



## **NOTICE OF PROPOSED RULEMAKING**

**Office of the Secretary of State**  
**Campaign and Political Finance Rules**  
**8 CCR 1505-6**

**July 30, 2010**

Pursuant to the requirements of section 24-4-103(3)(a), C.R.S., (2009), notice of proposed rulemaking is hereby given by the Secretary of State. A rulemaking hearing will be held on **August 31, 2010 from 2:00 p.m. to 4:00 p.m.** in the Blue Spruce Conference Room on the second floor of the Office of the Secretary of State at 1700 Broadway, Denver, Colorado 80290. All interested persons will be afforded an opportunity to be heard on the subject of revisions and amendments to the Secretary of State's "Rules Concerning Campaign and Political Finance," 8 CCR 1505-6.

### **Subject of the Proposed Rulemaking**

The Secretary of State will consider amendments and revisions to the Colorado Secretary of State "Rules Concerning Campaign and Political Finance" as may be necessary or appropriate to administer the provisions of Article XXVIII of the Colorado Constitution and Article 45 of Title 1, Colorado Revised Statutes. The Secretary of State shall consider rules necessary to implement amendments to the campaign and political finance laws made during the 2010 second regular session of the 67th General Assembly, in particular changes made by Senate Bill 10-203. The Secretary of State shall also consider such other rule amendments as may be necessary to answer questions arising under Article XXVIII of the Colorado Constitution and Article 45 of Title 1, Colorado Revised Statutes.

### **Authority for Proposed Rulemaking**

Revisions and amendments to the Secretary of State's "Rules Concerning Campaign and Political Finance" [8 CCR 1505-6] are proposed pursuant to the following statutory and constitutional provisions:

1. Article XXVIII, Section 9(1)(b), Colorado Constitution, which requires the Secretary of State to "[p]romulgate such rules, in accordance with article 4 of title 24, C.R.S., or any successor section, as may be necessary to administer and enforce any provision of [Article XXVIII of the Colorado State Constitution]."

2. Section 1-1-107(2)(a), C.R.S., (2009), which authorizes the Secretary of State “[t]o promulgate, publish and distribute...such rules as the secretary of state finds necessary for the proper administration and enforcement of the election laws.”
3. Section 1-45-111.5(1), C.R.S., (2009), which requires the Secretary of State to “promulgate such rules in accordance with article 4 of title 24, C.R.S., as may be necessary to enforce and administer any provision of [article 45 of title 1, C.R.S.]”

Paper or editable electronic copies of the initial draft of the proposed rules may be obtained from the office of the Secretary of State at 1700 Broadway, Suite 200, Denver, Colorado, 80290, or by calling (303) 894-2200, extension 6329. The proposed rules are also posted on the Secretary of State website at [www.sos.state.co.us](http://www.sos.state.co.us).

A final copy of the proposed rules for consideration at the public rulemaking hearing will be posted on the Secretary of State website and made available to the public no later than **August 26<sup>th</sup>, 2010** in accordance with section 24-4-103(4)(a), C.R.S., (2009), which states that “[a]ny proposed rule or revised proposed rule by an agency which is to be considered at the public hearing . . . shall be made available to any person at least five days prior to said hearing.”

The rulemaking hearing on **August 31, 2010** will be held in accordance with section 24-4-103, C.R.S., (2009). Written and oral data, comments, and arguments will be received from all interested parties. Written submissions must be filed at or before the commencement of the hearing on **August 31, 2010** at 2:00pm in order to be considered. Oral testimony may be limited in order to allow the proceedings to go forward with reasonable promptness and efficiency. The hearing will be audio recorded and broadcast over the Internet. The broadcast may be accessed through the Secretary of State website at [www.sos.state.co.us](http://www.sos.state.co.us) on the “Information Center” page under “Broadcast and Recorded Meetings.”

For additional information, please contact Andrea Gyger, Elections Division at [andrea.gyger@sos.state.co.us](mailto:andrea.gyger@sos.state.co.us) or (303) 894-2200 ext. 6329.

Dated this 30<sup>th</sup> Day of July, 2010.



