

Colorado Secretary of State
Rules Concerning Campaign and Political Finance
[8 CCR 1505-6]*

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* This is an unofficial copy of the rules and may contain **annotations**. See the Code of Colorado Regulations (CCR) for official rules.

SECRETARY OF STATE
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[8 ccr 1505-6]

Rule 1. Definitions

1.1 “Business Activities”. For the purposes of Article XXVIII:

- 1.1.1 “Business activities” means any provision of goods or services that results in income or any other revenue-generating activity not expressly for political purposes.
- 1.1.2 “Cannot engage in business activities,” means that the articles of incorporation and bylaws, either expressly or implicitly, prohibit the corporation from engaging in any business activities.

[*McConnell v. Federal Elections Commission*, 540 U.S. 93 (2003)]

1.2 “Committee”. Unless otherwise specified, the term “committee” as used in these rules includes candidate committees, political committees, small donor committees, issue committees, independent expenditure committees, political parties, Federal PACs, and political organizations.

1.3 “Contribution”.

- 1.3.1 “Contribution” does not include an endorsement of a candidate or an issue by any person.
- 1.3.2 “Contribution does not include interest earned in an interest-bearing bank account, dividend income from invested committee funds, earned income from commercially reasonable transactions, or transfers of money within a political party.
- 1.3.3 The exception stated in Article XXVIII, Section 2(5)(b) that “‘Contribution’ does not include services provided without compensation by individuals volunteering their time”, includes time-based services volunteered by an individual as a member of any firm, association, or other business entity, including a corporation, if the individual receives no direct or indirect compensation for the time volunteered. Any unpaid services that create a thing of value are exempted. If volunteer services yield a thing of value, “contribution” only includes the reasonable value of the materials involved, unless the value is de minimis.
- 1.3.4 “Contribution in support of the candidacy” includes all contributions given directly to, or coordinated with, a candidate for a specific public office, including those to a person who maintains a candidate committee after an election cycle. [Article XXVIII, Section 2(2)]

- 1.4 “Coordination”. Expenditures or spending are coordinated with a candidate committee or political party if:
- 1.4.1 A person makes an expenditure or engages in spending at the request, suggestion, or direction of, in consultation with, or under the control of that candidate committee or political party; or
 - 1.4.2 An independent expenditure or electioneering communication is created, produced, or distributed:
 - (a) After one or more substantial discussion(s) between the candidate or political committee and the person making the expenditure or engaging in the spending,
 - (1) In which the person making the expenditure or engaging in the spending received non-public information about the candidate or political party's plans, projects, activities, or needs; and
 - (2) The information is material to the creation, production, or dissemination of an independent expenditure or electioneering communication; or
 - (b) By a common consultant who provides, or has provided during the election cycle, professional services to the candidate committee or political party as well as to the person making the expenditure or engaging in the spending; and
 - (1) In which the person making the expenditure or engaging in the spending received non-public information about the candidate or political party's plans, projects, activities, or needs; and
 - (2) The information is material to the creation, production, or dissemination of an independent expenditure or electioneering communication.
 - 1.4.3 This rule does not apply to an attorney, accountant, bookkeeper, or registered agent who provides services within the scope of his or her profession.
 - 1.4.4 If candidate committee or political party and the person making the expenditure or engaging in spending use a common consultant, an independent expenditure or electioneering communication is not coordinated if the consultant places effective barriers (i.e., “firewalls”) to the transmission of non-public information between:
 - (a) The candidate committee or political party; and
 - (b) The person making an independent expenditure or engaging in spending.

Such firewalls shall be physical or technological, or both, include appropriate security measures, and be set forth in a written policy that is distributed to all affected agents, employees, board members, directors, officers, and consultants. A firewall is not effective if non-public material information is nonetheless directly or indirectly transmitted to the person making an expenditure or engaging in spending.

1.4.5 For the purposes of this Rule:

- (a) Candidate committee or political party includes any agent, employee, board member, director, or officer of that candidate committee or political party.
- (b) The person making the expenditure or engaging in the spending includes any agent, employee, board member, director, or officer of the person making the expenditure or engaging in the spending.

1.5 “Corporation”, as used in Article XXVIII, has the same meaning as in section 1-45-103(7), C.R.S.

1.6 “Designated filing agent”, for purposes of these rules, means any person appointed by a committee who is responsible for timely filing campaign finance reports.

1.7 “Electioneering communication” is any communication that (1) meets the definition of electioneering communication in Article XXVIII, Section 2(7), and (2) is the functional equivalent of express advocacy. When determining whether a communication is the functional equivalent of express advocacy:

1.7.1 A communication is the functional equivalent of express advocacy only if it is subject to no reasonable interpretation other than an appeal to vote for or against a specific candidate.

1.7.2 In determining whether a communication is the functional equivalent of express advocacy, it shall be judged by its plain language, not by an “intent and effect” test, or other contextual factors.

1.7.3 A communication is not the functional equivalent of express advocacy if it:

- (a) Does not mention any election, candidacy, political party, opposing candidate, or voting by the general public,
- (b) Does not take a position on any candidate's or officeholder's character, qualifications, or fitness for office, and
- (c) Merely urges a candidate to take a position with respect to an issue or urges the public to adopt a position and contact a candidate with respect to an issue.

[*Federal Election Commission v. Wisconsin Right to Life*, 551 U.S. 449 (2007)]

- 1.8 “Foreign corporation”, as used in Article XXVIII, Section 3(12)(c), means a corporation organized under the laws of another country. The term does not apply to a corporation organized under the laws of another state. “Foreign Corporation,” as used in Article 45 of Title 1, C.R.S., has the same meaning as set forth in section 1-45-103(10.5), C.R.S.
- 1.9 “Frequent” and “Infrequent” filing schedules.
- 1.9.1 Unless otherwise specified, the term “frequent” filing schedule as used in these rules means:
- (a) For state candidates and committees, the filing schedule outlined in section 1-45-108 (2)(a)(I)(B), (2)(a)(I)(C), (2)(a)(I)(D), and (2)(a)(I)(E), C.R.S.; and
 - (b) For county and municipal candidates and committees, the filing schedule outlined in section 1-45-108 (2)(a)(II), C.R.S.
- 1.9.2 Unless otherwise specified, the term “infrequent filing schedule” as used in these rules means:
- (a) For state candidates and committees, the quarterly filing schedule outlined in section 1-45-108(2)(a)(I)(A), C.R.S.; and
 - (b) For county and municipal candidates and committees, the annual filing schedule outlined in section 1-45-108(2)(a)(II), C.R.S.
- 1.10 “Influencing or attempting to influence”, for purposes of political organizations as defined in section 1-45-103(14.5), C.R.S., means making expenditures for communications that expressly advocate the election or defeat of a clearly identified candidate or candidates. [*Buckley v. Valeo*, 424 U.S. 1 (1976)]

The Denver District Court issued a ruling on August 10, 2012 in Colorado Ethics Watch; Colorado Common Cause; David Paladino, et al., v. Scott Gessler, 2012 CV 2133, invalidating rule 1.10. Secretary Gessler has appealed the decision and accordingly will not enforce this rule unless or until the Colorado appellate courts reverse the District Court’s decision.

- 1.11 “Infrequent filing schedule”. See Rule 1.9.
- 1.12 “Issue committee”.
- 1.12.1 “Issue committee” does not include a married couple.
- 1.12.2 A person or group of persons is an issue committee only if it meets both of the conditions in Article XXVIII, Section 2(10)(a)(I) and 2(10)(a)(II).
- 1.12.3 For purposes of determining whether an issue committee has “a major purpose” under Article XXVIII, Section 2(10)(a)(I) and section 1-45-103(12)(b)(II)(A), C.R.S., a demonstrated pattern of conduct is established by:

- (a) Annual expenditures in support of or opposition to ballot issues or ballot questions that exceed 30% of the organization's total spending during the same period; or
- (b) Production or funding of written or broadcast communications in support of or opposition to a ballot issue or ballot question, where the production or funding comprises more than 30% of the organization's total spending during a calendar year.

The Denver District Court issued a ruling on August 10, 2012 in Colorado Ethics Watch; Colorado Common Cause; David Paladino, et al., v. Scott Gessler, 2012 CV 2133, invalidating Rule 1.12.3. Secretary Gessler has appealed the decision and accordingly will not enforce this rule unless or until the Colorado appellate courts reverse the District Court's decision.

- 1.13 "Member", as used in Article XXVIII, Sections 2(5)(b), 2(8)(b)(IV), and 2(14)(a) only, means a person who pays membership dues.
- 1.14 "Non-public information" means confidential material in any form that is not available to the general public, including a non-public campaign plan, communications plan, campaign budget, specification of unmet and potentially unmet campaign needs, proposed or actual media buy, list or description of households or voters who will receive or have received materials under a mailing or other distribution program, polling or focus group results, or other proprietary material.
 - 1.14.1 "Non-public information," however, does not include communications dealing solely with candidate positions on legislative or policy issues.
- 1.15 "Person".
 - 1.15.1 For the purpose of Article XXVIII, Section 7, "person" means any natural person.
 - 1.15.2 A "natural person" is a human being.
- 1.16 "Per day" means "per calendar day" unless otherwise indicated.
- 1.17 "Per year" means "per calendar year" unless otherwise indicated.
- 1.18 "Political committee".
 - 1.18.1 "Political committee" does not include a married couple.
 - 1.18.2 "Political committee" includes only a person or group of persons that support or oppose the nomination or election of one or more candidates as its major purpose. For purposes of this Rule, major purpose means:

- (a) The organization specifically identifies supporting or opposing the nomination of one or more candidates for state or local public office as a primary objective in its organizing documents; or
- (b) Annual expenditures made to support or oppose the nomination or election of one or more candidates for state or local public office are a majority of the organization's total spending during the same period.

