

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA
THIRD JUDICIAL DISTRICT AT ANCHORAGE

JENNY-MARIE STRYKER, and)
)
ALAKA DEMOCRATIC PARTY,)
)
Appellants,)
v.)
)
NANCY DAHLSTROM, in her official)
Capacity as Lieutenant Governor of the)
State of Alaska,)
)
CAROL BEECHER, in her official)
Capacity as the Director of Elections for the)
Division of Elections for the State of)
Alaska, and)
)
STATE OF ALASKA, DIVISION OF)
ELECTIONS)
)
Appellees.)
_____)

Case No. 3AN-26-07680CI

DECISION AND ORDER

Introduction

Public office is a public trust, and the public has a right to know the financial and business interests of those who seek to hold public office.¹ The Legislature established disclosure requirements to protect this right, to develop public confidence in persons seeking public office, to

¹ AS 39.50.010(b)(1), (2).

develop accountability in government by permitting “public access to information necessary to judge the credentials and performance of those who seek and hold public office,” and to protect the public’s right to have public officials perform their official duties free from personal or business interests.² Accordingly, candidates for public office must file a statement that provides “an accurate representation of the[ir] financial affairs”.³ Generally, the law requires candidates to disclose information about their income sources and business interests, and imposes graduated penalties for violations, including civil penalties, criminal penalties, and even forfeiture.⁴

Alaska Statute 39.50.060(b) provides:

In the case of elected officials, the lieutenant governor, or other certifying authority, may not certify a person's nomination for office or the person's election to office if compliance was not made within the time required. The nomination to office or election to office shall be certified to the highest vote getter for that nomination for that office or election to that office who has complied within the times required and who shall be declared nominated or elected. For purposes of this subsection, a person is considered to have complied within the time required if the person complies within 30 days after the due date established by this chapter.^[5]

A candidate who files a disclosure statement that substantially complies with AS 39.50 does not forfeit nomination or election.⁶ In addition, candidates who file a disclosure statement that does not substantially comply with AS 39.50 have a grace period of 30 days following the filing deadline to cure any defects before being subject to forfeiture.⁷ Strict compliance with the substantive requirements of AS 39.50 is not required to avoid forfeiture, but strict compliance with the filing

² AS 39.50.010(a)(1)-(4).

³ AS 39.50.030(a).

⁴ AS 39.50.010; AS 39.50.010-200.

⁵ AS 39.50.060(b).

⁶ *Grimm v. Wagoner*, 77 P.3d 423, 434 (Alaska 2003).

⁷ AS 39.50.060(b).

deadlines is.⁸ “[P]re-election reports provide the electorate with information that may affect its decision.”⁹ When a candidate files a disclosure statement that does not substantially comply with their disclosure responsibilities, and when they fail to cure the defects within the grace period established by law, that candidate forfeits their right to have their nomination certified and to appear on the general election ballot, or to have their election certified.¹⁰

In this case, Jose Tagle Jr. filed a POFD that disclosed no income sources or business interests. He made no effort to comply with his disclosure obligations until after the grace period expired. The Alaska Public Offices Commission (“APOC” or “the Commission”) gave Tagle notice of a hearing to consider his alleged noncompliance; he did not respond or appear at the Commission’s meeting in response to the notice. The Commission issued a final decision shortly after the primary election in which it determined that he did not substantially comply with AS 39.50 within the deadline established by law, and recommended that the Division of Elections (“Division”) not certify Tagle’s nomination. The Lieutenant Governor initially adopted APOC’s recommendation and notified Tagle that his nomination would not be certified and that he would not appear on the ballot. Days later, the Lieutenant Governor reversed her decision and certified Tagle’s nomination. The reasons proffered for this reversal have evolved.

As explained in this order, the Commission’s August 28, 2026 decision finding that Tagle failed to substantially comply with AS 39.50 was a final order, and the Lieutenant Governor erred by certifying Tagle’s nomination and placing him on the general election ballot. The court reverses the

⁸ AS 39.50.060(b); *Grimm*, 77 P.3d at 430-36.

⁹ *Cf. State v. Marshall*, 633 P.2d 227, 234-35 (Alaska 1981).

¹⁰ AS 39.50.060(b).

certification of Tagle’s nomination and orders the Division to notify Tagle of his disqualification and right to appeal, but does not require that ballots be reprinted.

Facts and Proceedings

A. Initial Appeal

On June 1, 2026, Mr. Jose Roel Antonio Tagle, Jr. (“Tagle”) filed a declaration of candidacy for Alaska House District 22.¹¹ Tagle submitted a Public Official Financial Disclosure Form (“POFD”) alongside his declaration of candidacy and filing fee.¹² The POFD listed no income sources, business interests, loans, debts, leases, close economic associations, or lobbyist partner employers, but did list a spouse and two children.¹³

The Division verified Tagle’s declaration and his current residency for the House district, confirmed that Tagle’s POFD was on file with APOC, but took no further steps to review the POFD’s accuracy.¹⁴ Tagle’s candidacy was confirmed that same day.¹⁵

On June 5, 2026 Appellants filed a candidate eligibility complaint challenging Tagle’s candidacy.¹⁶ The complaint argued that Tagle was ineligible for nomination and should not have been certified as a candidate because he filed an inaccurate POFD.¹⁷ On June 8, 2026, the Division’s

¹¹ Decision on Appeal (“Decision”), 2 (entered 08/12/2026).

¹² Decision at 2; R. 153-54.

¹³ Decision at 2; R. 153-54.

¹⁴ Decision at 2.

¹⁵ Decision at 2.

¹⁶ Decision at 2; R. 39-42.

¹⁷ Decision at 2; Appellant’s Excerpt of Record (“At. Exc.”), 17-18 (filed 07/09/2026).

Election Program Manager sent an email to APOC inquiring about Tagle’s POFD.¹⁸ The email asserted that Tagle’s POFD appeared to be blank and asked APOC whether “something was wrong” with it.¹⁹ APOC confirmed the statement was the only recent statement filed by Tagle, and attached the full form.²⁰ The full form listed no financial details.²¹

On June 19, 2026, the Division issued a final decision, dismissing Appellants’ complaint.²² Citing 6 AAC 25.260(c), the Division concluded that the grounds cited in the complaint by Appellants were “beyond the scope” of its eligibility review.²³ The Division concluded that it could not consider the complaint’s allegations of failure to disclose business interests and income sources because APOC has authority over statements required by AS 39.50, and the Division’s authority was limited to determine whether a statement was timely filed, not whether it was accurate.²⁴ The Division served Tagle with a copy of the decision.²⁵

Appellants appealed the dismissal to the superior court on July 9, 2026.²⁶ On August 12, 2026, this court affirmed the Division’s decision dismissing Appellants’ complaint challenging the certification of Tagle’s candidacy.²⁷ This court concluded that “APOC has exclusive initial authority to investigate and determine substantive compliance with the POFD requirements, while the Division’s eligibility review under 6 AAC 25.260 remains limited to qualifications addressed in the declaration of candidacy, and the Division is not required to investigate a candidate’s initial POFD’s

¹⁸ Decision at 3; At. Exc. 21-22.

¹⁹ Decision at 3; At. Exc. 21-22.

²⁰ Decision at 3; At. Exc. 21-22.

²¹ Decision at 3; At. Exc. 23.

²² Decision at 3; At. Exc. 24-25; R. 43-44.

²³ Decision at 3; At. Exc. 24; R. 43.

²⁴ Decision at 3; At. Exc. 12; R. 43.

²⁵ At. Exc. 24.