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William A. Hobbs  
Deputy Secretary of State

For

Bernie Buescher  
Colorado Secretary of State



## **Proposed Statement of Basis, Purpose, and Specific Statutory Authority**

**Office of the Secretary of State**  
**Campaign and Political Finance Rules**  
**8 CCR 1505-6**

**July 30, 2010**

### **1. Basis and Purpose**

This statement pertains to the proposed amendments to the Colorado Secretary of State “Rules Concerning Campaign and Political Finance.” The amendments and revisions to these rules are proposed to achieve the uniform and proper administration and enforcement of the campaign and political finance laws of the State of Colorado, including Article XXVIII of the Colorado Constitution and Article 45, Title 1 of the Colorado Revised Statutes. The Secretary of State shall consider rules necessary to implement amendments to the campaign and political finance laws made during the 2010 second regular session of the 67th General Assembly and such other rule amendments as may be necessary to answer questions arising under Article XXVIII of the Colorado Constitution and Article 45 of Title 1, Colorado Revised Statutes. In particular, the Secretary of State proposes these rules to implement Senate Bill 10-203, *Concerning independent expenditures in Colorado elections after the United States Supreme Court case of Citizens United v. Federal Election Comm’n, and making an appropriation therefor.*

The adoption of specific amendments to the Campaign and Political Finance Rules is proposed as follows:

- Rule 1.5 would be amended to implement the new definition of “foreign corporation” set forth in section 1-45-103(10.5), C.R.S.
- Rules 1.13, 2.1, 2.3, 2.4, 2.6, 2.9, 3, 3.9, 4.3, 4.14, 4.16, and 4.19 would be amended to incorporate the new terms “independent expenditure committee” and “donation” into existing rules governing all other types of campaign finance committees.
- Rule 4.3 would additionally be amended to clarify that political parties are subject to the Rule governing the time when contributions are considered made, in addition to other types of committees.
- Rule 4.4 would be amended to clarify itemization requirements in reports of donations and expenditures by independent expenditure committees.
- Rule 4.20 would be amended to clarify that political organizations are subject to the requirements of section 1-45-107.5, C.R.S, governing independent expenditures.

- Rules 9.6, 14.1, 14.2, 14.3, and 14.4 would be repealed as obsolete in light of new section 1-45-107.5, C.R.S.
- Rule 14.5 would be adopted to comply with the requirement in section 1-45-107.5(5)(c), C.R.S., that the Secretary of State establish regulations governing the size and placement of disclaimer notices contained in nonbroadcast independent expenditures.
- Rule 14.6 would be adopted to clarify the applicability of existing statutory and constitutional requirements in light of Senate Bill 10-203.
- Rules 1.16 and 14.7 would be adopted to provide clarity regarding “coordination” as it relates to independent expenditures, in accordance with Article XXVIII, Section 2(9) of the Colorado Constitution.

## 2. Rulemaking Authority

Amendments to the Colorado Secretary of State “Rules Concerning Campaign and Political Finance” are proposed pursuant to the following statutory and constitutional provisions:

1. Article XXVIII, Section 9(1)(b) of the Colorado Constitution, which requires the Secretary of State to:

“Promulgate such rules, in accordance with article 4 of title 24, C.R.S., or any successor section, as may be necessary to administer and enforce any provision of [Article XVIII of the Colorado State Constitution].”

2. Section 1-1-107(2)(a), C.R.S., (2009), which authorizes the Secretary of State:

“To promulgate, publish, and distribute . . . such rules as the secretary of state finds necessary for the proper administration and enforcement of the election laws”

3. Section 1-45-111.5(1), C.R.S., (2009), which requires the Secretary of State to:

“[P]romulgate such rules in accordance with article 4 of title 24, C.R.S., as may be necessary to enforce and administer any provision of [article 45 of title 1, C.R.S.].”

**COLORADO SECRETARY OF STATE**

**[8 CCR 1505-6]**

**RULES CONCERNING CAMPAIGN AND POLITICAL FINANCE**

**Preliminary Draft of Proposed Rules**

**July 30, 2010**

*Disclaimer: This draft is not yet final. The proposed changes to be considered at the public rulemaking hearing may be different than the proposed changes in this draft. This draft is submitted to the Department of Regulatory Agencies for the purpose of complying with section 24-4-103(2.5), C.R.S., which requires that a draft be submitted to the Department at the time that a notice of proposed rulemaking is filed with the Secretary of State.*