[*Alliance for Colorado's Families v. Gilbert*, 172 P.3d 964, 970 (Colo. App. 2007)]

The Denver District Court issued a ruling on August 10, 2012 in Colorado Ethics Watch; Colorado Common Cause; David Paladino, et al., v. Scott Gessler, 2012 CV 2133, invalidating Rule 1.18.2. Secretary Gessler has appealed the decision and accordingly will not enforce this rule unless or until the Colorado appellate courts reverse the District Court's decision.

- 1.19 "Public office" means any office voted for in this state at any election. "Public office" does not include the office of president or vice president of the United States, the office of senator or representative in the Congress of the United States, or any office in a political party.
- 1.20 "Publicly announced an intention to seek election to public office or retention of a judicial office" means:
 - 1.20.1 A person has made a statement signifying an interest in the office;
 - 1.20.2 The statement is made by means of a speech, advertisement, or other communication reported or appearing in public media or in any place accessible to the public;
 - 1.20.3 A reasonable person would expect the statement to become public; and
 - 1.20.4 The statement includes a stated intention to explore the possibility of seeking an office.

The registration of a candidate committee also constitutes a public announcement of an intention to seek election or retention.

[Article XXVIII, Section 2(2)]

- 1.21 "Registered agent" For the purposes of Article 45 of Title 1, C.R.S., a registered agent or a committee treasurer, is an individual or candidate designated to receive mailings and to address concerns and questions regarding the committee. [Sections 1-45-108(3)(b) and 1-45-109(4)(b), C.R.S.]

- 1.22 “Signature”. For purposes of any report filed electronically with the Secretary of State, “signature” means the designated representative has electronically submitted the report through the online filing system.
- 1.23 “Unexpended campaign contributions”. For purposes of section 1-45-106(1), C.R.S., contributions to a candidate committee become unexpended campaign contributions at the earliest of the following:
 - 1.23.1 The end of the election cycle; or
 - 1.23.2 When the candidate withdraws from the political race and intends to terminate his or her candidate committee.
- 1.24 “Unexpended contributions”.
 - 1.24.1 For purposes of section 1-45-106(3), C.R.S., contributions to an issue committee become unexpended contributions at the end of the election cycle in which the committee supported or opposed an issue on the ballot, or one that attempted access to the ballot. Funds do not become unexpended contributions if the issue committee supports or opposes, or intends to support or oppose, another issue or issues.
 - 1.24.2 Funds held by political committees, small donor committees, independent expenditure committees, and political parties at the end of the election cycle are not addressed by statute. [Section 1-45-106, C.R.S.]

Rule 2. Candidates and Candidate Committees

- 2.1 Candidates without committees (standalone candidates)
 - 2.1.1 A candidate who does not accept contributions but who expends money for campaign purposes shall not be required to form a candidate committee.
 - 2.1.2 A candidate without a committee shall file disclosure reports for all reporting periods during which expenditures are made. [Sections 1-45-108 and 1-45-109, C.R.S.]
- 2.2 Candidate committees
 - 2.2.1 A candidate may serve as the candidate committee’s registered agent or appoint another person to be the registered agent. The candidate and the registered agent shall sign the candidate committee registration form. Only the registered agent, the designated filing agent, or the candidate may sign the contribution and expenditure report. [Section 1-45-108(3)(b), C.R.S.]
 - 2.2.2 Once a candidate has been assigned a frequent filing schedule, the candidate shall follow the frequent filing schedule for the remainder of the year.

2.2.3 If a primary election is cancelled in accordance with section 1-4-104.5(1), C.R.S., a candidate committee may accept the contribution limit specified in Article XXVIII, Section 3(1) for the primary election as long as the candidate was eligible to be on the primary election ballot. In accordance with section 1-45-103.7(3), C.R.S., these contributions may be accepted at any time before or after the primary election was cancelled.

2.2.4 Managing unexpended campaign contributions

- (a) The unexpended balance shall be reported as the ending balance throughout the election cycle. Unexpended balances from the final report filed 30 days after the applicable election shall be reported as the beginning balance in the next election cycle.
- (b) Candidates seeking re-election to the same office
 - (1) Campaign contributions may be retained by the candidate committee for use in a subsequent election cycle for the same public office, in an amount not to exceed the limit in Article XXVIII Section 3(3) (as adjusted by Rule 10.14).
 - (2) A candidate committee shall not list unexpended campaign contributions retained for use in a subsequent election cycle expressly on disclosure reports as “contributions from a political party” or as contributions from any specific political party. [Article XXVIII, Section 3(3)(e)]
 - (3) The amount retained by a candidate for use in a subsequent election for the same office counts toward the limit on contributions from a political party. If the amount retained plus any political party contributions to the candidate committee during the subsequent election cycle exceeds the limit on political party contributions, any amount in excess of the limit accepted by the candidate committee shall constitute a violation of Article XXVIII, Section 3(3)(d), unless returned to the contributor within 30 days.
- (c) Candidates seeking election to a new office
 - (1) Campaign contributions to a candidate committee may be transferred to a candidate committee established by the same candidate for a different public office, subject to the limitations set forth in Article XXVIII, Section 3(3)(e) for political party contributions, only if the new office to be sought has contribution limits that are equal to or greater than the current office, or the new office sought has no contribution limits. [Article XXVIII, Section 3]

- (2) If a candidate committee transfers money to a new candidate committee for a new office, the existing candidate committee shall be affirmatively closed by the candidate within ten days of registering the new candidate committee.
- (d) Candidates not seeking re-election or election to a new office
 - (1) Campaign contributions held by a candidate committee that wishes to terminate and will not transfer funds to a new candidate committee may be:
 - (A) Contributed to a political party, in an amount not to exceed the limit in Article XXVIII Section 3(3) (as adjusted by Rule 10.14);
 - (B) Donated to a charitable organization recognized by the I.R.S.;
 - (C) Returned to contributors; or
 - (D) For candidates elected to office, funds may be used for voter registration, political issue education, postsecondary educational scholarships, to communicate with constituents, or for expenses directly related to the officeholder's official duties.

[Section 1-45-106(1)(a)(I) and (b), C.R.S.]

2.2.5 Disposition of debt in anticipation of committee termination

- (a) All contributions received by a candidate committee in the current election cycle shall be subject to the limits on contributions for the current election cycle and shall be reported as contributions for the current election cycle, regardless of any debt carried over from a prior election cycle. a candidate committee may not count contributions that are earmarked for debt retirement against contribution limits for the past election cycle.
- (b) Any financial obligations incurred by a candidate committee in an election cycle that are not paid within a commercially reasonable period of time, not to exceed six months after the close of that election cycle, shall be treated as "contributions" from the service provider or vendor extending credit.

2.3 Candidate affidavits

- 2.3.1 An affidavit that must be filed with the Secretary of State shall be filed electronically using the Secretary of State's online campaign finance filing system. [Sections 1-45-110(1) and 24-21-111, C.R.S.]

- 2.3.2 Candidates running for a Junior College Board of Trustees are not required to file a candidate affidavit. [Article XXVIII, Section 2(2) and section 23-71-110, C.R.S. See also Rule 14.]
- 2.4 Personal financial disclosures [Article XXVIII, Section 10(2); Sections 1-45-110 and 24-6-202, C.R.S.]
 - 2.4.1 A candidate shall not be required to file a disclosure statement if the candidate filed either a complete or amended disclosure statement less than 90 days before filing a candidate affidavit. [Section 1-45-110(2)(a) and (b), C.R.S.]
 - 2.4.2 Personal financial disclosure update forms (amended statements). An amended disclosure statement will satisfy the disclosure requirement if:
 - (a) A candidate files an affidavit 90 days or more after filing a disclosure;
 - (b) An individual files a candidate affidavit for a new office sought, if all necessary amended statements have been filed since the filing of the original disclosure statement; or
 - (c) An incumbent has maintained current updates on file since filing an original, complete personal financial disclosure.
 - 2.4.3 If a candidate withdraws from his or her candidacy by submitting appropriate documentation before filing the disclosure statement required in section 1-45-110(2)(a), C.R.S., the candidate is not required to file a disclosure statement, but any fines that the candidate accrued for failure to file a disclosure statement prior to withdrawing shall remain in effect.

