditures made.

(b) The requirement of (a) of this section does not apply to fund raising events which meet the following criteria:

- (1) there are 25 or more contributing participants;
- (2) the price of a ticket for the event does not exceed \$10.

(c) Each sale of three or more tickets for fund raising events exempted under (b) of this section must be recorded as required by (a) of this section.

(d) Reporting of fund raising events exempted under (b) of this section must include the number of contributing participants, the date and place of the event, a description of the fund raising activity, and the costs of the event.

(e) Each record required under this section shall be maintained by the candidate and may not be destroyed for a period of four years from the date of the contribution. They shall be available for inspection by the commission upon request of the commission. (Eff. 5/16/76, Reg. 58)

Authority: AS 15.13.030(10)
AS 15.13.040

6 AAC 29.330. CONTRIBUTIONS AND EXPENDITURES FOR AIR TRAVEL. (a) Contributions and expenditures for air transportation shall be reported at the actual cost of the commercial fare or charter, or at the rate of 15¢ per mile per passenger if commercial air transportation is not utilized.

(b) Contributions and expenditures for travel by motor vehicle shall be reported at 10¢ per mile.

(c) Personal living expenses of the candidate and campaign workers are not considered either as contributions or expenditures and need not be reported. (Eff. 5/16/76, Reg. 58)

Authority: AS 15.13.030(10)
AS 15.13.040

6 AAC 29.340. EXPENDITURES TO ADVERTISING AGENCIES. Whenever a required report includes an expenditure to an advertising agency, the report shall be accompanied by a statement detailing all services rendered, including the identity of each business from which advertisements were purchased or placed and the costs of the advertisement purchased. (Eff. 5/16/76, Reg. 58)

Authority: AS 15.13.030(10)
AS 15.13.040(f)

6 AAC 29.350. CONTRIBUTION OF PROFESSIONAL SERVICES. (a) A contribution as defined by AS 15.13.130(2) includes donated services where the services performed are the same kind of service for which the donor has received more than 25% of his income in any one of the preceding three calendar years.

(b) Contributed professional services shall be valued under AS 15.13-130(2)(A) at the amount which the donor receives for the kind of services contributed. (Eff. 5/16/76, Reg. 58)

Authority: AS 15.13.030(10)
AS 15.13.130(2)

6 AAC 29.360. MUNICIPALITIES. (a) When a municipality seeks to influence the outcome of an election, it shall report in the same manner as a group. For the purpose of complying with AS 15.13.040(b)(1)'s requirement to list the name and address of each officer and director, the municipality shall list the name and address of its mayor and of its council or assembly members. For the purpose of complying with AS 15.13.040(b)(1)'s requirement to list the name and address of its campaign treasurer, the municipality shall list the name and address of its finance director, controller, treasurer, or equivalent officer. For the source of contributions [AS 15.13.070(h)], the municipality shall list the particular fund from which the appropriation is made.

(b) All communications which are paid for by a municipality and which are related to an election are considered to be intended to influence the outcome of an election unless they are only notices of the election or unless they are required by statute, charter, or ordinance.

(c) The municipality shall file with the commission a list of candidates and their mailing addresses within seven days following the deadline for filing for municipal office. (Eff. 5/16/76, Reg. 58)

Authority: AS 15.13.010
AS 15.13.030(10)
AS 15.13.060
AS 15.13.090

6 AAC 29.370. IDENTIFICATION OF COMMUNICATIONS IN CERTAIN INSTANCES. If the size of an object utilized for a campaign advertisement is such that it is impractical to print the identification of the candidate, group, or person paying for the advertisement on the object, the advertisement shall instead be identified in a regular expenditure report to the commission. Objects considered too small for full identification include pencils, pens, and buttons. (Eff. 5/16/76, Reg. 58)

Authority: AS 15.13.030(10)
AS 15.13.090

6 AAC 29.380. EARLY CAMPAIGNING. A person shall comply with AS 15.-13.100 by notification to the commission of his candidacy for a particular office if the filing period has not opened. (Eff. 5/16/76, Reg. 58)

Authority: AS 15.13.030(10)
AS 15.13.100

Article 3. Campaign Disclosure Complaints and Investigations

Section

- 450. Complaints
- 460. Preliminary investigation

6 AAC 29.450. COMPLAINTS. (a) A complaint filed with the commission shall be in writing and shall contain the following:

- (1) the full name and mailing address of the person making the complaint;
- (2) the name of the person or group alleged to be in violation;
- (3) allegations of specific facts which, if true, would constitute a violation of AS 15.13 or of a provision of secs. 310-460 of this chapter;
- (4) the basis of complainant's knowledge of the alleged facts.