*A final copy of the proposed rule changes will be available to the public no later than August 26, 2010, and a copy will be posted on the Department of State's web site, in compliance with the requirement of section 24-4-103(4)(a), C.R.S., that "[a]ny proposed rule or revised proposed rule by an agency which is to be considered at the public hearing . . . shall be made available to any person at least five days prior to said hearing."*

*Proposed additions to the current rules are reflected in SMALL CAPS. Proposed deletions from current rules are shown in ~~stricken type~~. Annotations may be included.*

1 Rule 1.5 would be amended as follows:

2 1.5 "Foreign Corporation", as used in Article XXVIII, Section 3(12)(c), means a corporation  
3 organized under the laws of another country. The term does not apply to a corporation  
4 organized under the laws of another state. "FOREIGN CORPORATION," AS USED IN TITLE 1,  
5 ARTICLE 45, C.R.S., SHALL HAVE THE SAME MEANING AS SET FORTH IN SECTION 1-45-103  
6 (10.5).

7 Rule 1.13 would be amended as follows:

8 1.13 A registered agent or a committee or party treasurer for the purposes of Title 1, Article  
9 45, C.R.S., shall be an individual or candidate designated to receive mailings and to  
10 address concerns and/or questions regarding the candidate committee, the political  
11 committee, the small donor committee, the issue committee, THE INDEPENDENT  
12 EXPENDITURE COMMITTEE, or the political party. [SECTION 1-45-108(3)(b) and 1-45-  
13 109(4)(b), C.R.S.]

14 Rule 1.16 would be adopted as follows:

15 1.16 "NON-PUBLIC INFORMATION" MEANS CONFIDENTIAL MATERIAL IN ANY FORM THAT IS NOT  
16 AVAILABLE TO THE GENERAL PUBLIC, INCLUDING A NON-PUBLIC CAMPAIGN PLAN,

1 COMMUNICATIONS PLAN, CAMPAIGN BUDGET, SPECIFICATION OF UNMET AND POTENTIALLY  
2 UNMET CAMPAIGN NEEDS, PROPOSED OR ACTUAL MEDIA BUY, LIST OR DESCRIPTION OF  
3 HOUSEHOLDS OR VOTERS WHO ARE TO RECEIVE OR HAVE RECEIVED MATERIALS UNDER A  
4 MAILING OR OTHER DISTRIBUTION PROGRAM, POLLING OR FOCUS GROUP RESULTS, OR  
5 OTHER PROPRIETY MATERIAL; PROVIDED THAT ANY SUCH INFORMATION IS MATERIAL TO  
6 THE CREATION, PRODUCTION, OR DISSEMINATION OF INDEPENDENT EXPENDITURES OR  
7 ELECTIONEERING COMMUNICATIONS. HOWEVER, "NON-PUBLIC INFORMATION" EXCLUDES  
8 COMMUNICATIONS DEALING SOLELY WITH CANDIDATE POSITIONS ON LEGISLATIVE OR  
9 POLICY ISSUES.

10 Rule 2.1 would be amended as follows:

11 2.1 When a committee registration form is received and deemed complete by the appropriate  
12 filing officer, an identification number will be assigned and a letter or email of  
13 acknowledgement will be sent by the appropriate filing officer to the registered agent on  
14 file. The registered agent for any issue committee, political committee, small donor  
15 committee, INDEPENDENT EXPENDITURE COMMITTEE, or political party shall sign the  
16 committee's registration form and all disclosure reports. [SECTION 1-45-108(3), (4), (5),  
17 AND (6), C.R.S.]

18 Rule 2.3 would be amended as follows:

19 2.3 A registered agent resigning from a political committee, issue committee, small donor  
20 committee, INDEPENDENT EXPENDITURE COMMITTEE, or political party shall file a letter of  
21 resignation with the appropriate filing officer and the committee or party via certified  
22 mail. A registered agent for a candidate committee, who is not the candidate, shall file a  
23 letter of resignation with the appropriate filing officer and the candidate of the candidate  
24 committee via certified mail. The letter of resignation to the appropriate filing officer  
25 shall be filed within seven business days of resignation and shall include the certified  
26 mail receipt number sent to the committee or party and the contact information for the  
27 committee or party. In accordance with Rule 3.1, the committee or party shall file an  
28 amended committee registration form within five days of receipt of the letter of  
29 resignation. If the registered agent does not provide the committee notice of resignation  
30 as required by this rule, the committee shall file the amended committee registration form  
31 within five days of becoming aware that the agent has resigned. [SECTION 1-45-  
32 108(3)(b), C.R.S.]