Rule 3. Political Committees and Small Donor Committees

- 3.1 Political committees and small donor committees shall not make contributions to issue committees, except to the extent that a contribution is for the purchase of event tickets, merchandise, or services. [Article XXVIII, Section 2(12)(a)]
- 3.2 A political committee may change status to a small donor committee without terminating the political committee if it has never accepted contributions of more than \$50 per natural person per year.
- 3.3 A committee that raises money solely for the purpose of making independent expenditures, and which does not make contributions to candidates for any office, shall be an independent expenditure committee and shall not be considered a political committee. An independent expenditure committee is not subject to the restrictions in Article XXVIII, Section 3(5). [Section 1-45-103.7(2.5)]

Rule 4. Issue Committees

- 4.1 An issue committee shall not be subject to any of the requirements of Article XXVIII or Article 45 of Title 1, C.R.S., until the issue committee has accepted \$5,000 or more in contributions or made expenditures of \$5,000 or more during an election cycle. An issue committee that accepts \$5,000 or more in contributions or makes expenditures of \$5,000 or more during an election cycle shall register with the appropriate officer within ten calendar days of accepting or making such contributions and expenditures.
- 4.1.1 Contributions received and expenditures made before reaching the \$5,000 threshold are not required to be reported. Contributions received and expenditures made after reaching the \$5,000 threshold shall be reported in accordance with the reporting schedule specified in section 1-45-108(2)(a), C.R.S.
- 4.1.2 An issue committee shall provide the committee's balance on the date of committee registration as a "beginning balance" on the committee's initial Report of Contributions and Expenditures.
- 4.1.3 For purposes of this Rule, an election cycle is the two-year house of representatives election cycle.

[*Sampson v. Buescher*, 625 F.3d 1247 (10th Cir. 2010)]

The Denver District Court declared Rule 4.27, the predecessor to Rule 4.1, invalid in Common Cause et. al v. Gessler, 2011 CV 4164. The Secretary has appealed the decision, and accordingly will not enforce Rule 4.1 unless or until the Colorado appellate courts reverse the District Court's decision. The Secretary will revive Rule 4.1 if the appellate courts reverse the decision.

- 4.2 An issue committee may support or oppose more than one issue if the following conditions are met:
- 4.2.1 The specific issues are included on the committee registration form when each issue meets the requirements of section 1-45-108(7), C.R.S.;
- 4.2.2 Each issue is described on the committee registration form; and
- 4.2.3 The registration form states whether the committee will be supporting or opposing those issues.

[Article XXVIII, Section 2(10)(a)(I) and (2)(10)(a)(II)]

- 4.3 An issue committee must file on a frequent filing schedule once it has spent money to support or oppose ballot issues or ballot questions, or potential ballot issues or ballot questions on an upcoming ballot. See Rule 17.2.3.
- 4.4 Disclosure.

- 4.4.1 An issue committee is only required to report those contributions accepted, expenditures made, and obligations entered into for the purpose of supporting or opposing ballot issues or ballot questions.
- 4.4.2 Contributions accepted for the purpose of supporting or opposing ballot issues or ballot questions shall be deposited in an account separate from other funds of the issue committee in accordance with Article XXVIII, Section 3(9).
- 4.5 Termination. An issue committee may terminate by filing a termination report with the appropriate filing officer. In accordance with Rule 12.3, a termination report may be filed at any time if the following conditions are met:
 - 4.5.1 The committee no longer has a major purpose of supporting or opposing any ballot issue or ballot question and no longer intends to accept or make contributions or expenditures to support or oppose a ballot issue or ballot question; and
 - 4.5.2 The committee's separate account maintained in accordance with Article XXVIII, Section 3(9) has no cash on hand and no outstanding debts or obligations.

Rule 5. Independent Expenditures and Independent Expenditure Committees

- 5.1 Disclaimer requirement for nonbroadcast independent expenditure communications.
 - 5.1.1 Any nonbroadcast communication that constitutes an independent expenditure and is subject to the requirements of section 1-45-107.5(5), C.R.S., shall contain a clear and conspicuous disclaimer including:
 - (a) The name of the person that paid for the communication; and
 - (b) The specific statement that the communication is not authorized by any candidate.

The disclaimer shall be clearly readable, and shall be printed in text that is no less than fifteen percent of the size of the largest font used in the communication, or at least eight-point font.
 - 5.1.2 These requirements do not apply to bumper stickers, pins, buttons, pens, and similar small items upon which the disclaimer cannot be reasonably printed.
- 5.2 A committee that raises money solely for the purpose of making independent expenditures, and which does not make contributions to candidates, shall be an independent expenditure committee and shall not be considered a political committee. An independent expenditure committee is not subject to the political committee restrictions in Article XXVIII, Section 3(5). [Section 1-45-103.7(2.5), C.R.S.]

Rule 6. Political Parties

- 6.1 The appropriate filing officer for a state or county political party is the Secretary of State. Therefore, state and county political parties are subject to the requirements of section 1-45-109(1)(c), C.R.S., and must file reports with the Secretary of State. [Article XXVIII Section 2(1); section 1-45-109(1)(c), C.R.S.]
 - 6.1.1 Repealed.
- 6.2 Transfers of money within a party
 - 6.2.1 A party may transfer money from one level of the organization to another without limit.
 - 6.2.2 Transfers of money within a party must be disclosed as “other income” in accordance with Rule 10.12.
- 6.3 Home rule jurisdictions
 - 6.3.1 A political party in a home rule jurisdiction that maintains a separate account in accordance with Rule 14.4 may not include contributions to, or expenditures, from that separate account in reports filed with the Secretary of State.
 - 6.3.2 If a political party receives contributions into a separate account in accordance with Rule 14.4, the party may not transfer funds from that account to other county parties or to a state party.

Rule 7. Federal PACs and 527 Political Organizations

- 7.1 Federal PACs
 - 7.1.1 A political committee that is subject to reporting under both section 1-45-108, C.R.S., and the “Federal Election Commission Act of 1971” (a “Federal PAC”) shall register with the Secretary of State’s office as a “Federal PAC.” A Federal PAC shall file disclosure reports electronically with the Secretary of State. In accordance with the requirement of section 1-45-108 (3.5), C.R.S., that Federal PACs are subject to “all other legal requirements”, a Federal PAC must:
 - (a) Identify the contributions the Federal PAC received that were used to support or oppose candidates in Colorado and disclose all such contributions on reports filed with the Secretary of State.
 - (b) Itemize on the Colorado report all contributions of \$20 or more identified by the Federal PAC as making up the funds used to support or oppose candidates in Colorado, and list the occupation and employer of any person who has made a contribution of \$100 or more.

- (c) Use only contributions received by the Federal PAC that are within source and contribution limits established by Colorado law to support or oppose state or local candidates. Contributions received by the PAC that the organization has not designated for use to support or oppose candidates in Colorado do not have to be disclosed on reports filed in Colorado and are not subject to the Colorado source and amount limits and prohibitions.
 - (d) Itemize all expenditures in the state of \$20 or more, and list any expenditures of less than \$20 made in Colorado as non-itemized expenditures.
 - (e) Deposit Federal PAC funds into a separate account that is used for the Federal PAC exclusively, in accordance with Article XXVIII, Section 3(9) and Rule 10.11. The Federal PAC may, but is not required to, segregate funds intended to support or oppose state or local candidates in Colorado.
- 7.1.2 Federal PACs shall file reports in every reporting period as long as the Federal PAC remains in “active” status with the Secretary of State’s office. Reports filed by a Federal PAC are filed on the schedule outlined for political committees in section 1-45-108(2)(a)(I), C.R.S.
- 7.1.3 If the Federal PAC is registered as a Colorado political committee rather than as a Federal PAC, the committee must follow the requirements applicable to state political committees, and not those outlined in this Rule.
- 7.1.4 Any Federal PAC registered with the Secretary of State may terminate its active status by filing a termination report.
- 7.2 Political organizations. In the case of political organizations as defined in section 1-45-103(14.5), C.R.S.:
 - 7.2.1 For purposes of section 1-45-108.5, C.R.S., an entity is considered a political organization only if:
 - (a) Has as its major purpose influencing or attempting to influence elections as defined in Rule 1.10; and
 - (b) Is exempt, or intends to seek exemption, from taxation by the Internal Revenue Service.

[I.R.C. § 527(i)(5)(B) (2010)]

The Denver District Court issued a ruling on August 10, 2012 in Colorado Ethics Watch; Colorado Common Cause; David Paladino, et al., v. Scott Gessler, 2012 CV 2133, invalidating Rule 7.2.1. Secretary Gessler has appealed the decision and accordingly will not enforce this rule unless or until the Colorado appellate courts reverse the District Court’s decision.

- 7.2.2 Political organizations shall file on the frequent filing schedule for a political committee in an even-numbered year, and on the infrequent filing schedule in an odd-numbered year, according to the filing schedules set forth in section 1-45-108(2), C.R.S.
- (a) For the purposes of this Rule, “off-election year” for a political organization shall mean every odd-numbered year.
- (b) For the purposes of this Rule, “major election” shall mean an election held in November of an even-numbered year.
- 7.2.3 Political organizations are not required to file disclosure reports for reporting periods when no contributions were received and spending was less than \$20. [Section 1-45-108.5(1)(b), C.R.S.]
- 7.2.4 Political organizations shall file all applicable disclosure reports required by section 1-45-108.5, C.R.S., with the appropriate filing officer. For the purposes of this rule, the appropriate filing officer shall be the same for political organizations as for political committees as outlined in section 1-45-109, C.R.S.