(b) The complaint shall be signed by the complainant and the signature shall be verified by a notary public, municipal clerk, court clerk, postmaster, or any person authorized to administer oaths. Notarial service

will be provided by the commission without cost. (Eff. 5/16/76, Reg. 58)

Authority: AS 15.13.030(10)
AS 15.13.045
AS 15.13.120(d)

6 AAC 29.460. PRELIMINARY INVESTIGATION. (a) If the commission determines that there is cause to credit the allegations in the complaint, a preliminary investigation will be conducted.

(b) The commission may, on its own motion, order a preliminary investigation of a possible violation of AS 15.13 or of a provision of secs. 310-460 of this chapter.

(c) The executive director of the commission will present the results of the preliminary investigation to the commission for a finding. (Eff. 5/16/76, Reg. 58)

Authority: AS 15.13.030(10)
AS 15.13.045(a)
AS 15.13.120(d)

Article 4. General Provisions

Section

- 910. Availability of reports filed with the commission
- 920. Definitions

6 AAC 29.910. AVAILABILITY OF REPORTS FILED WITH THE COMMISSION. Copies of any report required to be filed with the commission may be obtained at cost. (Eff. 5/16/76, Reg. 58)

Authority: AS 15.13.030(10)
AS 15.13.040(f)
AS 15.13.110(c)
AS 39.50.020(b)
AS 39.50.050(c)

6 AAC 29.920. DEFINITIONS. In this chapter, "commission" means the Alaska Public Offices Commission. (Eff. 5/16/76, Reg. 58)

Authority: AS 15.13.020(a)
AS 15.13.030(10)

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

January 18, 1977

Dear Member of the Regulation Review Committee:

The Alaska Police Standards Council in the Office of the Governor has amended 6 AAC 70.020, 6 AAC 70.040, and 6 AAC 70.080. These regulations concern certification of police officers.

6 AAC 70.020 is amended so as to permit a police department to employ a person who has not acquired a basic certificate longer than the twelve months otherwise allowed, if the chief of the department states in writing that there is an exceptional lack of personnel.

6 AAC 70.040 is amended by creating standards for the award of intermediate and advanced certificates of police proficiency. Certificates are awarded for experience, education, and training and various combinations of points being sufficient for an award. The value of these intermediate and advanced certificates is not apparent from the regulations or the statutes, but they do not appear to be particularly out of conformity with legislative intent, either.

6 AAC 70.080 adds "sex" to those factors which may not serve as bases for discrimination in the construction or application of 6 AAC 70.

GOVERNOR'S OFFICE

PART 4. ALASKA POLICE STANDARDS COUNCIL

Register 59, October, 19766 AAC 70.020
6 AAC 70.040
~~6 AAC 70.080~~

6 AAC 70.020 is amended by adding a new provision as (b) (3) and renumbering existing (b) (3) as (b) (4).

(3) upon written application of the chief of police due to an exceptional lack of personnel, the council grants an extension of the probationary period for a police officer who cannot meet the requirements of the Act. An extension based on exceptional lack of personnel may not exceed six months at a time. Additional extensions may be granted upon request and proper documentation. (Eff. 8/10/73, Register 47, am 9/17/76, Register 59)

Authority: AS 18.65.220
AS 18.65.240

6 AAC 70.040 is amended as follows: BASIC, INTERMEDIATE AND ADVANCED CERTIFICATES. (a) The council will issue basic, intermediate and advanced certificates to police officers meeting prescribed standards of training, education and experience.

(1) To be eligible for the award of a certificate, each applicant shall:

(A) be a full time paid police officer and a member of a law enforcement unit located within the State of Alaska;

(B) attest that he subscribes to the Law Enforcement Code of Ethics;

(C) meet the minimum standards prescribed by section 10 of this chapter;

(D) meet the additional requirements for the level of certification sought.

(2) In addition to the requirements set forth in subsection (a) (1), each applicant for a basic certificate shall:

(A) have completed a probationary period of not less than 12 months with his present department, and

(B) have successfully completed the required basic training, or the equivalent as determined by the council.