33 Rule 2.4 would be amended as follows:

34 2.4 The purpose or nature of interest of the committee or party shall be included. A  
35 candidate committee shall identify the name of the candidate and the specific elective  
36 office sought upon registration. A political committee, INDEPENDENT EXPENDITURE  
37 COMMITTEE, or small donor committee shall identify the types of candidates being  
38 supported or opposed, such as party affiliation or public policy position, and if known,  
39 the specific candidates being supported or opposed. Terms describing types of  
40 candidates shall be descriptive in providing disclosure of the committee's purpose. It is

1 not sufficient to identify candidate types by listing the jurisdiction or office sought, such  
2 as “legislative candidates” or “statewide candidates.”

3 Rule 2.6 would be amended as follows:

4 2.6 Issue committees shall not contribute to political parties, political committees,  
5 INDEPENDENT EXPENDITURE COMMITTEES, or candidate committees. An issue committee  
6 shall not contribute to, or accept contributions from, other issue committees that do not  
7 support or oppose issues supported or opposed by the issue committee making the  
8 contribution. [Article XXVIII, Section 2(10)(b)]

9 Rule 2.9 would be amended as follows:

10 2.9 A corporation or labor organization may establish ~~both~~ a political committee, AN  
11 INDEPENDENT EXPENDITURE COMMITTEE, and a small donor committee. Each committee  
12 is subject to the individual contribution and expenditure limits for that committee, IF  
13 APPLICABLE. [Article XXVIII, Section 2(14)(b)]

14 Rule 3 would be amended as follows:

15 3 Responsibilities of Candidate Committees, Issue Committees, Political Committees,  
16 Small Donor Committees, INDEPENDENT EXPENDITURE COMMITTEES, and Political Parties

17 3.9 Contributions Where the Identity of the Contributor is Unknown.

18 a. Contributions received by a candidate committee, political committee, political  
19 party committee, or small donor committee, OR DONATIONS RECEIVED BY AN  
20 INDEPENDENT EXPENDITURE COMMITTEE, of any amount, where the identity of the  
21 contributor OR DONOR is unknown, shall not be retained. Such contributions OR  
22 DONATIONS must, within thirty (30) days, be donated to any charitable  
23 organization recognized by the Internal Revenue Service, or transmitted to the  
24 State Treasurer for deposit into the unclaimed property fund or such other fund as  
25 the State Treasurer may direct.

26 Rule 4.3 would be amended as follows:

27 4.3 Contributions AND DONATIONS – when counted.

28 a. A contribution OR DONATION is considered made or received as of the date that it  
29 is accepted by the committee or party. In the case of a contribution OR DONATION  
30 by check or credit card, the date accepted is, AT THE LATEST, the date that the  
31 contribution OR DONATION is deposited by the committee OR PARTY into its  
32 account. Any contribution OR DONATION in the form of a check received by a  
33 committee or 527 political organization at least five business days prior to the end  
34 of a reporting period must be deposited or returned to the contributor by the close  
35 of that reporting period.

36 Rule 4.4 would be amended as follows:

1 4.4 All committees AND POLITICAL PARTIES must keep a record of all expenditures,  
2 CONTRIBUTIONS, AND DONATIONS. All expenditures made BY A COMMITTEE OR POLITICAL  
3 PARTY of \$20 or more during a reporting period shall be listed individually on the  
4 contribution and expenditure report. All other expenditures, CONTRIBUTIONS, AND  
5 DONATIONS under \$20 during a reporting period may be reported in total as non-itemized  
6 expenditures. [SECTION 1-45-108(1), C.R.S.]

7 Rule 4.14 would be amended as follows:

8 4.14 Membership dues transferred to small donor committees, INDEPENDENT EXPENDITURE  
9 COMMITTEES, and political committees

10 a. Membership organizations transferring a portion of a member's dues to a small  
11 donor committee, INDEPENDENT EXPENDITURE COMMITTEE, or political committee  
12 shall provide the respective committee with the member's name, address, amount  
13 of dues transferred, and the date of the dues transfer.