²⁶ Decision at 4; Notice of Appeal (filed 06/30/2026).

²⁷ Order Reopening Appeal (“Ord.”), 1 (entered 09/22/2026); Decision at 1.

substantive compliance with AS 39.50 upon administrative complaint.”²⁸ And this court agreed with the Division’s argument that “only after the grace period [established in AS 39.50.060(b)] lapses and after APOC determines that the candidate did not substantially comply with the financial disclosure laws would [Tagle] become ineligible [for] office.”²⁹ This court ruled, in addition, that the Division did not err in dismissing Appellant’s complaint because, at the time Appellants filed their complaint, Tagle still had time to cure the apparent violations in his POFD before being subject to the forfeiture mandated by AS 39.50.060(b).³⁰

In affirming the Division, this court noted that under AS 39.50.060(b), the Lieutenant Governor “or other certifying authority” “may not certify a person’s nomination or election to office if the person has not complied with AS 39.50 within 30 days of the filing deadline.”³¹ The court’s ruling recognized that even in situations where APOC fails to investigate a complaint of a candidate’s violation of the POFD requirements, or fails to recommend forfeiture of nomination or certification for candidates who fail to substantially comply with their POFD requirements within the grace period, an interested person could file a civil action under AS 39.50.100(a) to enforce AS 39.50.060(b)’s mandatory forfeiture provision.³²

²⁸ Ord. at 2; Decision at 22.

²⁹ Ord. at 2; Decision at 14.

³⁰ Ord. at 2; Decision at 15, 22.

³¹ Ord. at 3; Decision at 22; AS 39.50.060(b).

³² Ord. at 2-3; Decision at 22-23.

B. APOC Investigation and Proceedings

While this appeal was pending, APOC took action in response to Tagle's POFD filing. On July 8, 2026, APOC sent Tagle an email requesting that he amend his POFD.³³ On July 15, 2026, APOC sent Tagle a follow-up letter to the July 8, 2026 email.³⁴ The letter was sent by regular and certified mail as well as to Tagle's email and stated that Tagle's POFD failed to "show any business or financial interests, at all, for calendar year 2025" despite public records to the contrary, and warned Tagle that failure to comply could result in APOC's recommendation of forfeiture.³⁵ APOC's letter set a compliance date of no later than 5 p.m. on July 22, 2026.³⁶ On July 23, 2026, after discovering an error in the physical address to which the July 15, 2026 letter was sent, APOC sent a final follow-up letter to multiple physical addresses and by email.³⁷ The letter set a hard deadline for Tagle to update his POFD of no later than 5 p.m. on July 30, 2026.³⁸

On August 6, 2026, Appellants filed a complaint with APOC regarding Tagle's POFD.³⁹ On August 8, 2026 Tagle amended his POFD statement, adding some financial information; the amendment description stated "[w]hen initially filed, there was a glitch in all my saved history was not saved."⁴⁰ On August 12, 2026, APOC sent Tagle a Commission Meeting Notice by certified and regular mail to multiple physical addresses and two email addresses; the notice informed Tagle that APOC would review his 2026 POFD and provided the date, time, and place of the meeting, as well

³³ R. 45-47, 145; *see* 2 AAC 50.850(h). The notice was not sent until after the candidate withdrawal deadline. AS 15.25.055; AS 15.25.020.

³⁴ R. 48-50, 145.

³⁵ R. 48-50, 145.

³⁶ R. 49. The compliance date was outside of the grace period established by AS 39.50.060(b).

³⁷ R. 51-53, 145.

³⁸ R. 51-53.

³⁹ R. 94, 146.

⁴⁰ R. 151, 155.

as how to participate by telephone or through Microsoft Teams.⁴¹ Attached to the notice was a memorandum detailing the allegation against Tagle that he had failed to substantially comply with AS 39.50 within the deadline established by AS 39.50.060(b).⁴²

On August 16, 2026, Tagle again amended his POFD statement, adding more information and an amendment description that additional information would be forthcoming regarding debts and property interests.⁴³ Alaska’s 2026 primary election was held August 18, 2026.⁴⁴

On August 26, 2026 the Commission reviewed Tagle’s POFD compliance in a meeting.⁴⁵ The Appellant’s complaint was acknowledged on the record but not considered as it had not been formally investigated.⁴⁶ Tagle did not attend or otherwise participate in the meeting.⁴⁷ On August 27, 2026, the Commission issued a unanimous Recommendation on Certification, finding that Tagle’s 2026 POFD did not substantially comply with AS 39.50 within “30 days after the due date.”⁴⁸ Citing AS 39.50.060(b) and 2 AAC 50.580(h), the Commission recommended that the Lieutenant Governor not certify Tagle’s nomination for the office of State Representative for District 22.⁴⁹ The recommendation stated that the Commission would issue “a full written order explaining [its]

⁴¹ R. 54, 147.

⁴² R. 36-38, 54.

⁴³ R. 157-60.

⁴⁴ AS 15.25.020.

⁴⁵ R. 72-129. APOC commissioners’ decision to recommend not certifying Tagle was made on a unanimous, 5-0 vote. R. 152.

⁴⁶ R. 94-95, 102-03, 146.

⁴⁷ R. 147.

⁴⁸ R. 141.

⁴⁹ R. 141.

reasoning” by August 31, 2026.⁵⁰ The order was distributed to Tagle at multiple physical and email addresses, as well as to the Lieutenant Governor and the Division of Elections.⁵¹

On August 28, 2026, the Commission issued a nine-page full order setting forth its reasoning for why Tagle did not comply with AS 39.50 within the 30-day statutory grace period.⁵² The order made factual findings concerning Tagle’s initial POFD that failed to disclose any income or interests, the efforts of APOC staff to communicate with Tagle, and Tagle’s nonresponse.⁵³ The order found that Tagle amended his POFD with some information on August 8, 2026 and that his amendment description raised the possibility of a “glitch” in the filing system.⁵⁴ The order found that Tagle amended his POFD again on August 16, 2026, and that the amended description described additional undisclosed debts and property interests.⁵⁵ The order found that APOC provided notice to Tagle of the August 12, 2026 meeting and that Tagle failed to appear.⁵⁶

In its analysis, the Commission found that under AS 39.50.060(b)’s 30-day grace period Tagle could have amended his POFD by July 1, 2026, and that he did not amend his POFD or contact staff by July 1, 2026.⁵⁷ The Commission found that by reporting no income sources or business interests by July 1, 2026, Tagle failed to substantially comply with AS 39.50 by the July 1 deadline.⁵⁸ In making this finding, the Commission considered Tagle’s amendments and information from the State of Alaska Corporations database and determined that he had multiple business interests and income

⁵⁰ R. 141.

⁵¹ R. 142.

⁵² R. 143-51.

⁵³ R. 144-46.

⁵⁴ R. 146.

⁵⁵ R. 146.

⁵⁶ R. 147.

⁵⁷ R. 149.