Rule 8. Registering a Committee

- 8.1 The purpose or nature of interest of the committee or party shall be included in the committee registration.
- 8.1.1 A candidate committee shall identify the name of the candidate and the specific office sought.
- 8.1.2 A political committee, independent expenditure committee, small donor committee, Federal PAC, or political organization shall identify the types of candidates being supported or opposed, including party affiliation and office(s) sought or public policy position(s).
- 8.1.3 An issue committee must identify the ballot measures to be supported or opposed, if known. If particular ballot measures are not known, an issue committee must identify policy positions to be supported or opposed.
- 8.2 When a committee registration form is received and deemed complete by the appropriate filing officer, an identification number will be assigned and a letter or email of acknowledgement will be sent by the appropriate filing officer to the registered agent on file.

Rule 9. Registered Agents

- 9.1 The registered agent or a designated filing agent for any committee shall sign the committee’s registration form and all disclosure reports. For registration forms and reports filed by a candidate or candidate committee, the candidate may sign. [Sections 1-45-108(3), (5), and (6), C.R.S.]

- 9.2 For a candidate committee, the candidate may serve as the registered agent, or the candidate may appoint another person.
- 9.3 Resignation of registered agent
- 9.3.1 A committee may assign a new registered agent by filing an amended committee registration using the online campaign finance filing system. The Secretary of State's office will maintain a registered agent's name on file until the committee assigns a new registered agent.
- 9.3.2 In accordance with Rule 12.1, the committee or party shall file an amended committee registration form within five days after the resignation of a registered agent or the appointment of a new registered agent. The committee or party must have an active registered agent at all times. [Section 1-45-108(3)(b), C.R.S.]

Rule 10. Managing Contributions and Expenditures

10.1 Contributions – how reported

- 10.1.1 All contributions received of \$20 or more during a reporting period shall be listed individually on the contribution and expenditure report, including names and addresses of the contributors. If a contributor gives \$20 or more in the aggregate during the reporting period, the contributor must be listed individually on the report, regardless of the amount of each contribution. [Section 1-45-108(1), C.R.S.]
- 10.1.2 All other receipts and contributions less than \$20 may be reported in total as non-itemized contributions for the reporting period, except for contributions from an LLC.
- 10.1.3 Contributions from an LLC must be itemized regardless of amount. [Section 1-45-103.7(5)(d), C.R.S.]
- 10.1.4 Disclosure of occupation and employer
- (a) The requirement to disclose the occupation and employer of a contributor in Article XXVIII, Section 7 and section 1-45-108, C.R.S., applies to any one-time contribution of \$100 or more, and not to aggregate contributions totaling \$100 or more.
- (b) If occupation and employer information is not provided for contributions of \$100 or more, and the committee is unable to gather the information within 30 days after receipt from the contribution, the contribution shall be returned to the contributor no later than the 31st day after receipt. [Article XXVIII, Section 7]

10.2 Expenditures – how reported

- 10.2.1 All expenditures made by a committee of \$20 or more during a reporting period shall be listed individually on the contribution and expenditure report, including names and addresses of payees.
- 10.2.2 Individual expenditures in amounts less than \$20 that aggregate to total \$20 or more to the same payee during the reporting period shall be listed individually on the contribution and expenditure report.
- 10.2.3 All other expenditures less than \$20 during a reporting period may be reported in total as non-itemized expenditures.

[Section 1-45-108(1), C.R.S.]

10.3 Contributions and donations – when counted.

10.3.1 A contribution or donation is considered made or received as of the date that it is accepted by the committee or party.

- (a) A contribution or donation by check is considered accepted, at the latest, on the date that the contribution or donation is deposited by the committee into its account. Any contribution or donation in the form of a check received by a committee at least five business days before the end of a reporting period must be deposited or returned to the contributor by the close of that reporting period.
- (b) A cash contribution or donation is received as of the date the cash is transferred to the committee's possession.
- (c) A contribution or donation made by credit card, PayPal, or other payment intermediary service is received as of the date the contributor or donor authorizes the payment to be made.
- (d) A non-monetary (in-kind) contribution or donation is received as of the date on which the committee takes possession of the item, or has the right to possess or use the item.

10.3.2 For purposes of section 1-45-105.5, C.R.S., concerning contributions by lobbyists to certain state officers and candidates when legislation is under consideration, a contribution is considered made or promised when the pledge is made or possession of the check is transferred to any person not under the control of the issuer, whichever is sooner.

10.4 All committees shall maintain all financial records for 180 days after any general election in which the committee received contributions. If a complaint is filed against the committee, the committee shall maintain financial records until final disposition of the complaint and any consequent litigation. LLC affirmations must be maintained for one year after the end of the election cycle. [Article XXVIII, Section 3(9)]

- 10.5 For any contribution received in excess of contribution limits, neither the contributor nor the receiving committee shall be liable for exceeding the contribution limit if the excess amount is returned to the contributor within ten days of receipt or within three days after receiving notification from the Secretary of State that the contribution violates the limits, whichever is sooner.
- 10.6 Contributions where the identity of the contributor is unknown (anonymous contributions or donations)
- 10.6.1 Committees cannot keep anonymous contributions or donations of \$20 or more. An anonymous contribution or donation is one where the identity of the contributor or donor is unknown. Anonymous contributions or donations of \$20 or more must be donated to any charitable organization recognized by the Internal Revenue Service, or transmitted to the State Treasurer for deposit into the unclaimed property fund or such other fund as the State Treasurer may direct, within 30 days after receipt. [Section 1-45-108(1)(a), C.R.S.]
- 10.7 Contributions by candidate – voluntary spending limits – loans.
- 10.7.1 If a candidate does not accept voluntary spending limits, the candidate may make unlimited contributions from his or her personal funds to his or her candidate committee.
- 10.7.2 Contributions to a candidate’s own committee by a candidate who does accept voluntary spending limits shall be counted toward the limit on political party contributions in Article XXVIII, Section 3(3)(d), and Section 4(2).
- 10.7.3 A candidate who accepts voluntary spending limits may make a loan to his or her candidate committee in any amount, so long as the unpaid balance of any loan does not exceed the contribution limit in Article XXVIII, Sections 3 and 4(2) at any time.
- 10.8 Cost-sharing by candidates
- 10.8.1 Candidate committees may share the cost of brochures, offices, office equipment, etc. that are produced or used jointly if each candidate committee pays for its proportionate share of the expense.
- 10.8.2 Any reimbursement by one candidate committee to another for shared costs must be made within 30 days of the original expenditure. Reimbursement is not a “contribution” from one committee to the other; it shall be reported as an expenditure by the reimbursing committee and as a returned expenditure by the reimbursed committee. If sharing expenditures results in a price discount based on volume or quantity, the discount is not considered a “contribution” from the vendor.
- 10.9 Reimbursement of expenditures – payments by credit card or payment intermediary service

10.9.1 When reporting a reimbursement to a candidate or to any other person, the committee or party shall separately disclose each expenditure of \$20 or more, including the purpose, payee, and amount of each expenditure as of the date of the expenditure, regardless of the date of reimbursement.

10.9.2 For the purpose of reporting an expenditure, simply disclosing that a payment was made to a credit card company or a payment intermediary service such as PayPal is not adequate. All expenditures of \$20 or more made by credit card or payment intermediary service must be itemized, including the name and address of the original payee, amount, original date of expenditure, and purpose of the expenditure.

10.9.3 Nothing in this Rule permits contributions or reimbursements of contributions prohibited by Article XXVIII, Section 3(11).

10.9.4 A reimbursement not considered a contribution to the person being reimbursed for purposes of Article XXVIII, Section 2(5).

[Section 1-45-108(1)(e), C.R.S.]

10.10 Loans received by a candidate committee

10.10.1 All loans received by a candidate committee must be reported continuously until repaid. [Article XXVIII, Section 3(8)]

10.10.2 Loans made from a financial institution to a candidate committee under Article XXVIII, Section 3(8) shall not be forgiven.

10.10.3 Loans made by a candidate to his or her committee

- (a) A candidate may make an interest-free loan to his or her candidate committee. Any foregone interest is not a contribution to the committee.
- (b) Any repayment of a loan shall be considered a loan payment, except that interest repaid for a loan made under Article XXVIII, Section 3(8) shall be reported as an expenditure by the committee.
- (c) A loan made by a candidate to the candidate's own committee may be forgiven by the candidate. The amount of unpaid debt forgiven by the candidate remains a contribution and is not considered a returned contribution.