14 b. Each small donor committee, INDEPENDENT EXPENDITURE COMMITTEE, and  
15 political committee shall keep records of all contributions OR DONATIONS received  
16 in the form of membership dues transferred by a membership organization to the  
17 committee. Such records shall include each contributing OR DONATING member's  
18 name, address, and amount of the dues transferred. [~~C.R.S.~~ SECTION 1-45-  
19 108(1)(a)(I), C.R.S.]

20 c. Each small donor committee and political committee shall itemize and report the  
21 name and address of each person who has contributed \$20 or more in a reporting  
22 period, including but not limited to contributions received in the form of  
23 membership dues transferred by a membership organization to the committee.  
24 [Article XXVIII, Section 2(14)(a); ~~C.R.S.~~ SECTION 1-45-108(1)(a), C.R.S.]

25 d. On each disclosure report, the candidate or registered agent of a candidate  
26 committee, political party committee, political committee, small donor committee,  
27 INDEPENDENT EXPENDITURE COMMITTEE, or issue committee shall certify and  
28 declare, under penalty of perjury, that to the best of his or her knowledge or belief  
29 all contributions OR DONATIONS received in a reporting period, including  
30 contributions OR DONATIONS received in the form of membership dues transferred  
31 by a membership organization, are from permissible sources. [Article XXVIII,  
32 Section 3-]

33 Rule 4.16 would be amended as follows:

34 4.16 Until terminated in accordance with these rules, a committee shall file a disclosure report  
35 for every reporting period, even if the committee has no activity (DONATIONS,  
36 expenditures, or contributions) to report during the reporting period.

37 Rule 4.19 would be amended as follows:

38 4.19 Investment of funds



1           ~~4.19.1~~ A.       A candidate committee, issue committee, political committee, small donor  
2                           committee, INDEPENDENT EXPENDITURE COMMITTEE, or political party may invest  
3                           the committee's funds in any type of account or instrument of a government  
4                           regulated financial institution.

5           ~~4.19.2~~ B.       Any change in the balance of funds resulting solely from the accrual of  
6                           interest or dividends to the account and/or the automatic deduction of periodic  
7                           service fees is not a contribution, DONATION, or an expenditure and shall not be  
8                           subject to contribution limits, but shall be disclosed as miscellaneous income or  
9                           expense on any disclosure report for which the interest, dividend, or service fee  
10                          was received or charged.

11 Rule 4.20 would be amended as follows:

12 4.20 Political organizations. In the case of political organizations as defined in section 1-45-  
13 103(14.5), C.R.S.:

14 ~~4.20.1~~ A.       Pursuant to SECTION 1-45-108.5, C.R.S., political organizations shall only  
15                          report contributions, and expenditures for the purpose of "influencing or  
16                          attempting to influence the selection, nomination, election, or appointment of any  
17                          individual to any state or local public office."

18 ~~4.20.2~~ B.       Political organizations shall file according to the filing schedules set forth  
19                          in section 1-45-108(2), C.R.S.

20           a. I.       For the purposes of this Rule, "off-election year" for a political  
21                          organization shall mean every odd numbered year.

22           b. II.     For the purposes of this Rule, "major election" shall mean an election held  
23                          in November of an even numbered year.

24 ~~4.20.3~~ C.       Political organizations shall not be required to file disclosure reports for  
25                          reporting periods when no contributions were received and spending was less than  
26                          twenty dollars (\$20).

27 ~~4.20.4~~ D.       Political organizations shall file all applicable disclosure reports required  
28                          by section 1-45-103(14.5), C.R.S., with the appropriate filing officer. For the  
29                          purposes of this rule, the appropriate filing officer shall be the same for political  
30                          organizations as for political committees as outlined in section 1-45-109, C.R.S.  
31                          [SECTION 1-45-108.5, C.R.S.]  
32

33 E.       POLITICAL ORGANIZATIONS ENGAGING IN EXPRESS ADVOCACY SHALL REGISTER AS  
34           A POLITICAL COMMITTEE OR AN INDEPENDENT EXPENDITURE COMMITTEE, AS  
35           APPROPRIATE, PURSUANT TO THE DEFINITIONS OF THOSE ENTITIES CONTAINED IN  
36           ARTICLE XXVIII SECTION 2 (12)(A) AND SECTION 1-45-103 (11.5), C.R.S.