⁵⁸ R. 150.

sources that he was required to disclose by July 1.⁵⁹ The Commission rejected Tagle’s purported explanation of a “glitch”, finding that Tagle was an experienced filer, received notice of the POFD deficiencies through the Division of Elections during the statutory grace period, and that staff could not find error logs that corroborated Tagle’s claim of a “glitch.”⁶⁰

Accordingly, the Commission recommended that the Lieutenant Governor “not certify Tagle’s nomination” for the office of State Representative for District 22 “if Mr. Tagle advances from the primary.”⁶¹ The order was distributed to Tagle at multiple physical and email addresses, as well as to the Lieutenant Governor and the Division of Elections.⁶² Neither the August 27, 2026 order nor the August 28, 2026 order notified Tagle of a right to appeal the decision to the superior court.⁶³

On August 29, 2026, Lieutenant Governor Nancy Dahlstrom sent Tagle a letter by email notifying him of the Commission’s recommendation, of the need to finalize the general election ballot, and inviting him to submit any additional information by 8 a.m. on August 31, 2026.⁶⁴ On August 31, 2026, the Lieutenant Governor issued a letter to Tagle notifying him that, after reviewing the Commission’s findings and the statutory and regulatory framework, she was adopting the Commission’s recommendation and that the Division would not certify his nomination.⁶⁵

On September 4, 2026, the Lieutenant Governor issued another letter to Tagle, reversing her decision.⁶⁶ The letter explained that Department of Law had conducted limited, expedited, preliminary

⁵⁹ R. 150-51.

⁶⁰ R. 151.

⁶¹ R. 151.

⁶² R. 152.

⁶³ R. 151; *compare with* R. 44 (“This determination is a final decision . . . and you have 30 days from the date of this decision to appeal to the superior court.”).

⁶⁴ R. 163.

⁶⁵ R. 164-65.

⁶⁶ R. 244-45.

review of all candidates certified for the general election and that “many candidates’ POFDs may not fully comply with AS 39.50.”⁶⁷ The letter opined that singling Tagle and two other candidates for scrutiny might render the Commission’s recommendation arbitrary and capricious, and rejected the Commission’s recommendation.⁶⁸ The Division certified Tagle’s nomination, finalized ballots, and sent them to the printer.⁶⁹

C. Appellants’ Amended Appeal

Appellants responded by asking this court to enforce its August 12, 2026 decision.⁷⁰ The Division opposed, arguing that there was nothing for this court to enforce, and that Appellants should file a new administrative appeal of the Division’s certification of Tagle’s nomination or a civil action under AS 39.50.100(a).⁷¹ On September 22, 2026 the court denied Appellants’ request for immediate relief, concluding that the Division’s reversal of its decision to not certify Tagle’s nomination is a different decision than the initial decision appealed to this court (to certify Tagle as a candidate), and the decision now challenged was based on events subsequent to Appellants’ initial complaint.⁷² But the court reopened Appellants’ administrative appeal and permitted Appellants to file an amended notice of appeal.⁷³

On September 23, 2026 Appellants filed an Amended Notice of Appeal from the Lieutenant Governor’s September 4, 2026 reversal of her August 31, 2026 decision directing the Division not to

⁶⁷ R. 244.

⁶⁸ R. 245.

⁶⁹ Second Affidavit of Carol Beecher (filed 9/10/2026).

⁷⁰ Motion to Enforce Decision on Appeal, 2 (filed 09/08/2026); Decision at 22.

⁷¹ Opposition to Motion to Enforce Decision on Appeal, Ex. 3, 4 (filed 09/14/2026).

⁷² Ord. at 5-7.

⁷³ Ord. at 7.

certify Tagle's candidacy for House District 22.⁷⁴ On October 1, 2026 the Appellants filed an Amended Opening Brief.⁷⁵ On October 6, 2026, Appellees filed their brief.⁷⁶ Appellants replied.⁷⁷ On October 9, 2026 the court held oral argument.⁷⁸

Appellants' briefing raises three main arguments. First, Appellants argue that the Lieutenant Governor violated AS 39.50.060(b) by reversing her decision not to certify Tagle's nomination.⁷⁹ Second, Appellants argue that the Division not only erred by printing and distributing ballots bearing Tagle's name, but the manner in which it did so violated due process.⁸⁰ Third, Appellants argue that Appellees are estopped from arguing the Division could independently determine Tagle's compliance with AS 39.50 and his eligibility as a candidate.⁸¹ Appellants ask the court to enjoin the Division from certifying Tagle and installing him in office, and to conclude that the Division violated Alaska law by printing and distributing ballots bearing the names of ineligible candidates.⁸²

In response, Appellees' briefing raises four arguments. First, Appellees argue that APOC's recommendations had not taken effect on September 4, 2026; therefore, the Lieutenant Governor was required to certify Tagle's nomination.⁸³ Second, Appellees argue that the Lieutenant Governor properly disregarded APOC's finding that Tagle failed to substantially comply with AS 39.50 because

⁷⁴ Amended Notice of Appeal (filed 09/23/2026).

⁷⁵ Amended Brief of Appellants Jenny-Marie Stryker and Alaska Democratic Party ("At. Br.") (filed 10/01/2026).

⁷⁶ Brief of Appellees Lieutenant Governor Nancy Dahlstrom, Director of Elections Carol Beecher, and the Division of Elections ("Ae. Br.") (filed 10/6/2026).

⁷⁷ Reply Brief of Appellants Jenny-Marie Stryker and Alaska Democratic Party ("At. R. Br.") (filed 10/08/2026)

⁷⁸ Oral Arguments ("OA") (held 10/09/2026).

⁷⁹ At. Br. 8-14.

⁸⁰ At. Br. 14-21.

⁸¹ At. Br. 21-23.

⁸² At. Br. 8.

⁸³ Ae. Br. 14-19.

other candidates not investigated by APOC might have filed deficient POFDs.⁸⁴ Third, Appellees argue that the Division did not err by finalizing ballots consistent with the Lieutenant Governor’s September 4, 2026 decision.⁸⁵ Fourth, Appellees argue that finalizing the ballots on September 4, 2026 did not violate due process.⁸⁶ Appellees ask the court to resolve whether APOC’s recommendations are a sufficient basis for forfeiture.⁸⁷ Furthermore, Appellees ask the court to affirm the Lieutenant Governor’s September 4th, 2026 decision and to decide whether the Lieutenant Governor must follow APOC’s recommendations.⁸⁸

On reply, Appellants argue that APOC’s finding and recommendation was not a final administrative order under the Administrative Procedures Act.⁸⁹

At oral argument, Appellees abandoned their argument that the Lieutenant Governor had discretion to disregard APOC’s finding of substantial noncompliance based on speculation that other candidates’ POFDs might not fully comply with AS 39.50.⁹⁰ Instead, Appellees argued, consistent with its position in the first phase of this appeal, that the duties of the Lieutenant Governor and Division under AS 39.50.060(b) are ministerial and that APOC’s finding of substantial noncompliance was binding.⁹¹ However, Appellees maintained that the Lieutenant Governor did not err in certifying Tagle’s nomination because APOC’s decision was not a final decision, was not effective at the time that it was issued, and that procedural irregularities in APOC’s proceedings justified the Lieutenant

⁸⁴ Ae. Br. 19-24.

⁸⁵ Ae. Br. 25-27.

⁸⁶ Ae. Br. 28-29.

⁸⁷ Ae. Br. 30.

⁸⁸ Ae. Br. 32.

⁸⁹ At. R. Br. 9-13.

⁹⁰ Oral Argument (“OA”), 1:01:51 – 1:02:25 (heard 10/09/2026).

⁹¹ OA at 1:05:16 – 1:06:40.

Governor’s decision to certify Tagle’s nomination and to place his name on the ballot. Appellees asked the court to determine whether and how the Lieutenant Governor should implement APOC’s order now that the 30-day effective date had run, if the court determines that the Commission’s decision was a final decision.⁹²

Applicable Law

A. Candidates For Public Office Must Substantially Comply with the Disclosure Requirements of AS 39.50 Within the Statutory Grace Period or be Disqualified.