10.11 The requirement that committee funds be deposited into "a financial institution" does not require that all committee funds must be deposited in one single bank, credit union, or other commercial financial institution. [Article XXVIII, Section 3(9)]

10.12 Other income

- 10.12.1 A committee's funds may be invested in any type of account or instrument of a government regulated financial institution.
- 10.12.2 Any interest or dividends earned on a committee's account, earned income from a commercially reasonable transaction, or transfers of money within a political party shall be disclosed as other income on the committee's reports. This "other income" is not subject to contribution limits.
- 10.13 Disclosure of contributions by limited liability companies (LLCs) [Section 1-45-103.7(5), (6), (7), and (8), C.R.S.]
- 10.13.1 The written affirmation provided by an LLC in accordance with section 1-45-103.7, C.R.S., shall include the names and addresses of all LLC members and describe how the contribution is to be attributed to the LLC members.
- 10.13.2 The affirmation shall include the occupation and employer of any member to whom a contribution of \$100 or more is attributed.
- 10.13.3 A committee that receives a contribution from an LLC shall report the contribution as having been received from contributor type "LLC," and shall then list each LLC member and the amount attributed to each member (as determined by the pro-rata ownership held by each). Disclosure shall include the name and address of the LLC and the name and address of each member. [Section 1-45-108(1)(a)(IV), C.R.S.]
- 10.13.4 Any contribution received by a committee from an LLC that does not comply with the affirmation requirements in section 1-45-103.7, C.R.S., and this Rule shall be returned to the contributor within 30 days.
- 10.13.5 Each contribution received from an LLC shall be itemized on disclosure reports, regardless of the dollar amount.
- 10.13.6 Any contribution from an LLC is counted against contribution limits for both the individual member(s) to whom the contribution is attributed and the LLC itself. [Article XXVIII, Section 3(9)]
- (a) No LLC shall be permitted to make a contribution that exceeds the limit for a "person" established in Article XXVIII, Section 3, as adjusted by Rule 10, regardless of the amount attributed to each individual member.
- 10.14 Inflationary adjustments to contribution and voluntary spending limits
- 10.14.1 Calculation of adjustments
- (a) In accordance with Article XXVIII, Sections 3(13) and 4(7), limits on contributions in Section 2(14) and Section 3, subsections (1), (2), (3), and (5) and the voluntary limits on spending in Section 4(1), are adjusted every four years based on the percentage change in the consumer price

index for the Denver-Boulder-Greeley area, over the four year period immediately preceding the adjustment.

- (b) In determining the adjusted amount, the percentage change in the consumer price index is rounded to the nearest whole percentage point. In accordance with Article XXVIII, Sections 3(13) and 4(7), the adjusted limits are rounded to the nearest, lowest \$25.

10.14.2 Adjusted limits made in the first quarter of 2011 and effective until the next adjustment is made in 2015:

- (a) There is no adjustment to the contribution limits on individual donations to small donor committees outlined in Article XXVIII, Section 2(14).
- (b) The aggregate limits on contributions from any person for a primary or a general election, described in Article XXVIII, Section 3(1), are adjusted as follows:

- (1) \$550 to any one:

- (A) Governor candidate committee for the primary election, and Governor and Governor and Lieutenant Governor candidate committee, as joint candidates under section 1-1-104, C.R.S., or any successor section, for the general election;

- (B) Secretary of State, State Treasurer, or Attorney General candidate committee.

- (2) There is no adjustment to the limits on contributions to any one State Senate, State House of Representatives, State Board of Education, Regent of the University of Colorado, or any District Attorney candidate committee.

- (c) The aggregate limits on contributions from a small donor committee for a primary or a general election, described in Article XXVIII, Section 3(2), are adjusted as follows:

- (1) \$5,675 to any one:

- (A) Governor candidate committee for the primary election, and Governor and Lieutenant Governor candidate committee, as joint candidates under section 1-1-104, C.R.S., or any successor section, for the general election;

- (B) Secretary of State, State Treasurer, or Attorney General candidate committee; and

- (2) \$2,250 to any one State Senate, State House of Representatives, State Board of Education, Regent of the University of Colorado, or any District Attorney candidate committee.
- (d) The aggregate limits on contributions from any person to a political party, described in Article XXVIII, Section 3(3)(a), are adjusted as follows:
- (1) \$3,400 per year at the state, county, district, and local level combined; and
- (2) Of such, no more than \$2,825 at the state level.
- (e) The aggregate limits on contributions from a small donor committee to a political party, described in Article XXVIII, Section 3(3)(b), are adjusted as follows:
- (1) \$17,075 per year at the state, county, district, and local level combined; and
- (2) Of such, no more than \$14,225 at the state level.
- (f) The aggregate limits on pro-rata contributions or dues made to political committees, described in Article XXVIII, Section 3(5), are adjusted to \$550 per house of representatives election cycle.
- (g) This table contains the contribution limits listed in subsections i-vi.

Contributor:

Recipient	Natural Person	Person, other than a natural person	Political committee	Small donor committee	Political party
Political committee	\$550 per election cycle	\$550 per election cycle	\$550 per election cycle	\$550 per election cycle	\$550 per election cycle
Small donor committee	\$50 per year	Prohibited	Prohibited	Prohibited	Prohibited
Governor (governor & lt. governor)	\$550 per election cycle*	\$550 per election cycle*	\$550 per election cycle*	\$5,675 per election cycle*	\$569,530 per election cycle
Secretary of state, state treasurer, attorney general	\$550 per election cycle*	\$550 per election cycle*	\$550 per election cycle*	\$5,675 per election cycle*	\$113,905 per election cycle
State senate	\$200 per election cycle*	\$200 per election cycle*	\$200 per election cycle*	\$2,250 per election cycle*	\$20,500 per election cycle
State house of representative s, state board	\$200 per election cycle*	\$200 per election cycle*	\$200 per election cycle*	\$2,250 per election cycle*	\$14,805 per election cycle

of education, regent of the University of Colorado, district attorney					
Political party	\$3,400 (\$2,825 at the state level) per year	\$3,400 (\$2,825 at the state level) per year	\$3,400 (\$2,825 at the state level) per year	\$17,075 (\$14,225 at the state level) per year	Transfers within a party may be made without limitation.

* All major party candidates may accept the contribution limit for the primary election and the general election. Minor party candidates who appear on a primary election ballot may accept contributions for the primary and general elections. Unaffiliated and minor party candidates who do not appear on a primary election ballot may accept contributions only for the general election.

- (h) The voluntary spending limits for a candidate described in Article XXVIII, Section 4(1), are adjusted as follows:
- (1) The spending limit for Governor, and Governor and Lieutenant Governor as joint candidates under section 1-1-104, C.R.S., or any successor section shall be adjusted to \$2,847,650.
 - (2) The spending limit for a candidate for Secretary of State, Attorney General, or Treasurer shall be adjusted to \$569,525.
 - (3) The spending limit for a candidate for State Senate shall be adjusted to \$102,500.
 - (4) The spending limit for a candidate for State House of Representatives, State Board of Education, Regent of the University of Colorado, or any District Attorney shall be adjusted to \$74,025.

Candidate	Voluntary Spending Limit
Governor, and Governor and Lieutenant Governor as joint candidates	\$2,847,650
Secretary of State, Attorney General, or State Treasurer	\$569,525
State Senate	\$102,500
State House of Representatives, State Board of Education, Regent of the University of Colorado, or District Attorney	\$74,025

10.14.3 Adjusted limits made in the first quarter of 2007 and effective through the first quarter of 2011:

- (a) There is no adjustment to the contribution limit on individual donations to small donor committees outlined in Article XXVIII, Section 2(14).
- (b) The aggregate limits on contributions from any person for a primary or a general election, described in Article XXVIII, Section 3(1), are adjusted as follows:
 - (1) \$525 to any one:
 - (A) Governor candidate committee for the primary election, and Governor and Lieutenant Governor candidate committee, as joint candidates under section 1-1-104, C.R.S., or any successor section, for the general election;
 - (B) Secretary of State, State Treasurer, or Attorney General, candidate committee.
 - (2) There is no adjustment to the limits on contributions to any one State Senate, State House of Representatives, State Board of Education, Regent of the University of Colorado, or any District Attorney candidate committee.
- (c) The aggregate limits on contributions from a small donor committee for a primary or a general election, described in Article XXVIII, Section 3(2), are adjusted as follows:
 - (1) \$5,300 to any one:
 - (A) Governor candidate committee for the primary election, and Governor and Lieutenant Governor candidate committee, as joint candidates under section 1-1-104, C.R.S., or any successor section, for the general election;
 - (B) Secretary of State, State Treasurer, or Attorney General, candidate committee; and
 - (2) \$2,125 to any one State Senate, State House of Representatives, State Board of Education, Regent of the University of Colorado, or any District Attorney candidate committee.
- (d) The aggregate limits on contributions from any person to a political party, described in Article XXVIII, Section 3(3)(a), are adjusted as follows:
 - (1) \$3,175 per year at the state, county, district, and local level combined; and

- (2) Of such, no more than \$2,650 at the state level.
- (e) The aggregate limits on contributions from a small donor committee to a political party, described in Article XXVIII, Section 3(3)(b), are adjusted as follows:
 - (1) \$15,900 per year at the state, county, district, and local level combined; and
 - (2) Of such, no more than \$13,250 at the state level.
- (f) The aggregate limits on pro-rata contributions or dues made to political committees, described in Section 3(5), Article XXVIII of the Colorado Constitution, are adjusted to \$525 per house of representatives election cycle.
- (g) The voluntary spending limits for a candidate described in Article XXVIII, Section 4(1), are adjusted as follows:
 - (1) The spending limit for Governor, and Governor and Lieutenant Governor as joint candidates under section 1-1-104, C.R.S., or any successor section shall be adjusted to \$2,650,000.
 - (2) The spending limit for a candidate for Secretary of State, Attorney General, or Treasurer shall be adjusted to \$530,000.
 - (3) The spending limit for a candidate for State Senate shall be adjusted to \$95,400.
 - (4) The spending limit for a candidate for State House of Representatives, State Board of Education, Regent of the University of Colorado, or any District Attorney shall be adjusted to \$68,900.

