

DEPARTMENT OF STATE

Secretary of State

RULES CONCERNING LOBBYIST REGULATION

8 CCR 1505-8

[Editor's Notes follow the text of the rules at the end of this CCR Document.]

Rule 1. Definitions

- 1.1 "Contribution" means a gift, subscription, loan, advance, or deposit of money or anything of value and includes a contract, promise, or agreement, whether or not legally enforceable, to make a contribution. "Contribution" also includes the compensation and reimbursement for expenses of a person required to file a disclosure statement under section 24-6-302, C.R.S.
- 1.2 "Division" means the division within the office of the Secretary of State responsible for administering the State's laws governing lobbying.
- 1.3 "Fiscal Year" means the period beginning July 1 of a calendar year and ending June 30 of the following calendar year.
- 1.4 "Legislation" means any bill, resolution, amendment, nomination, report, or any other matter whether or not in writing, pending, or proposed for consideration by either house or committee of the general assembly, whether or not the general assembly is in session.
- 1.5 "Monitoring" status means that a registered lobbyist is not currently communicating support or opposition, or influencing or attempting to influence a covered official on the drafting, introduction, sponsorship, consideration, debate, amendment, passage, defeat, approval, or veto of any bill, resolution, amendment, nomination, appointment, or report, pending or proposed.
- 1.6 "Professional lobbyist" means a person, a business entity, including a sole proprietorship, or an employee of a client, who is compensated by a client, another professional lobbyist, or lobbying firm for lobbying services.
- 1.7 "Rate" means a ratio of valuation, percentage, percentage change, annual adjustment, or an amount charged for a good or service, adopted by a state agency having rulemaking authority.
- 1.8 "Respondent" means the person or entity against whom a complaint is filed.
- 1.9 "Session" means a regular or special session of the general assembly, and, where applicable, when any measure adopted by the general assembly in regular session is pending before the governor for approval or disapproval.
- 1.10 "Standard" means a criterion measuring acceptability, quality, accuracy, weight, or an amount, or a threshold for agency jurisdiction adopted by a state agency having rulemaking authority.
- 1.11 "State Liaison" means the one person designated by each principal department of state government who is responsible for any lobbying by a state official or employee on behalf of the principal department.

Rule 2. Professional Lobbyists

2.1 Registration

- 2.1.1 A professional lobbyist must register electronically via the Secretary of State's website before lobbying. The statement must contain:
- (a) The professional lobbyist's full name, business address, and business telephone number;
 - (b) The name, address, and telephone number of the lobbying firm or any other person or entity that employs the professional lobbyist;
 - (c) The name, address, and telephone number of all clients that engage the professional lobbyist;
 - (d) The name, address, and telephone number of any other professional lobbyist for whom the professional lobbyist is lobbying on a subcontract basis.
- 2.1.2 The fee for filing a professional lobbyist registration statement is \$40.00.
- (a) Upon request, the Secretary of State may waive the registration fee for a professional lobbyist who is lobbying for a nonprofit organization if the professional lobbyist's only compensation is from the nonprofit organization. To receive a waiver, the professional lobbyist must submit a written request to the Secretary of State along with a copy of the nonprofit organization's most recent IRS form 990, 990EZ, or 990-N showing gross annual revenue of \$50,000 or less.
- 2.1.3 A professional lobbyist must file an updated registration statement on or before July 15 each year.

2.2 Exceptions to registration with the Secretary of State's office

2.2.1 Volunteer lobbyist

- (a) A volunteer lobbyist, as defined in section 24-6-301(7), C.R.S., is not required to register with the Secretary of State, but must register with the general assembly.

2.2.2 Grass roots lobbying

- (a) If an activity that could otherwise be considered lobbying is performed by an employee only once a year, and the employee is not paid solely to lobby, then that activity is not considered lobbying. This exclusion from lobbying covers "grassroots" lobbying by employees of an organization who contact members of the organization in response to a piece of legislation or rule.

2.3 Termination of registration

- 2.3.1 A professional lobbyist may terminate their registration at any time if the professional lobbyist:
- (a) Will not lobby or receive lobbying income for the remainder of the fiscal year;

- (b) Indicates on the next monthly disclosure statement that the professional lobbyist is terminating their professional lobbyist registration; and
- (c) Files their annual disclosure statement required by section 24-6-302(3)(b), C.R.S.