37 Rule 9.6 would be repealed as follows:

1 9.6 ~~In accordance with the decision of the Supreme Court of the United States in the case of~~  
2 ~~*Citizens United v. Federal Elections Commission*, 558 U.S. \_\_\_\_\_, (2010), and the decision~~  
3 ~~of the Supreme Court of Colorado in *In re: Interrogatories Propounded by Governor Bill*~~  
4 ~~*Ritter, Jr., Concerning the Effect of Citizens United v. Federal Election Commission*, 558~~  
5 ~~*U.S. \_\_\_ (2010) on Certain Provisions of Article XX[V]III of the Constitution of the State*~~  
6 ~~*of Colorado*, notwithstanding Article XXVIII, section 3(4)(a) and section 6(2) of the~~  
7 ~~Colorado Constitution, corporations and labor organizations shall not be prohibited from~~  
8 ~~making independent expenditures or from providing funding for electioneering~~  
9 ~~communications. Such expenditures shall be reported in accordance with section 1-45-~~  
10 ~~108(2), C.R.S., and this rule. REPEALED.~~

11 Rule 14.1 would be repealed as follows:

12 14.1 ~~For purposes of complying with the requirement of Article XXVIII, Section 5, that a~~  
13 ~~notice of independent expenditure include “a detailed description of the use of such~~  
14 ~~independent expenditure”, such notice is sufficient if it includes an identification of the~~  
15 ~~payee of the expenditure, the medium used for the communication, the date or dates for~~  
16 ~~broadcast, delivery, or publication of the communication, and either the complete written~~  
17 ~~text or transcript of the communication produced by the expenditure or a summary of the~~  
18 ~~major points contained within the communication. REPEALED.~~

19 Rule 14.2 would be repealed as follows:

20 14.2 ~~For the purposes of section 5, Article XXVIII, a candidate committee, political~~  
21 ~~committee, small donor committee, political party, or 527 political organization that is~~  
22 ~~registered with the Secretary of State that obligates funds exceeding \$1,000 for any single~~  
23 ~~independent expenditure more than 30 days prior to a primary or general election shall~~  
24 ~~notify the Secretary of State by disclosing such expenditure on the committee’s or~~  
25 ~~organization’s regularly scheduled disclosure report for that reporting period. REPEALED.~~

26 Rule 14.3 would be repealed as follows:

27 14.3 ~~For the purposes of section 5, article XXVIII, any person who is otherwise not required~~  
28 ~~to file reports with the Secretary of State or county clerk and who obligates funds~~  
29 ~~exceeding \$1,000 for any single independent expenditure more than 30 days prior to a~~  
30 ~~primary or general election shall deliver notice to the Secretary of State in accordance~~  
31 ~~with the reporting schedule established for political parties in section 1-45-108 (2),~~  
32 ~~C.R.S. REPEALED.~~

33 Rule 14.4 would be repealed as follows:

34 14.4 ~~Notwithstanding rules 14.1 and 14.2, any person (including a natural person, entity,~~  
35 ~~candidate committee, political committee, small donor committee, political party, or 527~~  
36 ~~political organization) who obligates funds in any amount for an independent~~  
37 ~~expenditure, fewer than 31 days before a primary or general election, shall deliver notice~~  
38 ~~to the Secretary of State within 48 hours of obligating funds for such expenditure.~~  
39 ~~REPEALED.~~

1 Rule 14.5 would be adopted as follows:

2 14.5 ANY NONBROADCAST COMMUNICATION THAT CONSTITUTES AN INDEPENDENT  
3 EXPENDITURE AND IS SUBJECT TO THE REQUIREMENTS OF SECTION 1-45-107.5(5), C.R.S.,  
4 SHALL CONTAIN THE NAME OF THE PERSON MAKING THE EXPENDITURE AND THE SPECIFIC  
5 STATEMENT THAT THE ADVERTISEMENT OF MATERIAL IS NOT AUTHORIZED BY ANY  
6 CANDIDATE. SUCH DISCLOSURE SHALL BE PRINTED ON THE BOTTOM OF THE LAST PAGE OF  
7 THE COMMUNICATION IN NO SMALLER THAN 8 POINT FONT. [SECTION 1-45-107.5, C.R.S.]