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6 AAC 70.040

(3) In addition to the requirements set forth in subsection (a) (1), each applicant for an intermediate certification shall:

(A) possess or be eligible to possess a basic certificate, and

(B) have acquired the following combination of education and training points in conjunction with the prescribed years of law enforcement experience:

Minimum Training Points, Including APSC Basic Course (Equivalent Hours)	15 (300)	23 (460)	30 (600)	38 (760)	45 (900)	APSC Basic Course	APSC Basic Course
Minimum Education Points, in college Credit Hours	15	23	30	38	45	AA or AS Degree	BA or BS Degree
Years of Law Enforce- ment Experience	8	7	6	5	4	4	2

(4) In addition to the requirements set forth in subsection (a) (1), each applicant for an advanced certificate shall:

(A) possess or be eligible to possess a basic certificate and

(B) have acquired the following combination of education and training points in conjunction with the prescribed years of law enforcement experience:

Minimum Training Points, Including APSC Basic Course (Equivalent Hours)	30 (600)	35 (700)	40 (800)	45 (900)	APSC Basic Course	APSC Basic Course	Basic Course
Minimum Education Points, in college Credit Hours	30	35	40	45	AA or AS Degree	BA or BS Degree	Masters Degree

Years of Law Enforcement	12	11	10	9	9	6	4
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(C) or, in lieu of the requirements in (a) (4) (B), the council may issue an advanced certificate, upon application, to each applicant who has acquired 12 combined education and training points and 20 years of law enforcement experience, or 30 combined education and training points and 15 years experience; provided that the last 5 years of law enforcement experience shall have been in a supervisory position or above. A supervisory position is one occupied by a police officer with supervisory or command responsibilities where he directly supervises or commands full-time employees of a law enforcement unit.

(5) Education points are awarded on the following basis:

(A) One quarter term unit of college credit shall equal one education point.

(B) One semester term unit of college credit shall equal one and one-half education points.

(6) Twenty classroom hours of police approved training shall equal one training point.

(A) Advanced, supervisory, middle management, executive, or specialized courses certified by the council will be approved towards training points.

(B) For the purpose of certification above the basic level, the council may approve in-service training which is recorded and documented by the trainee's department. These records must confirm successful completion and must include the subject, classroom hours, time and date.

(7) When college credit is awarded for law enforcement related subjects, it may be counted for either training points or education points.

(8) Education and training must be supported by copies of transcripts, certificates, diplomas, or other verifying documents attached to the application.

(9) The acceptability of law enforcement experience shall be determined by the council. Law enforcement experience acquired in a police agency whose standards are lower than those required by the provisions of sections (10) and (40) may be rejected.

(b) All applications for the award of the basic, intermediate or advanced certificate shall be completed on the prescribed council form entitled "Application for Award of Certificate".

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6 AAC 70.080

(c) The council may revoke the certification of a person, under the Administrative Procedures Act (AS 44.62) upon a finding that the holder falsified information required for eligibility for a certificate or upon a finding that the holder has been discharged for cause from employment as a law enforcement officer by a police agency in this state or any other jurisdiction.

(d) A basic, intermediate or advanced certificate lapses if the holder is not employed as a law enforcement officer with a police agency in this state, or any other jurisdiction, for a period of 12 consecutive months.

(e) The holder of a basic, intermediate or advanced certificate shall return his certificate to the council upon the revocation of his certificate.

(f) A police officer may have a lapsed certificate reinstated upon the satisfactory completion of a probationary period of 12 months employment as a police officer with a participating police department and upon the successful completion of any supplemental and remedial training and education which the council determines is necessary for him to meet current standards of police officers in the state.

(Eff. 8/10/73, Register 47, am⁹/17/76, Register 59)

Authority: AS 18.65.220
AS 18.65.240

6 AAC 70.080 is amended as follows; DISCRIMINATION PROHIBITED.
No regulation in this chapter may be construed or applied in such a manner as to permit the disqualification of or unlawful discrimination against an applicant for a certificate, or for employment as a police officer based on the applicant's race, color, creed, sex, ethnic origin, religious or political affiliation, or religious or political beliefs.

(Eff. 8/10/73, Register 47, am⁹/17/76, Register 59)

Authority: AS 18.65.220
AS 18.65.240

STATE OF ALASKA THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

November 5, 1976

Dear Members of the Regulation Review Committee:

The following is a summary of the attached regulations, with indications of possible lack of conformity with legislative intent where necessary.

The Department of Administration has adopted, or made amendments to those regulations listed below. Possible deviations from legislative intent are indicated with an asterick to the left of the entry, and in such cases the regulation is discussed with reference to the statute being interpreted or implemented. The department held no public hearings before adopting these regulations. Notice of proposed regulations appeared in newspapers in Anchorage, Juneau, and Fairbanks.

2AAC 15.020 This regulation was amended so as to delete material which essentially restated the substance of AS 37.05.230(2).

2AAC 15.030 Amendment changed reference to "division of supply" to "division of general services and supply."

2AAC 15.040 Regulation was amended so as to correct deficences in form. No substantive change was effected.

2AAC 15.050 Amendment changed reference to the "division of supply" to the "division general services and supply;" also effectuated other changes in form.

2AAC 15.070. Amendment to this regulation amounted to a rewriting. No substitutive changes were effected.