Rule 11. Electioneering Communications

- 11.1 If a person spending money for electioneering communications is a corporation or labor organization, disclosure of the names and addresses of persons contributing \$250 or more used to make electioneering communications shall only be required if the money is specifically earmarked for electioneering communications. [Section 1-45-108(1)(a)(III), C.R.S.]
- 11.2 All contributions of \$250 or more received for electioneering communications during a reporting period, including non-monetary contributions, shall be listed individually on the electioneering report. [Article XXVIII, Section 6(1)]

- 11.3 All spending of \$1,000 or more per calendar year shall be listed individually on the electioneering report, including name, address, and method of communication. [Article XXVIII, Section 6(1)]
- 11.4 Entities making electioneering communications shall maintain all financial records for 180 days after any general election in which the entity received contributions. If a complaint is filed against the entity making electioneering communications, the entity shall maintain financial records until final disposition of the complaint and any consequent litigation.
- 11.5 The name of the candidate(s) unambiguously referred to in the electioneering communication shall be included in the electioneering report. [Article XXVIII, Section 2(7)(I)]
- 11.6 Submission of electioneering communication disclosure reports
 - 11.6.1 Committees are not required to file electioneering communication reports separate from regularly filed independent expenditure disclosure reports so long as any expenditure or spending subject to Article XXVIII, Section 6 and Rule 11.5 is identified as an electioneering communication. The disclosure of electioneering expenditures or spending on a regularly filed report shall include the name of the candidate referred to in the electioneering communication.

Rule 12. Changing or Closing a Committee

- 12.1 Changes to any information disclosed on the committee registration statement must be reported to the appropriate filing officer within ten days. [Section 1-45-108(3), C.R.S.]
- 12.2 A candidate that changes office sought shall terminate his or her existing candidate committee and register a new candidate committee within ten days of the change. See Rule 2.2.
- 12.3 A committee may terminate if the following conditions are met:
 - 12.3.1 The committee no longer intends to receive contributions or make expenditures;
 - 12.3.2 The committee has a zero balance because it has no cash or assets on hand and no outstanding debts or obligations; and
 - 12.3.3 The candidate or committee files a termination report of contributions and expenditures.

A committee may dispose of assets remaining in its possession before termination in the same manner as allowed for unexpended contributions. A termination report may be filed at any time. [Article XXVIII, Section 2(3) and section 1-45-106, C.R.S.]
- 12.4 Unexpended contributions

12.4.1 Unexpended campaign contributions held by a candidate committee. See Rule 2.2.

12.4.2 An issue committee may donate unexpended contributions to a charitable organization recognized by the I.R.S. or return unexpended contributions to the contributor. [Section 1-45-106(3), C.R.S.]

12.4.3 Political committees, small donor committees, independent expenditure committees, political parties, Federal PACs, and political organizations are not covered by statute. [Section 1-45-106, C.R.S.]

12.5 Administrative committee terminations

12.5.1 In accordance with the procedures set out in the “State Administrative Procedure Act” (Article 4 of Title 24, C.R.S.), the Secretary of State may close an inactive committee after six missed reports or 18 months of non-reporting, whichever happens first.

12.5.2 A committee shall be deemed inactive for the purpose of this rule after failing to file any reports with the appropriate filing officer for six consecutive reporting periods or 18 months, whichever is shorter. [Article XXVIII, Section 2(3), and section 24-4-105, C.R.S.]

Rule 13. Corporations and Membership Organizations

13.1 A corporation or labor organization may establish a political committee, an independent expenditure committee, and a small donor committee. Each committee is subject to the applicable individual contribution and expenditure limits for that committee. A corporation or labor organization may pay for the costs of establishing, administering, and soliciting funds from its own employees or members for a political committee, a small donor committee, or an independent expenditure committee. [Article XXVIII, Sections 2(5)(b) and 2(14)(b)]

13.2 Membership dues transferred to small donor committees, independent expenditure committees, and political committees.

13.2.1 Membership organizations transferring a portion of a member’s dues to a small donor committee, independent expenditure committee, or political committee shall provide the respective committee with the member’s name, address, amount of dues transferred, and the date of the dues transfer.

13.2.2 Each small donor committee, independent expenditure committee, and political committee shall keep records of all contributions or donations received in the form of membership dues transferred by a membership organization to the committee. The records shall include each contributing or donating member’s name, address, and amount of the dues transferred. [Section 1-45-108(1)(a)(I), C.R.S.]

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

13.2.4 On each disclosure report, the candidate or registered agent of a committee shall certify and declare, under penalty of perjury, that to the best of his or her knowledge or belief all contributions or donations received in a reporting period, including contributions or donations received in the form of membership dues transferred by a membership organization, are from permissible sources. [Article XXVIII, Section 3]

Rule 14. Local Offices and Home Rule

14.1 The requirements of Article XXVIII and of Article 45 of Title 1, C.R.S., do not apply to home rule counties or home rule municipalities that have adopted charters, ordinances, or resolutions that address any of the matters covered by Article XXVIII or Article 45 of Title 1.

14.2 The provisions of Article XXVIII, Section 3(4) relating to contributions of corporations and labor unions apply to elections to every state and local public office, except local public offices in home rule counties or home rule municipalities that have adopted charters, ordinances, or resolutions that address any of the matters covered by Article XXVIII or Title 1, Article 45.

14.3 The provisions of section 1-45-105.5, C.R.S., relating to a prohibition on lobbyist contributions to members of the General Assembly during legislative sessions, apply to members of the General Assembly who are candidates for any state or local office, including any office in home rule municipalities that have adopted charters, ordinances, or resolutions that address any of the matters covered by Article XXVIII or Article 45 of Title 1.

14.4 A political party, as defined in Article XXVIII, Section 2(13) at the level of a home rule county or home rule municipality that has adopted a charter, ordinance, or resolution that addresses any of the matters covered by Article XXVIII or Article 45 of Title 1, may establish a separate account that is used solely for contributions made to the party, and expenditures made by the party, for the purpose of supporting the party's county or municipal candidates for offices within the county or municipality. Contributions to and expenditures from such account shall not be included for purposes of any limitations or reporting contained in Article XXVIII or Article 45 of Title 1, C.R.S.

14.5 The provisions of section 1-45-117, C.R.S., relating to the use of public funds for political purposes, apply to home rule counties or home rule municipalities that have adopted charters, ordinances, or resolutions that address any of the matters covered by Article XXVIII or Title 1, Article 45.

- 14.6 Junior College Boards of Trustees. A person seeking election to a junior college board of trustees is not subject to the provisions of Article XXVIII or Article 45 of Title 1, C.R.S. [Article XXVIII, Section 2(2); section 23-71-110, C.R.S.]

Rule 15. Recall Elections

- 15.1 The election cycle for a recall election shall be from the date the recall petition is approved for circulation by the designated election official through 30 days following the date of the recall election.
- 15.1.1 In the event that no recall election is held because the petition is determined to be insufficient, the recall election cycle ends 30 days after the final determination of insufficiency, including passage of the time for protest and final disposition of any protest or appeal of such determination.
- 15.2.2 In the event that no recall election is held for any other reason, the recall election cycle ends 30 days after the deadline for filing the recall election petition.
- 15.2 Committees participating in a recall election shall file reports on the fifth day of every month until disclosure as set forth in section 1-45-108(2.7), C.R.S., begins.
- 15.2.1 The initial reporting period for committees participating in the recall election shall begin on the date the committee registers with the appropriate filing office.
- 15.2.2 Subsequent reporting periods shall begin on the first day of each month, and end on the last day of that month.
- 15.3 The incumbent in a recall election is not a candidate for the successor election according to section 1-12-117, C.R.S.; therefore, the incumbent may open an issue committee to oppose the recall.
- 15.4 The aggregate contribution limits specified for a general election in Article XXVIII, Section 3, shall apply to the recall election with respect to each successor candidate.
- 15.5 Any political committee supporting or opposing any candidate in a recall election shall file disclosure reports:
- 15.5.1 14 days before the recall election;
- 15.5.2 Seven days before the recall election; and
- 15.5.3 30 days after the recall election
- [Section 1-45-108 (2.7), C.R.S.]
- 15.6 An issue committee supporting or opposing a recall election is not required to register with the appropriate officer until the committee has accepted \$5,000 or more in

contributions or made expenditures of \$5,000 or more in support of or opposition to the recall.

[*Sampson v. Buescher*, 625 F.3d 1247 (10th Cir. 2010)]

The Denver District Court declared Rule 4.27, the predecessor to Rule 4.1, invalid in Common Cause et. al v. Gessler, 2011 CV 4164. The Secretary has appealed the decision, and accordingly will not enforce the related Rule 15.6 unless or until the Colorado appellate courts reverse the District Court's decision. The Secretary will revive Rule 15.6 if the appellate courts reverse the decision.