In Alaska, candidates for public office are subject to financial disclosure laws, administered and enforced by APOC.⁹³ Those laws require candidates to file a POFD statement disclosing income sources and business interests.⁹⁴ The POFD must be filed simultaneously with the candidate’s declaration of candidacy.⁹⁵

The statement must be accurate at the time that it is filed.⁹⁶ The law provides for graduated enforcement mechanisms for violations. A candidate who fails to disclose income sources or business interests is subject to civil and criminal penalties, and even forfeiture of nomination or election to office.⁹⁷ Candidates have a grace period to correct a deficient POFD before being subject to the extreme penalty of forfeiture, which triggers only if the candidate fails to substantially comply with their disclosure obligations within 30 days after the due date for filing.⁹⁸ However, if the

⁹² OA at 1:09:20 – 1:10:20.

⁹³ *Studley v. Alaska Pub. Offices Comm’n*, 389 P.3d 18, 20 (Alaska 2017); AS 15.13.030; AS 15.13.045(a); AS 39.50.010-200.

⁹⁴ AS 39.50.020(a).

⁹⁵ AS 39.50.020(a); AS 15.25.030(b).

⁹⁶ AS 39.50.030(b); *Grimm*, 77 P.3d at 425.

⁹⁷ AS 39.50.060; AS 39.50.135.

⁹⁸ AS 39.50.060(b); *Grimm*, 77 P.3d at 429-34.

candidate fails to substantially comply with their disclosure obligations within the grace period, forfeiture is mandatory, and “the lieutenant governor, or other certifying authority, may not certify a person’s nomination for office or the person’s election.”⁹⁹

The Legislature vested authority to administer and enforce a candidates’ financial disclosure requirements with APOC,¹⁰⁰ which has adopted regulations implementing that authority.¹⁰¹ Under those regulations, a statement is incomplete “if any material item of information required by the prescribed form is not provided.”¹⁰² APOC regulations do not require investigation of every candidate’s financial statement upon filing. Instead, APOC staff are required to investigate complaints that conform to 2 AAC 50.870(c), and when staff or the commission “obtains information that, if true, would constitute a substantial violation of [a candidate’s POFD obligation].”¹⁰³

The regulations also incorporate AS 39.50.060(b)’s statutory grace period.¹⁰⁴ Under the regulations, APOC notifies candidates who have not filed a complete POFD of the date, time and place where APOC will hold a meeting regarding the candidate’s compliance with AS 39.50.¹⁰⁵ At the meeting, if APOC determines that the candidate failed to timely supply required information under AS 39.50, it will recommend that the Lieutenant Governor either not place the candidate’s name on the ballot, or if the candidate’s name cannot be removed from the ballot, the candidate’s nomination or election not be certified.¹⁰⁶

⁹⁹ AS 39.50.060(b).
¹⁰⁰ AS 39.50.050-055.
¹⁰¹ 2 AAC 50.850-891.
¹⁰² 2 AAC 50.845(b).
¹⁰³ 2 AAC 50.875(a).
¹⁰⁴ 2 AAC 50.855(a).
¹⁰⁵ 2 AAC 50.850(h).
¹⁰⁶ 2 AAC 50.850(h).

APOC hearings to determine a candidate's compliance with financial disclosure laws are governed by the Administrative Procedures Act ("APA").¹⁰⁷ According to the APA, a decision by an administrative agency is effective 30 days after it is mailed or delivered to the respondent, unless the agency orders reconsideration or a stay of its decision, or if the agency orders that the decision be effective sooner.¹⁰⁸

The Lieutenant Governor controls and supervises the Division of Elections.¹⁰⁹ The Director acts for the Lieutenant Governor in, among other things, administration of state elections.¹¹⁰ Under AS 15.25.100(a), and except as provided in AS 15.25.100(b)-(g), the Director must place "on the general election ballot only the names of the four candidates receiving the greatest number of votes for an office." Alaska Statute 39.50.060(b) prohibits the Lieutenant Governor from certifying a person's nomination or election to office "if compliance [with AS 39.50] was not made within the time required."¹¹¹ A person may file a complaint with the Division regarding a candidate's eligibility, but the Division's review of a candidate's eligibility is limited to the information included in the declaration of candidacy,¹¹² and may not extend to challenges to a candidate's compliance with AS 39.50's reporting requirements.¹¹³

A person who believes a candidate's POFD does not comply with AS 39.50 may file an administrative complaint with APOC or file a civil action.¹¹⁴

¹⁰⁷ 2 AAC 50.891(a); AS 44.62.330-630.

¹⁰⁸ AS 44.62.520(a).

¹⁰⁹ AS 15.10.105(a).

¹¹⁰ AS 15.10.105(a); AS 15.15.010.

¹¹¹ AS 39.50.060(b).

¹¹² AS 15.25.030(a); AS 15.25.042; 6 AAC 25.260(c).

¹¹³ 6 AAC 25.260(c).

¹¹⁴ AS 39.50.050-055; AS 39.50.100(a).

B. Standard of Review

Resolution of this appeal requires this court to determine whether the Commission's findings and recommendation was a final decision, which is a question of law not within the expertise of Appellees; this court therefore applies the substitution of judgment standard.¹¹⁵ Whether the Lieutenant Governor was bound by the Commission's findings and recommendation and erred in certifying Tagle's nomination and placing him on the ballot also present questions of law.

Discussion

A. THE LIEUTENANT GOVERNOR VIOLATED AS 39.50.060 WHEN SHE REVERSED HER AUGUST 31, 2026 DECISION DIRECTING THE DIVISION NOT TO CERTIFY TAGLE'S CANDIDACY.

Appellants argue that the Lieutenant Governor lacked authority to reverse her initial decision to disqualify Tagle without first finding whether he had substantially complied with AS 39.50.¹¹⁶ Appellants also argue that an APOC recommendation ("Recommendation") under 2 AAC 50.850(h) is not a "final administrative order" subject to Appellate Rule 602 and AS 44.62.560.¹¹⁷ Appellees agree that the Lieutenant Governor is bound by a final administrative order of APOC that a candidate failed to substantially comply with AS 39.50,¹¹⁸ but argue that APOC's decision was not a final order, that it was not effective at the time that the Lieutenant Governor certified Tagle's nomination, and that the

¹¹⁵ *Donkel v. State*, 595 P.3d 1171, 1180 (Alaska 2026); *Cf. Regulatory Comm'n of Alaska v. Matanuska Elec. Ass'n, Inc.*, 436 P.3d 1015, 1026 (Alaska 2019) (whether appeal timely presents a question of law).

¹¹⁶ At. Br. 8.

¹¹⁷ At. R. Br. 9.

¹¹⁸ Ae. Br. 14.

Lieutenant Governor therefore did not err in certifying Tagle’s nomination and placing him on the ballot for the general election.¹¹⁹

1. *The Alaska Administrative Procedure Act Governs Decisions Made by the Alaska Public Offices Commission.*

Alaska Statute 44.62.330 provides that the procedure of state commissions “shall be conducted under AS 44.62.330—44.62.630,” or the APA.¹²⁰ APOC is explicitly subject to the APA administrative adjudication provisions.¹²¹ The APA, therefore, governs any decisions and other “similar matters” under APOC’s purview.

2. *APOC’s August 28, 2026 Recommendation Finding that Tagle Did Not Substantially Comply With AS 39.50 within the deadline set by AS 39.50.060(b) Is a Final, Appealable Administrative Order.*

Appellants argue that the Commission’s decision finding that Tagle did not substantially comply with AS 39.50 and recommending that Tagle’s nomination not be certified was not a final, appealable administrative order.¹²² Appellants argue that APOC’s August 28, 2026 Recommendation lacks the characteristics of a final administrative order because its findings did not directly affect Tagle, even though the Recommendation triggered AS 39.50.060(b)’s mandatory forfeiture provision.¹²³ Appellees argue that APOC’s Recommendation lacked the hallmarks of a final administrative order but do not dispute that the Lieutenant Governor is bound by a final administrative decision by APOC finding that Tagle did not substantially comply with AS 39.50 within the deadline established by AS 39.50.060(b).