8 Rule 14.6 would be adopted as follows:

9 14.6 THE REGISTRATION OF A COMMITTEE AS AN INDEPENDENT EXPENDITURE COMMITTEE DOES  
10 NOT EXEMPT THE COMMITTEE FROM EXISTING STATUTORY AND CONSTITUTIONAL  
11 PROVISIONS LIMITING THE SOURCE OR USE OF FUNDS, NOR DOES SUCH REGISTRATION  
12 EXEMPT A COMMITTEE FROM STATUTORY AND CONSTITUTIONAL PROVISIONS RELATING TO  
13 COORDINATION.

14 Rule 14.7 would be adopted as follows:

15  
16 14.7 FOR THE PURPOSE OF DETERMINING WHETHER AN EXPENDITURE IS AN INDEPENDENT  
17 EXPENDITURE AS DEFINED IN ARTICLE XXVIII, SECTION 2(9), EXPENDITURES AND  
18 SPENDING ARE COORDINATED WITH A CANDIDATE COMMITTEE OR POLITICAL PARTY IF:

19  
20 A. A PERSON MAKES AN EXPENDITURE OR ENGAGES IN SPENDING AT THE  
21 REQUEST, SUGGESTION, OR DIRECTION OF, IN CONSULTATION WITH, OR  
22 UNDER THE CONTROL OF:

23  
24 I. THAT CANDIDATE COMMITTEE OR POLITICAL PARTY;

25  
26 II. AN AGENT, EMPLOYEE, BOARD MEMBER, DIRECTOR, OR OFFICER OF  
27 THAT CANDIDATE COMMITTEE OR POLITICAL PARTY; OR

28  
29 III. A COMMON CONSULTANT WHO PROVIDES, OR HAS PROVIDED DURING  
30 THE ELECTION CYCLE, PROFESSIONAL SERVICES TO THAT CANDIDATE  
31 COMMITTEE OR POLITICAL PARTY AND THE PERSON MAKING THE  
32 EXPENDITURE OR ENGAGING IN THE SPENDING;

33  
34 B. THAT CANDIDATE'S OR POLITICAL PARTY'S NON-PUBLIC INFORMATION IS  
35 GIVEN TO:

36  
37 I. THE PERSON MAKING THE EXPENDITURE OR ENGAGING IN THE  
38 SPENDING;

39  
40 II. AN AGENT, EMPLOYEE, BOARD MEMBER, DIRECTOR, OR OFFICER OF  
41 THE PERSON MAKING THE EXPENDITURE OR ENGAGING IN THE  
42 SPENDING; OR  
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III. A COMMON CONSULTANT WHO PROVIDES, OR HAS PROVIDED DURING THE ELECTION CYCLE, PROFESSIONAL SERVICES TO THE PERSON MAKING THE EXPENDITURE OR ENGAGING IN THE SPENDING, AS WELL AS THE CANDIDATE COMMITTEE OR POLITICAL PARTY.

C. THIS RULE SHALL NOT APPLY TO AN ATTORNEY, ACCOUNTANT, BOOKKEEPER, OR REGISTERED AGENT WHO PROVIDES SERVICES WITHIN THE SCOPE OF HIS OR HER PROFESSION.

D. AN EXPENDITURE IS NOT COORDINATED IF EFFECTIVE BARRIERS (I.E., "FIREWALLS") TO TRANSMISSION OF NON-PUBLIC INFORMATION ARE PLACED BETWEEN:

I. THE CANDIDATE COMMITTEE OR POLITICAL PARTY; AND

II. THE PERSON MAKING AN INDEPENDENT EXPENDITURE OR ENGAGING IN SPENDING.

SUCH FIREWALLS SHALL BE PHYSICAL OR TECHNOLOGICAL, OR BOTH, SHALL INCLUDE APPROPRIATE SECURITY MEASURES, AND SHALL BE SET FORTH IN A WRITTEN POLICY THAT IS DISTRIBUTED TO ALL AFFECTED AGENTS, EMPLOYEES, BOARD MEMBERS, DIRECTORS, OFFICER, AND CONSULTANTS. THE EXISTENCE OF THE FIREWALLS DOES NOT MAKE AN EXPENDITURE INDEPENDENT IF NON-PUBLIC INFORMATION IS NONETHELESS DIRECTLY OR INDIRECTLY TRANSMITTED TO THE PERSON MAKING AN EXPENDITURE OR ENGAGING IN SPENDING.