Rule 16. Special Districts

- 16.1 See Rule 17.4 for reporting periods and report due dates for special district elections.
- 16.2 A special district designated election official or director candidate shall file a copy of the self-nomination and acceptance form described in Rule 16.3 with the Secretary of State no later than 60 days before the special district election. This rule does not apply if the special district cancels the election.
- 16.3 Self-nomination and acceptance forms and affidavits of intent to be a write-in candidate.
 - 16.3.1 The self-nomination and acceptance forms and letters, and affidavits of intent to be a write-in candidate must include the following information:
 - (a) The candidate's full name;
 - (b) The name of the special district in which the candidate is seeking to be elected to the board;
 - (c) The year in which the election will occur;
 - (d) The county in which the district court that authorized the creation of the special district is located;
 - (e) The candidate's physical and mailing addresses;
 - (f) A telephone number for the candidate;
 - (g) The candidate's email address;
 - (h) The date on which the form, letter, or affidavit was filed by the candidate;
 - (i) The candidate's signature; and
 - (j) The signature of a registered elector acting as a witness.

[Sections 1-45-110, 32-1-804.3(1), C.R.S.]

- 16.4 If a candidate for a special district office fails to file a candidate affidavit, or the filed self-nomination and acceptance form or letter, or the affidavit of intent to be a write-in candidate does not contain the statement required by section 1-45-110(1), C.R.S., the Secretary of State will mail the special district a copy of the notification to the candidate regarding pending disqualification sent according to section 1-45-110(3), C.R.S.
- 16.5 A document filed according to Rule 16.3 is considered to be filed when received by the Secretary of State. This Rule does not relieve any candidate of any obligation to file any document required by the fair campaign practices act, article XXVIII, or other law, nor does it impose a requirement on a designated election official, presiding officer, or the Secretary to file any document on behalf of any candidate.
- 16.6 A special district candidate is not required to file disclosure reports if:
- 16.6.1 The special district candidate affidavit, the filed self-nomination and acceptance form or letter, or the affidavit of intent to be a write-in candidate contains a statement substantially stating, "I will not, in my campaign for this office, receive contributions or make expenditures exceeding \$200 in the aggregate during the election cycle, however, if I do so, I will thereafter file all disclosure reports required under the fair campaign practices act;" and
- 16.6.2 The candidate does not accept contributions or make expenditures exceeding \$200 in the aggregate during the election cycle.

[Article XXVIII, Section 2(2) and section 1-45-108(1), C.R.S.]

Rule 17. Filing Calendars and Reporting periods

- 17.1 Until terminated in accordance with these rules, a committee other than a political organization shall file a disclosure report for every reporting period, even if the committee has no activity (contributions, donations, or expenditures) to report during the reporting period.
- 17.2 Filing schedules.
- 17.2.1 A candidate committee shall file on:
- (a) A frequent filing schedule during the year in which the office to which candidate seeks to be elected is up for election.
 - (b) An infrequent filing schedule during any year in which the office to which candidate seeks to be elected is not up for election.
- For purposes of this rule, the office to which the candidate seeks to be elected is the office named in the candidate's most recent candidate affidavit.
- 17.2.2 A political committee, small donor committee, political party, independent expenditure committee, Federal PAC, or political organization shall file on:

- (a) A frequent filing schedule during any year in which a general election occurs.
- (b) An infrequent filing schedule during any year in which no general election occurs, notwithstanding any activity by the committee to support or oppose candidates.

17.2.3 An issue committee shall file on:

- (a) A frequent filing schedule during any year in which an issue that the committee supports or opposes appears on, or seeks access to, the ballot.
- (b) An infrequent filing schedule during any year in which the committee does not support or oppose any issues appearing on, or which seek access to, any ballot.

17.2.4 An issue committee must notify the Secretary of State within ten days after deciding that it will support or oppose ballot issues or ballot questions, or potential ballot issues or ballot questions on an upcoming ballot.

- (a) Once an issue committee notifies the Secretary of State of its active status under this Rule, the Secretary will place the committee on a frequent filing calendar.
- (b) Once an issue committee has declared its committee filing status as frequent or infrequent in a particular year, the committee must follow the appropriate filing schedule for the remainder of that election cycle, except that an inactive committee may change its status to active at any time.

17.3 Report periods

17.3.1 The reporting period for any report begins on the first day following the last day of the reporting period for the previous report filed with the appropriate officer. The reporting period for any report that is required to be filed under section 1-45-109(1)(a)(II) and (1)(c), C.R.S., closes five calendar days before the date that the report is due. [Section 1-45-108(2)(c), C.R.S.]

17.3.2 Quarterly reporting periods close on the last day of the month. The report is due on or before April 15th, July 15th, October 15th, and January 15th following each calendar quarter. If the filing deadline falls on a Saturday, Sunday, or legal holiday, the filing deadline is the next business day. [Section 1-45-108(2)(a), C.R.S.]

17.3.3 Monthly reporting periods close five calendar days before the last day of the month. Monthly reports are due on or before the first calendar day of the following month. If the filing deadline falls on a Saturday, Sunday, or legal holiday, the filing deadline is the next business day. When the filing deadline for a monthly report approximates the filing deadline for a biweekly report, no separate

monthly report shall be filed, and the biweekly report shall serve as the monthly report. [Section 1-45-108(2)(a) and (c), C.R.S.]

17.3.4 The reporting period for biweekly reports required by section 1-45-108(2)(a)(I)(B) and (D) closes on the Wednesday before the due date. If the filing deadline falls on a Saturday, Sunday, or legal holiday, the filing deadline is the next business day. [Section 1-45-108(2)(a) C.R.S.]

17.3.5 The post-election reporting period closes on the last day of the calendar month in which the election was held. The report is due on or before the 30th day following the election. If the filing deadline falls on a Saturday, Sunday, or legal holiday, the filing deadline is the next business day. [Section 1-45-108(2)(a), C.R.S.]

17.3.6 Each year, the Secretary of State will publish a filing calendar for each committee type, and will make the calendars available on the Secretary of State website.

17.4 Special district reporting.

17.4.1 Reports relating to special district elections are due:

- (a) On the 21st day before;
- (b) On the Friday before; and
- (c) On the 30th day after the date of the regular election.

[Section 1-45-109(1)(a)(II) and (1)(c), C.R.S.]

17.5 Reports for former officeholders or persons not elected to office

17.5.1 Annual reporting

- (a) A candidate committee for a candidate not elected to office, or who was formerly in office, may elect to file only an annual report for each calendar year.
 - (1) State candidate committees shall file an annual report not later than January 15th of the following year.
 - (2) All other candidate committees shall file an annual report on the first day of the month in which the anniversary of the major election occurs, in accordance with section 1-45-108(2)(a)(II), C.R.S.
- (b) A change in the balance of funds resulting solely from the accrual of interest or dividends to the account and/or the automatic deduction of periodic service fees does not subject a candidate committee to the reporting requirements of section 1-45-108, C.R.S. At a minimum, a

candidate committee must file annual report as set forth in subsection (a) of this Rule.

[Sections 1-45-108(2)(c) and (2)(d), C.R.S.]

17.5.2 The reporting exemption in section 1-45-108(2)(d), C.R.S., applies only to reports for which the entire reporting period occurs after the election in which the candidate's name appeared on the ballot.

Rule 18. Penalties, Violations, and Complaints

18.1 Requests for waiver or reduction of campaign finance penalties

18.1.1 A request for waiver or reduction of campaign finance penalties imposed under Article XXVIII, Section 10(2) must state the reason for the delinquency. The filer should provide an explanation that includes all relevant factors relating to the delinquency and any mitigating circumstances, including measures taken to avoid future delinquencies. Before the Secretary of State will consider a request, the report must be filed, and a request including the information required by this paragraph must be submitted.

18.1.2 Requests for waiver or reduction of campaign finance penalties imposed under Article XXVIII, Sections 9(2) or 10(2) must be considered by the Secretary of State and Administrative Law Judges according to the following rules:

Scenario - applied in numerical order (i.e. if #1 doesn't apply, move to #2)		Result
#1	A waiver is requested and establishes good cause that made timely filing impracticable (For example, was in the hospital, got in a car accident, was stranded by a blizzard, etc.). The event or events that made timely filing impracticable must occur within a reasonable time of the date on which the report was filed.	Waive penalty in full. A waiver will be granted without consideration of previous delinquencies.
#2	A waiver is requested but does not present circumstances that made timely filing impracticable (For example, forgot, was out of town, electronic calendar crashed), and:	

	(a) Filer had contributions and/or expenditures during the reporting period. The penalty imposed is \$100 or more.	First delinquency in 24 months: The penalty will be reduced to \$50. Second delinquency in 24 months: The penalty will be reduced by 50%. Third (or subsequent) delinquency in 24 months: A reduction in penalty will not be granted. Penalties imposed under this Section are capped at the higher of the contributions or expenditures made during the reporting period. If a delinquency is found to be willful, the penalty cap may be increased to two to five times the higher of the contributions or expenditures made during the reporting period. For purposes of this analysis, previous delinquencies exclude those for which a waiver under scenario #1 was granted.
	(b) Filer has no activity (contributions OR expenditures) during the reporting period and the committee balance is zero. The penalty imposed is \$100 or more.	The penalty will be reduced to \$50.