¹¹⁹ Ae. Br. 14-19.

¹²⁰ AS 44.62.330(a).

¹²¹ AS 44.62.330(a)(20).

¹²² At. R. Br. 9-12.

¹²³ At. R. Br. 10-11.

Based on the regulatory framework governing APOC's Recommendation and the process undertaken by APOC in adjudicating Tagle's deficient POFD, the court concludes that the August 28, 2026 decision was final and appealable. The Commission had completed its decision-making process and the result was one that directly affected the parties.

Under the APA, an adjudication is initiated by a written statement of charges setting forth the acts or omissions alleged and the statutes or regulations alleged to have been violated.¹²⁴ The accusation must be served upon the respondent, and an accusation that could result in an agency decision adversely affecting the rights of a respondent must be served personally or by certified mail.¹²⁵ Notice of a hearing must be provided to the respondent.¹²⁶ A decision following an adjudication hearing must be written and contain findings of fact, a determination of the issues presented, and any penalty.¹²⁷ Copies of the decision must be served on the respondent, either personally or by certified mail.¹²⁸

APOC's proceedings conformed to the APA. APOC staff served Tagle by certified mail with the August 12, 2026 Notice of Meeting, accompanied by a memorandum setting forth the accusation of Tagle's substantial compliance and the potential penalty of forfeiture.¹²⁹ Following the meeting, APOC issued a written decision with findings of fact, a determination that Tagle's POFD failed to substantially comply with AS 39.50 within the grace period established by AS 39.50.060(b), and a

¹²⁴ AS 44.62.360.

¹²⁵ AS 44.62.380.

¹²⁶ AS 44.62.420.

¹²⁷ AS 44.62.510(a).

¹²⁸ AS 44.62.510(a).

¹²⁹ R. 54, 36-38.

statement of the penalty-Recommendation to the Lieutenant Governor not to certify Tagle's nomination or election.¹³⁰ The decision was served on Tagle.¹³¹

The proceeding followed APOC's regulations governing determination of candidate compliance with AS 39.50. Under 2 AAC 50.875, staff must investigate cases that "would constitute a substantial violation of . . . AS 39.50."¹³² If a violation is found, APOC staff must prepare a written notice "setting out the facts, allegations, and law involved" and provide that notice to the respondent and commission that an investigation is underway.¹³³ Once that investigation is complete, staff must then prepare an investigation report that includes a summary of the staff's findings.¹³⁴ The commission will then consider that report at its next regularly scheduled meeting or a special meeting if necessary.¹³⁵

APOC regulations implement the forfeiture provisions of AS 39.50.060(b). Pursuant to 2 AAC 50.850(h), seven days before the primary, general, or municipal election withdrawal dates, APOC staff compiles a list of candidates who have not filed a complete disclosure statement required under AS 39.50.¹³⁶ APOC will then notify the candidates and hold a meeting.¹³⁷ If information is received after the primary, general, or municipal election withdrawal dates, staff must investigate the matter under 2 AAC 50.875.¹³⁸

Where the Commission formally determines that a candidate has "failed to supply required information on a significant source of income, interest in real property, business interest, loan, or

¹³⁰ R. 143-52.

¹³¹ R. 152.

¹³² 2 AAC 50.875(a).

¹³³ 2 AAC 50.875(a).

¹³⁴ 2 AAC 50.875(c).

¹³⁵ 2 AAC 50.875(e).

¹³⁶ 2 AAC 50.850(h).

¹³⁷ 2 AAC 50.891; 2 AAC 50.850.

¹³⁸ 2 AAC 50.850(i).

trust” it will recommend the removal of the candidate's name from the ballot.¹³⁹ If the candidate's name cannot be practically removed from the ballot, the Commission will recommend that the lieutenant governor not certify the candidate's nomination or election.¹⁴⁰

The Commission’s August 28, 2026 decision followed APOC’s regulations. Tagle was notified of the deficiencies in his filings and invited to cure them. When he failed to do so within AS 39.50.060(b)’s grace period, APOC initiated a proceeding to determine whether Tagle had substantially complied with AS 39.50 within the deadline established by AS 39.50.060(b). It provided notice to Tagle of the time, date, and location of the hearing. Tagle had an opportunity to participate at the hearing but did not appear. The Commission then issued a written decision finding that Tagle did not substantially comply with AS 39.50 within the deadline established by AS 39.50.060(b). The written decision, which included the Commission’s Recommendation against certification, was served on Tagle.

Furthermore, APOC’s Recommendation had all the characteristics of a final, appealable order. Whether an administrative order is final requires the court to look at whether (1) the agency has completed its decision-making process, and (2) the result of that process is one that will directly affect the parties.¹⁴¹ The “test used in Alaska to determine finality is ‘essentially a practical one.’”¹⁴² When an agency determination has binding effect on another agency or division of government, it is a final appealable order, even if the other agency or division of government has not yet taken the mandatory action compelled by the determination.¹⁴³ This is true even if a respondent would also have a right to

¹³⁹ 2 AAC 50.891; 2 AAC 50.850.

¹⁴⁰ 2 AAC 50.850(h)(1).

¹⁴² *Cranford & Co.*, 81 P.3d 982, 985 (quoting *Matanuska Maid v. State*, 620 P.2d 182, 184 (Alaska 1980)).

¹⁴³ *Id.*

appeal from the decision of the other agency or division.¹⁴⁴ The form of the decision is less important than its substance and effect, “as shown by its ‘operational or decretal’ language.”¹⁴⁵

Appellants conceded that APOC completed its decision-making process, but dispute that the result of that process adversely affected the parties.¹⁴⁶ Here, APOC recommended that the Lieutenant Governor not certify Tagle’s nomination for House District 22.¹⁴⁷ While it may be true that APOC’s Recommendation “did not order anyone to do anything”¹⁴⁸ both parties agree, as does the court, that the Lt. Governor has no discretion to disregard a final decision by APOC that Tagle failed to substantially comply with AS 39.50 within the deadline established by AS 39.50.¹⁴⁹ The Legislature expressly conferred administrative responsibility for investigating and determining compliance with AS 39.50 to APOC.¹⁵⁰ Once APOC determines in a final decision that a candidate did not timely substantially comply with AS 39.50, the Lieutenant Governor is bound by the decision. So long as the decision “resulted from a procedure that seems an adequate substitute for judicial procedure and that it would be fair to accord preclusive effect to the administrative decision,” the Commission’s decision should be given preclusive effect.¹⁵¹ As a general principle, a final agency decision entered by one agency is binding on an agency or official from the same government.¹⁵² Some agency decisions do

¹⁴⁴ *Id.*

¹⁴⁵ *Kyte v. Stallings*, 334 P.3d 697, 700 (Alaska 2014) (quoting *Matanuska Maid v. State*, 620 P.2d 182, 184-85 (Alaska 1980)).

¹⁴⁶ At. R. Br. 10.

¹⁴⁷ R. 151.

¹⁴⁸ At. R. Br. 10.

¹⁴⁹ At. Br. 9; Ae. Br. 14; At. R. Br. 2; OA at 1:00:45 – 1:01:16. Under the doctrine of collateral estoppel, Tagle would be precluded from challenging whether he substantially complied with AS 39.50 within the deadline set by AS 39.50.060(b).