2AAC 15.120. Amendment amounted to rewriting. No substantive changes effected. .

ARCO

Attachment "A"

Register 59 October 1976 ADMINISTRATION

2 AAC 15.020
2 AAC 15.030
2 AAC 15.040

CHAPTER 15. PURCHASING

Section

- 10. (Repealed)
- 20. Sealed bids
- 30. Bid list
- 40. Rejection of bids
- 50. Late bids
- 60. Awards
- 70. Tie bids
- 80. (Repealed)
- 90. Bid award
- 100. Aggrieved bidder
- 110. (Repealed)
- 120. Definitions

2 AAC 15.010. COMPETITIVE BIDS. Repealed (Eff. 9/24/76, Reg. 59)

2 AAC 15.020. SEALED BIDS. (a) When sealed bids are invited, all invitations for bid will contain information as to where the necessary bid forms or additional information may be obtained.

(b) Sealed bids will be opened in public at the hour stated in the notice. (Eff. 9/24/76, Reg. 59)

12/4/72, Reg. 44; am

Authority: AS 37.05.020
AS 37.05.230(2)

2 AAC 15.030. BID LIST. (a) Bid lists are maintained by the division of general services and supply according to commodity classifications. The list is continually updated and all vendors are encouraged to make application to have their names included. Bid circulation is usually restricted to vendors within the state if the required goods or services are available through them and adequate competition exists.

(b) This bid list will periodically be purged to remove the names of vendors who continually ignore acknowledgement of the Invitation to Bid. Three successive failures to acknowledge will be reason for removal. (Eff. 9/24/76, Reg. 59)

12/4/72; Reg. 44; am

Authority: AS 37.05.020

2 AAC 15.040. REJECTION OF BIDS. (a) A bid will be rejected when

(1) the bid contains a material alteration or erasure which is not initialed by the signer of the bid;

(2) the bidder qualifies or changes the terms or conditions of the invitation to bid; or

(3) the bid is considered late under Sec. 50 of this chapter, having been received after the time for opening.

(b) A bid will, in the discretion of the department, be rejected when

- (1) the bidder is in arrears on taxes due the state;
- (2) the bidder has failed to perform on a previous contract with the state; :
- (3) the bid is not signed; or .
- (4) the bidder fails to furnish bid or surety bonds, plans, specifications, samples, etc., when such was specifically called for in the Invitation to Bid. (Eff. ^{9/26/76} 12/14/72, Reg. 59)

12/14/72, Reg. 44; am'd

Authority: AS 37.05.020
AS 37.05.240

2 AAC 15.050. LATE BIDS. (a) It is the responsibility of the bidder to insure that his bid is in the proper office of the division of general services and supply before the scheduled bid opening time.

(b) Bids received after the scheduled opening time are defined as late bids. A postmark, indicating the mailing was in advance of the bid opening time has no bearing except as is provided for in (c) of this section.

(c) A bidder who is concerned that his bid will not be received timely may reserve the right to have his bid read if

(1) in advance of the scheduled opening time, he gives telegraphic or other form of written notice to the office opening the bid that his bid is in the mail;

(2) the envelope containing his bid bears a postmark no later than the morning of the day of opening. (Eff. ^{9/26/76} 12/14/72, Reg. 59)

Reg. 44; am 9/26/76

Authority: AS 37.05.020
AS 37.05.230

2 AAC 15.070. TIE BIDS. (a) When two or more bidders are tied, each of whom fully meets the bid conditions, awards shall be made as follows, and in the order listed:

(1) tie bids involving Alaska firms with non-Alaska firms, after taking into consideration the five percent Alaska bidders' preference, shall be made to the Alaska firm;

(2) tie bids involving Alaska produced or manufactured products shall be resolved in favor of the local commodity.

(b) If there is no other basis for choosing which bidder should be awarded a contract, lots may be drawn. When feasible, the drawing will be in the presence of the bidders involved. (Eff. 9/26/76, Reg. 59)

12/4/72, Reg. 44; am

Authority: AS 36.15.010
AS 36.20.010
AS 37.05.020
AS 37.05.230

2 AAC 15.080 ALASKA BIDDER PREFERENCE, AS 37.05.230
A Repealed. (Eff. 9/26/76, Reg. 59)

2 AAC 15.120. DEFINITIONS. Unless the context indicates otherwise, in this chapter

(1) "commissioner" means the Commissioner of Administration;

(2) "department" means the Department of Administration;

(3) "purchasing agent" means the Department of Administration. (Eff. 9/26/76, Reg. 59)

12/4/72, Reg. 44; am

Authority: AS 37.05.020
AS 37.05.220

2 AAC 15.110 RECORDS. Repealed. (Eff. 9/26/76, Reg. 59)