	(c) Filer has a fund balance greater than zero and filer has no activity (contributions OR expenditures) during the reporting period. The penalty imposed is \$100 or more.	First delinquency in 24 months: The penalty will be reduced to \$50. Second delinquency in 24 months: The penalty will be reduced by 50%, subject to a cap of 10% of the fund balance (but not less than \$100). Third (or subsequent) delinquency in 24 months: The penalty is capped at 10% of the fund balance, and a minimum penalty of \$100 will be imposed. If a delinquency is found to be willful, the penalty cap may be increased to 20% to 50% of the fund balance. For purposes of this analysis, previous delinquencies exclude those for which a waiver under scenario #1 was granted.
	(d) Filer seeks to terminate active status, has a fund balance of \$1,000 or less, and has no activity (contributions OR expenditures) during the reporting period(s) in question.	Penalties are subject to a cap equal to the total amount of the filer's fund balance as of the date on which the delinquent report was filed, if the committee is promptly terminated.
#3	A waiver is requested, but submitted more than 30 days after the date of penalty imposition. For purposes of this analysis, a filer has 30 days after the date on which the final notice of penalty imposition is issued following the filing of the delinquent report. Until an outstanding report is filed, penalties shall continue to accrue at a rate of \$50 per day and no request for waiver will be considered.	A request will not be considered unless good cause has been shown for failure to meet the 30-day waiver filing requirement.

- 18.1.3 The Secretary of State or Administrative Law Judge may consider any additional factors that establish good cause or may otherwise be relevant to the request for waiver or reduction of campaign finance penalties. In considering a request, The Secretary of State or Administrative Law Judge may request additional information, including but not limited to financial or other records maintained by the filer.
- 18.1.4 For waiver requests that apply to more than one penalty, the guidelines will be applied separately to each penalty in chronological order using the single request as the basis for each.
- 18.1.5 Filers may request that the Secretary of State reconsider a request for waiver or reduction of campaign finance penalties. Any request for reconsideration must present additional material facts that are significantly different than those alleged in the original request for reduction or waiver, and must be submitted to the Secretary of State, in writing, within 30 days of the date on which the waiver decision was mailed.
- 18.1.6 The Secretary of State will respond to requests for waiver or reduction of campaign finance penalties within 60 days. Failure to respond within 60 days, however, will not constitute an approval of the request.
- 18.1.7 When reduced, penalties are rounded to the highest \$25. No penalty will be reduced to an amount less than \$25, unless a full waiver has been granted.
- 18.1.8 Major Contributor Reports

- (a) Penalties assessed for failure to timely file a Major Contributor Report under section 1-45-108(2.5), C.R.S., stop accruing on the date that the contribution is first disclosed, either on the Major Contributor Report or the regularly-scheduled Report of Contributions and Expenditures. Penalties will not accrue beyond the date of the general election. [Section 1-45-108(2.5) C.R.S.]
- (b) The date of deposit is considered the “received” date for contributions that require a major contributor report. [Section 1-45-108(2.5), C.R.S.]
- (c) For purposes of determining contributions and expenditures received during the reporting period, the contribution that was required to be disclosed on the major contributor report shall be the amount considered.

The Denver District Court issued a ruling on August 10, 2012 in Colorado Ethics Watch; Colorado Common Cause; David Paladino, et al., v. Scott Gessler, 2012 CV 2133, invalidating Rule 18.1.8. Secretary Gessler has appealed the decision and accordingly will not enforce this rule unless or until the Colorado appellate courts reverse the District Court’s decision.

18.2 Cure period for violations discovered by the appropriate officer

- 18.2.1 If the appropriate officer, as defined in Article XXVIII, Section 2(1), discovers in the ordinary course of his or her duties in maintaining a campaign finance filing system a possible violation of Article XXVIII or Article 45 of Title 1, C.R.S., and no complaint alleging such violation has been filed with the Secretary of State under Article XXVIII, Section 9(2)(a), then the appropriate officer shall:
- (a) Provide the person believed to have committed the violation with written notice of the facts or conduct that constitute the possible violation, and
 - (b) Allow 15 business days to correct the violation or to submit written statements explaining the reasons that support a conclusion that a violation was not committed.
- 18.2.2 No cure period under this rule applies to late filings of campaign finance reports subject to penalties under Article XXVIII, Section 10(2)(a).
- 18.3 If, within the time allotted under Rule 18.2, the person fails to correct the violation or to offer a satisfactory explanation, then the appropriate officer may file a complaint under Article XXVIII, Section 9(2)(a).
- 18.4 Written complaints.
- 18.4.1 A written complaint filed with the Secretary of State under Article XXVIII, Section 9(2)(a) shall include the Secretary of State's complaint cover sheet, which must include the following information:
- (a) The name, address, and signature of the complainant (if the complainant is represented by counsel, include the counsel's name, address, and signature along with the name, address, and signature of the complainant);
 - (b) The name and address of each person alleged to have committed a violation; and
 - (c) The particulars of the violation.
- 18.4.2 If an incomplete complaint is received, the date on which the originally filed complaint was received is considered the filed date for purposes of Article XXVIII, Section 9(2)(a), if a complete copy is received within ten days of notification from the Secretary of State that the complaint was incomplete.
- 18.4.3 A complaint may be submitted by fax or electronic mail if a signed original is received by the Secretary of State no later than five calendar days thereafter. If the complaint is complete, the Secretary of State will promptly transmit the complaint to the Office of Administrative Courts in the Department of Personnel and Administration for consideration by an administrative law judge, which will notify the respondents of the filing of the complaint and which will issue all other appropriate notices to the parties. [Article XXVIII, Section 9(2)(a)]

- 18.5 No report shall be subject to penalties of more than \$50 per day for any late filing or incomplete report violation(s).
- 18.6 Payments for penalties imposed by an Administrative Law Judge shall be remitted to the Secretary of State's office, to the attention of Campaign Finance.

Rule 19. Electronic Filing

- 19.1 All disclosure reports filed with the Secretary of State under Article XXVIII and Article 45 of Title 1 Statutes, C.R.S., shall be filed electronically, except as provided below. Reports required to be filed electronically with the Secretary of State under this rule that are presented for manual filing shall not be accepted. This Rule does not apply to personal financial disclosure reports required by section 1-45-110, C.R.S.
- 19.2 In accordance with section 24-21-111, C.R.S., reports are not required to be filed electronically in either of the following circumstances:
- 19.2.1 The Secretary of State has granted an exception to the electronic filing requirement after written application based on hardship or other good cause shown.
- (a) All applications for an exception shall include a brief statement of the hardship or good cause. Applications must be received by the Secretary of State at least 15 calendar days before the applicable filing deadline, unless the exception is based on emergency circumstance. For applications made under emergency circumstances after the deadline, the nature of the emergency shall be described in the application.
 - (b) The filing of an application for exception based on emergency circumstances does not delay any reporting deadlines. If a penalty is imposed for failure to file a report on the date due, the penalty may be set aside or reduced in accordance with Article XXVIII, Section 10(2).
 - (c) The Secretary of State shall review and respond in writing to all applications for an exception within three business days.
- 19.2.2 The report is filed using the Secretary of State's Electronic Data Interface (EDI) upon approval of the Secretary of State.
- 19.3 For the purposes of this Rule 19, "electronic filing" is defined as the filing of reports required by Article XXVIII and Article 45 of Title 1, C.R.S., using the TRACER internet filing system created by the Secretary of State under section 1-45-109(6), C.R.S.
- 19.4 The Secretary of State's online campaign finance filing system will attempt to identify potential violations by displaying warning messages when contributions or expenditures appear to violate Article XXVIII or Article 45 of Title 1, C.R.S. Filers remain responsible for compliance with the law and these rules regardless of whether the system identifies or fails to identify a potential violation.

- 19.5 For the purpose of section 1-45-109(2)(a), C.R.S., “close of business” for electronic filing means 11:59 p.m.
- 19.6 If the electronic filing system is unavailable for a total of more than one hour on the due date for filing a report, the Secretary of State may extend the due date for an additional day for electronically filed reports. [Sections 1-45-108(2.3) and 1-45-109(6), C.R.S.]

Rule 20. Redaction of Sensitive Information

- 20.1 Any person who believes their safety or the safety of an immediate family member may be in jeopardy as a result of information disclosed on any campaign finance report filed with the Secretary of State under Article 45 of Title 1, C.R.S., may apply to the Secretary of State to redact sensitive personal information from the online versions of such report(s).
- 20.1.1 The Secretary of State, upon a finding of good cause, may redact the minimum amount of sensitive information necessary to protect the safety of such person or his or her immediate family.
- 20.1.2 If the Secretary of State redacts sensitive information disclosed on a campaign finance report, the original unredacted report shall remain a public record under Article 72 of Title 24 C.R.S.
- 20.2 Applications for redaction of sensitive information shall be submitted in writing and shall include the requestor’s name, the identified entry(s) of concern, a justification for the application, and the committee to whom the contribution(s) was made or expenditure(s) received.
- 20.3 Applications for redaction of sensitive personal information are not subject to disclosure under the Colorado Open Records Act. [Section 24-72-201 et. seq., C.R.S.]