¹⁵⁰ AS 15.13.030(7); AS 39.50.050.

¹⁵¹ *Matanuska Elec. Ass’n v. Chugach Elec. Ass’n, Inc.*, 152 P.3d 460, 468 (Alaska 2007) (quoting *State, Child Support Enforcement Div. v. Bromley*, 987 P.2d 183, 192 (Alaska 1999)).

¹⁵² See *Holmberg v. State, Div. of Risk Management*, 796 P.2d 823, 825 (Alaska 1990).

not have preclusive effect in proceedings in another agency, particularly where giving preclusive effect to a determination of an issue “would be incompatible with a legislative policy that...the tribunal in which the issue subsequently arises be free to make an independent determination of the issue in question.”¹⁵³ There is no indication that the Legislature intended the Division to make independent determinations of a candidate’s compliance with AS 39.50; indeed the structure of AS 39.50 compels the opposite conclusion.

APOC’s Recommendation had to be just that—a Recommendation—because APOC does not have authority to order the Lieutenant Governor to do anything. Titling the decision a “Recommendation” does not undermine the finality of the Commission’s decision; it simply recognizes the legal relationship between APOC and the Lieutenant Governor.

The court acknowledges that the absence of hallmark finality language notifying Tagle of his right to appeal arguably cuts against concluding that the Commission’s August 28, 2026 Recommendation was a final order. But, as the court has already explained, finality is a function of the substance and effect of the decision. Once APOC completed its decision-making process and found that Tagle had failed to substantially comply with AS 39.50 within the grace period, Tagle was disqualified from being nominated and from being elected.¹⁵⁴ The Commission’s Recommendation that Tagle’s nomination not be certified reflected the finality of the Commission’s decision.

Appellants’ argument that APOC’s decision is not a final appealable order is inconsistent with its position that the Lieutenant Governor is bound by the findings contained in the order.¹⁵⁵ If

¹⁵³ *Id.* at 825-26 (quoting C. Wright, A. Miller, & E. Cooper, Restatement of Judgments §83(4)(b)).

¹⁵⁴ AS 39.50.060(b).

¹⁵⁵ *See, supra*, nn. 146-47 and accompanying text.

appellate review were delayed until the Lieutenant Governor or Division Director declined to certify the nomination or election of a candidate, an anomalous situation would result, both legally and practically. The decision of the Lieutenant Governor or Division Director would not really be the decision under review; instead, it would be the correctness of the proceedings and decision of APOC in its collateral proceeding.¹⁵⁶

Treating APOC's determination as a final appealable order also avoids practical anomalies, particularly given the compressed timelines in elections. A candidate must have an opportunity to appeal from and seek a stay of a Commission determination of failure to substantially comply with AS 39.50 within the grace period before certification and ballot printing. If a candidate is required to wait to file an appeal until the Lieutenant Governor or Division Director acts on APOC's finding, it would be nearly impossible for a candidate to protect their rights before nominations are certified and ballots are printed.

Based on the foregoing, the court concludes that APOC's August 28, 2026 Recommendation was a final appealable order.

3. The Lieutenant Governor Violated AS 39.50.060(b) when it certified Tagle's nomination.

Appellees argue that, because APOC's Recommendation had not taken effect on September 4, 2026, AS 15.25.100 required the Lieutenant Governor to certify Tagle's nomination.¹⁵⁷ Under AS 15.25.100(a), the Lieutenant Governor must place the names of the four highest vote-getters for each office on the general election ballot.¹⁵⁸ Appellees argue that the exception to AS 15.25.100(a) for disqualified candidates did not apply to Tagle's nomination at the time his nomination was

¹⁵⁶ Alaska R. App. P. 602(h); Alaska R. App. P. 604(b)(1)(A); *Cranford & Co.*, 81 P.3d at 985-86.

¹⁵⁷ Ae. Br. 14-19.

¹⁵⁸ Ae. Br. 15; AS 15.25.100(a).

certified because APOC's Recommendation did not take effect until late September under AS 44.62.520(a).¹⁵⁹ In addition, Appellees argue that procedural deficiencies in the APOC proceedings created doubt about the regularity of the APOC proceedings and that the Lieutenant Governor therefore acted with justified caution in placing Tagle's name on the general elections ballot.¹⁶⁰ As explained here, APOC's decision was effective immediately, and the potential procedural irregularities in APOC's proceedings did not provide grounds for the Lieutenant Governor to ignore the clear command of AS 39.50.060(b).

Under AS 44.62.520(a), an administrative decision becomes effective 30 days after being mailed or delivered to the respondent unless reconsideration is ordered within that time, the decision is stayed, or "the agency itself orders that the decision become effective sooner."¹⁶¹ Appellees argue that by operation of AS 44.62.520(a), APOC's decision was not effective until 30 days after it was served.

While the August 28, 2026 Recommendation does not expressly state an effective date,¹⁶² the surrounding circumstances and the language of the Recommendation make clear that it had immediate effect. In its Recommendation, the Commission found that by reporting no income sources or business interests by July 1, 2026, Tagle failed to substantially comply with AS 39.50 by the required deadline.¹⁶³ The Commission recommended that the Lieutenant Governor "not certify Tagle's nomination for the office of State Representative for District 22 if Mr. Tagle advances from

¹⁵⁹ Ae. Br. 15-16; AS 44.62.520(a).

¹⁶⁰ Ae. Br. 19-24.

¹⁶¹ AS 44.62.520(a).

¹⁶² R. 141-152.

¹⁶³ R. 150.

the primary.”¹⁶⁴ At the time the Commission issued its decision the primary election had already taken place, but the results had not been certified and the general election ballot had not been printed.¹⁶⁵ The Commission’s Recommendation that the Lieutenant Governor not certify Tagle’s nomination would be meaningless unless the decision was effective immediately; if it instead became effective 30 days after distribution, the Commission would have recommended that Tagle’s election to office not be certified if he prevailed in the general election rather than recommending that Tagle’s nomination not be certified.

This court does not interpret the Commission’s Recommendation so as to render it meaningless. By enacting AS 39.50.060(b), the Legislature expressed its intent that candidates would not have their nomination certified or would not have their election certified if they fail to substantially comply with AS 39.50 by the deadline established in AS 39.50.060(b). The Legislature empowered APOC to administer AS 39.50, including determining a candidate’s compliance with AS 39.50.¹⁶⁶ Unless APOC’s findings are given immediate effect, the Legislature’s intent in enacting AS 39.50.060(b) is frustrated.

Appellees also argue that procedural deficiencies in APOC’s order support the decision of the Lieutenant Governor to certify Tagle’s nomination and place his name on the ballot. Appellees point to the fact that the Recommendation did not include certain hallmark words indicating that the decision was final and that it may be appealed to the superior court under AS 44.62.560.¹⁶⁷

¹⁶⁴ R. 151.

¹⁶⁵ AS 15.25.020; AS 15.25.100.

¹⁶⁶ AS 15.13.030(7); AS 39.50.050-060.

¹⁶⁷ Ae. Br. 17-18; 2 AAC 50.826(c)(3).

However, those potential defects do not provide grounds for the Lieutenant Governor to disregard APOC's findings and to certify the nomination of a disqualified candidate.

While there may have been some procedural deficiencies in the Commission's determination, they do not undermine the core conclusion that Tagle had notice of the proceedings and the potential consequences, had an opportunity to be fully heard (although he did not participate in APOC's proceedings), and may still file an appeal from the Commission's August 28, 2026 Recommendation.¹⁶⁸ If Tagle appeals to the superior court he may argue that alleged deficiencies justify reversal of the Commission's conclusion that he did not substantially comply with AS 39.50 within the deadline established by AS 39.50.060(b). But the alleged deficiencies identified by Appellees did not permit Appellees to disregard the Commission's findings.¹⁶⁹ This is particularly true because any potential procedural deficiency is curable, as addressed in the conclusion of this decision.

Appellate Rule 602(a)(2) provides that an appeal may be taken from an administrative agency to the superior court within 30 days of service of the decision from which the appeal was taken. The time to file an appeal does not begin to run unless the decision states that it is a final decision and that the appellant has 30 days to file an appeal.¹⁷⁰ However, the absence of such language does not

¹⁶⁸ See *Briggs v. State, Dep't of Pub. Safety, Div. of Motor Vehicles*, 732 P.2d 1078, 1082 (Alaska 1987).

¹⁶⁹ The evolving explanations for disregarding the Commission's findings underscore the need to clarify the binding effect of the Commission's findings. The superior court has jurisdiction to review a final administrative order. AS 22.10.020(d). The Division does not, and the Lieutenant Governor's duties flowing from the Commission's decision are purely ministerial. A candidate subject to a Commission finding of substantial noncompliance under AS 39.50.060(b) who wants to challenge the decision must act promptly to protect and pursue their appellate rights, including by seeking a stay. By certifying Tagle's nomination based on evolving speculation about what appellate arguments the candidate could make, the Lieutenant Governor exceeded her authority under AS 39.50.060(b).

¹⁷⁰ Alaska R. App. P. 602(a)(2).

mean that a decision is not final or that the appellant does not have a right to file an appeal; it simply means that the 30-day deadline to file an appeal has not begun to run.¹⁷¹ Extension of the window to file an administrative appeal does not alter the binding effect of the Commission's decision or provide grounds for the Lieutenant Governor to disregard it.

Appellees argue the Lieutenant Governor acted properly in reversing her adoption of APOC's Recommendation against certifying Tagle's nomination because "a later reversal in a candidate's favor may have come too late to restore his name to the ballot or led to late changes risking the orderly administration of the election."¹⁷² But there are equal risks attendant to certifying a disqualified candidate. Under AS 15.25.100(a), the Director is required to place the names of the four candidates receiving the highest number of votes on the general election ballot. If a candidate nominated in a primary election becomes disqualified, AS 15.25.100(c) requires the Director to place the name of the candidate who received the fifth most votes on the general election ballot.¹⁷³ If the Lieutenant Governor erroneously certifies a disqualified candidate's nomination, the candidate receiving the fifth most votes is not placed on the ballot and the voters are deprived of the opportunity to vote on a qualified candidate.¹⁷⁴

When APOC has provided notice and an opportunity to be heard to a candidate regarding whether the candidate substantially complied with AS 39.50 within the statutory grace period,

¹⁷¹ *Id.*; see also *Kyte*, 334 P.3d at 699-700 (where notice of decision does not clearly state that it is a final order and that any appeal must be filed within 30 days, deadline for filing appeal does not run from date of decision.).

¹⁷² Ae. Br. 18.

¹⁷³ AS 15.25.100(c).

¹⁷⁴ *Id.* In fairness, that risk is absent here; there was no other candidate to take Tagle's place upon disqualification.

considers any evidence or argument proffered by the candidate (or, as here, the candidate's non-response and non-participation), and determined in a final decision that the candidate failed to substantially comply with AS 39.50 within the statutory grace period, the risk of an erroneous decision shifts to the candidate to promptly file an appeal and seek a stay of the decision.

The evidence is overwhelming that Tagle did not substantially comply with AS 39.50 within the deadline established by AS 39.50.060(b); his disclosure reported no income sources or business interests until more than nine weeks after the initial filing deadline, and until more than five weeks after the statutory grace period had expired.¹⁷⁵ Tagle then defaulted on APOC's administrative proceedings to determine his compliance, despite notice and extra effort by APOC staff to reach him.¹⁷⁶ These are precisely the circumstances under which the Legislature intended a candidate for public office to forfeit his nomination.

By certifying Tagle's nomination after APOC entered a final decision finding that Tagle failed to substantially comply with AS 39.50 within the deadline established by law, the Lieutenant Governor and the Director of the Division of Elections violated AS 39.50.060(b).

B. THE LIEUTENANT GOVERNOR ERRED BY PRINTING BALLOTS WITH TAGLE'S NAME.

Appellants argue that the Division erred by printing and distributing general election ballots that included Tagle's name.¹⁷⁷ Specifically, Appellants argue that no statute permits the Division to

¹⁷⁵ R. 149-51, 153-62.

¹⁷⁶ R. 149-51.

¹⁷⁷ At. Br. 14.

include an ineligible candidate on general election ballots,¹⁷⁸ and the manner in which the Division placed Tagle’s name on those ballots violated due process.¹⁷⁹ The Court concludes that, although the Lieutenant Governor erred in placing Tagle’s name on the ballot, the error did not violate Appellants’ due process rights and the court does not require the Division to reprint ballots for the district in which Tagle was a candidate.

1. The Division Erred When it Included Tagle on the General Election Ballot.

Appellants argue that the Division violated AS 15.25.060 governing ballot preparation and distribution, AS 15.25.100 governing candidate placement on general election ballots, and AS 15.15.030, requiring fairness in ballot preparation.¹⁸⁰ Appellees argue that the Division complied with these laws when it printed and distributed ballots in accordance with the Lieutenant Governor’s September 4 decision.¹⁸¹

Alaska Statute 15.25.030 provides that the Division Director “shall prepare all official ballots to facilitate fairness, simplicity, and clarity in the voting procedure.” Appellants argue that the Division’s printing and distributing of ballots bearing an ineligible candidate’s name “without first notifying voters that Tagle had been reinstated” violated AS 15.15.030.¹⁸² Appellees argue that AS 15.15.030 is ministerial in nature, providing only guidance for the Lieutenant Governor to follow in determining how ballots appear rather than which candidates are eligible.¹⁸³

¹⁷⁸ At. Br. 15-18.

¹⁷⁹ At. Br. 19-20.

¹⁸⁰ Ae. Br. 15.

¹⁸¹ Ae Br. 25.

¹⁸² At. Br. 16.

¹⁸³ Ae. Br. 26.

Appellants also argues that Tagle’s name should not have been on the general election ballot under AS 15.25.060.¹⁸⁴ Appellants argue that because Tagle did not properly file, the Division Director erred by including his name on the general election ballots. Appellees counter that “[b]y its terms . . . the provision governs the primary ballot” and because the Division’s duty under AS 39.50 was cabined to determining who timely filed a declaration of candidacy and a POFD—not whether the POFD itself was substantially compliant—the Division did not err in preparing and distributing general election ballots bearing Tagle’s name.¹⁸⁵

Importantly, regarding AS 15.25.100, the parties give starkly contrasting interpretations. Alaska Statute 15.25.100(c) provides, in relevant part, that “the [division] director shall place on the general election ballot only the names of the four candidates receiving the greatest number of votes” for each office primary, unless such a candidate becomes disqualified “after the primary election and 64 or more days before the general election”¹⁸⁶ Appellants read AS 15.25.100 as establishing a procedure “for situations in which a candidate is disqualified”¹⁸⁷ which precluded the Division from “includ[ing] a candidate on the general election ballot based on an ad hoc, summary reversal” of the Lieutenant Governor’s initial adoption of APOC’s Recommendation.¹⁸⁸

Appellees agree with the process but not the outcome, arguing that the Division only did what the law prescribed.¹⁸⁹ Appellees argue that AS 15.25.100(c) “applies only when a nominee

¹⁸⁴ At. Br. 17

¹⁸⁵ Ae. Br. 27.

¹⁸⁶ AS 15.25.100(a), (c); Ae. Br. 15.

¹⁸⁷ At. Br. 18.

¹⁸⁸ At. Br. 18.

¹⁸⁹ Ae. Br. 25.

becomes disqualified” within the 64-day window before the general election.¹⁹⁰ Appellees argue that because APOC’s Recommendation had not taken effect as of August 31, 2026, no disqualification had therefore taken effect.¹⁹¹

Alaska Statute 15.15.450 requires the Director of the Division to certify the prevailing candidates in a primary or general elections upon completion of the ballot counting review.¹⁹² As explained in the preceding sections, the Director erred in certifying Tagle’s nomination because, under AS 39.50.060(b), Tagle was disqualified from having his nomination or election certified once APOC issued a final decision finding that Tagle had failed to substantially comply with AS 39.50 within the deadline established by AS 39.50.060(b). Pursuant to AS 15.25.100(a), unless AS 15.25.100(b)-(g) requires otherwise, “the director shall place on the general election ballot only the names of the four candidates receiving the greatest number of votes for an office.” According to AS 15.25.100(c):

if a candidate nominated at the primary election dies, withdraws, resigns, becomes disqualified from holding office for which the candidate is nominated, or is certified as being incapacitated in the manner prescribed by this section after the primary election and 64 or more days before the general election, the vacancy shall be filled by the director by replacing the withdrawn candidate with the candidate who received the fifth most votes in the primary election.

Read together, AS 15.25.100(a) and (c) prohibit a disqualified candidate from being placed on the general election ballot, provided that 64 or more days remain before the general election at the time of disqualification.

¹⁹⁰ Ae. Br. 26.

¹⁹¹ Ae. Br. 26.

¹⁹² AS 15.15.440-450.

Tagle was disqualified on August 28, 2026, when the Commission issued its final decision. At that time more than 64 days remained before the general election. Accordingly, Tagle should not have appeared on the general election ballot because, as a result of his disqualification, his status as one of “the four candidates receiving the greatest number of votes for an office” was vitiated.¹⁹³

But the court does not conclude that Appellees violated AS 15.15.030 or AS 15.25.060 in certifying Tagle’s nomination or in placing his name on the ballot. AS 15.25.060 only applies to primary ballots, and the court has already ruled that the Division does not determine candidate eligibility based on a candidate’s compliance with AS 39.50. And AS 15.15.030’s commands regarding fairness, clarity, and expedition provide criteria that govern the Director’s decisions regarding the form of the ballot; they do not govern the Director’s determination of which candidates should appear on the ballot.

2. *The Division did not Violate Appellees’ Due Process Rights.*

Appellants assert that the Division violated due process in two ways.¹⁹⁴ Appellants first argue that, by failing to provide adequate notice to the public that it had reinstated Tagle to the general election ballot before printing and distributing such ballots, thereby depriving them of the opportunity to challenge the reinstatement, the Division undermined the “fundamental fairness of the electoral process with respect to the general election.”¹⁹⁵ Second, by failing “to abide by its own statutory commands” the Division likely violated a constitutionally-protected liberty interest.¹⁹⁶

¹⁹³ AS 15.25.100(a).

¹⁹⁴ At. Br. 19.

¹⁹⁵ At. Br. 19.

¹⁹⁶ At. Br. 19 (citing *Fetterly v. Paskett*, 997 F.2d 1295, 1300 (9th Cir. 1993)).

Appellees disagree, arguing the Division deprived Appellants of “no liberty or property interest of their own.”¹⁹⁷ Appellees argue that “[p]lacing the four highest vote-getters” on the general election ballot for their respective office did not undermine the electoral process’ fairness, but merely reflected the primary results.¹⁹⁸

It is unclear to the court that Appellants have a constitutionally protected interest that was violated when the Division certified Tagle’s nomination and printed ballots including him without notifying the public ahead of time. While voters and candidates have a constitutionally protected interest in access to the ballot,¹⁹⁹ the Division’s certification did not deprive Appellants of access to the ballot. And the public’s general interest in the government’s compliance with the law does not convert every statutory violation into a constitutional violation. Appellants cite to a decision by the Ninth Circuit Court of Appeals for their assertion that the Division likely violated a constitutionally-protected liberty interest by violating a statute, but that decision concerns a habeas corpus petition in a death penalty case and provides little guidance to this court regarding the constitutional implications of the Division’s certification of Tagle’s candidacy.²⁰⁰ Because, in this decision, this court has determined that the Commission’s Recommendation is a final, appealable order that was effective and binding on the Division when it was issued, Tagle’s election may not be certified if he does win a majority of votes in the general election. The Division’s certification, while erroneous, does not undermine the fundamental fairness of the election.

¹⁹⁷ Ae. Br. 28.

¹⁹⁸ Ae. Br. 28.

¹⁹⁹ *Guerin v. State*, 537 P.3d 770, 783 (Alaska 2023).

²⁰⁰ *Fetterly*, 997 F.2d at 1300.

Conclusion

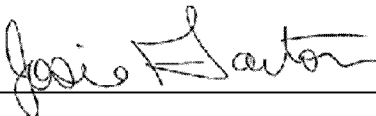
Because the Division erred when it certified Tagle's nomination, this court reverses the decision of the Division certifying Tagle's nomination. The court does not require the Division to reprint ballots because reprinting ballots is not necessary to effectuate any aspect of the court's decision. Tagle is disqualified from taking office, and the appearance of his name on the ballot will therefore have no impact on the outcome of the election. And because Tagle's deadline for appealing the Commission's determination has not expired, he could still appeal it; if the Commission's decision is reversed or if this court's decision is reversed Tagle's inclusion on the ballot will preclude the need for a new election. The court does require the Division to provide notice to Tagle that he has been disqualified and of his right to appeal the disqualification as well as the August 28, 2026 Recommendation on Certification.

Tagle has a right to notice of his disqualification so he can seek to vindicate his rights through filing an appeal of APOC's Recommendation, through filing an appeal of the Division's notice of disqualification, or through any other available avenue of relief. The Commission's August 28, 2026 Recommendation did not notify Tagle that it was a final decision and that Tagle could challenge it on appeal. Accordingly, the time for filing an appeal has not expired. The court orders the Division to provide Tagle notice of his disqualification and of his rights to appeal the disqualification and the Commission's findings in order to promote finality, both of the administrative proceedings and of any election results.

Accordingly, it is hereby ORDERED:

- 1) The Division's certification of Tagle's nomination IS VACATED;
- 2) This matter IS REMANDED to the Division; and
- 3) The Division MUST promptly notify Tagle that he has been disqualified and the certification of his nomination vacated, that the disqualification is a final decision and that Tagle has 30 days to appeal in the manner provided by AS 44.62.560;
- 4) The notice to Tagle MUST include notice that the Commission's August 28, 2026 Recommendation on Certification is a final decision and that Tagle has 30 days to appeal in the manner provided by AS 44.62.560;
- 5) The notice MUST be served on Tagle by certified mail to the address on file with the Division.

DONE this 22nd day of October, 2026, at Anchorage, Alaska.

A handwritten signature in black ink, appearing to read "Josie Garton", is written over a horizontal line.

Josie Garton

Superior Court Judge

Alaska Trial Courts

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