2.4 Revocation of registration

2.4.1 The division will revoke a professional lobbyist's registration certificate if the lobbyist:

- (a) Is convicted of violating any provision of Part 3 of Article 6 of Title 24, C.R.S.; or
- (b) Has been suspended from lobbying by the general assembly.

2.4.2 The division may revoke a professional lobbyist's registration certificate under the provisions of section 24-6-305 (2), C.R.S.

2.5 Monthly disclosure statements

2.5.1 A professional lobbyist must file a monthly disclosure statement electronically via the Secretary of State's website on or before the 15th day of the month following the month in which the professional lobbyist began lobbying, and monthly thereafter. The statement must contain:

- (a) The name and address of each client or other professional lobbyist who contributed \$100 or more to the professional lobbyist for lobbying, and the amount paid by the client or other professional lobbyist since the previous disclosure statement;
 - (1) If the client or other professional lobbyist is an individual, the statement must include a description of the individual's business.
 - (2) If the client or other professional lobbyist is a business entity, the statement must include a description of the entity's business, and the names of any chief executive officer, partners, or other designated contact person.
 - (3) If the client or other professional lobbyist is an industry, trade, organization or group of persons, or professional association, the statement must include a description of the industry, trade, organization or group of persons, or professional association.
- (b) The total sum of contributions the professional lobbyist received for lobbying activities since the previous disclosure statement and during the fiscal year;
- (c) The legislation, standards, rules, or rates, about which the professional lobbyist is lobbying, including:
 - (1) The official number or other designation of each legislative bill, standard, rule, or rate, if available. If a number or designation is not available, the lobbyist must describe the nature and subject matter of the legislation, standards, rules or rates;
 - (2) The title or subject matter of the activity mentioned above; and

- (3) Whether the lobbyist is supporting, opposing, amending, or monitoring the activity mentioned above, including all up-to-date and current positions.
- (d) If the professional lobbyist has made an expenditure that exceeds the current dollar gift limit, as established by the Independent Ethics Commission and posted on the Secretary of State website, on behalf of a covered official for gift or entertainment purposes, whether or not the professional lobbyist was reimbursed, and:
 - (1) The name of the covered official; and
 - (2) The amount, date, and principal purpose of the gift or entertainment;
- (e) The total amount of expenditures made by or on behalf of the professional lobbyist in connection with lobbying, other than for gift or entertainment purposes;
- (f) If the professional lobbyist has made an expenditure or given a contribution to a paper, periodical, magazine, radio or TV station, or other media of mass communication:
 - (1) The name of the entity; and
 - (2) The amount given to the entity
- (g) Any direct business association the professional lobbyist has with any pending legislation, measure, or question.

2.6 Annual cumulative disclosure statement

2.6.1 A professional lobbyist must file an annual disclosure statement for the entire fiscal year no later than July 15. The annual disclosure statement must include:

- (a) The name of the client or other professional lobbyist for whom the professional lobbyist is lobbying;
- (b) The total gross income the professional lobbyist has received from each client or other professional lobbyist; and
- (c) If a subcontract relationship exists between two professional lobbyists, both lobbyists must disclose the amount of money paid and received on the annual disclosure statement.

2.7 New client disclosure

2.7.1 New client not during session

- (a) When a professional lobbyist enters into a new oral or written agreement with a client or other professional lobbyist for lobbying, while the general assembly is not in session, the professional lobbyist must notify the Secretary of State by updating their registration statement within five business days of the oral or written agreement to lobby.

2.7.2 New client during session

- (a) If a professional lobbyist enters into a new oral or written agreement with a client or other professional lobbyist for lobbying while the general assembly is in session, the professional lobbyist must notify the Secretary of State by updating their registration statement within 24 hours in accordance with section 24-6-302(6)(a), C.R.S. The professional lobbyist must update their registration by providing:
 - (1) The name of the client;
 - (2) The address of the client; and
 - (3) A summary of the terms of the agreement including:
 - (A) The client's contact information;
 - (B) The date the lobbyist was hired;
 - (C) The date the lobbyist's employment will end, if known; and
 - (D) If the client is a business:
 - (i) The organization's name;
 - (ii) The business type;
 - (iii) The industry/trade type; and
 - (iv) The names of the entity's chief executive officer or partners.

2.8 Additional required disclosure during session

2.8.1 Lobbying disclosure during session for new client

- (a) If a professional lobbyist agrees to lobby for a new client or other professional lobbyist during session, the professional lobbyist must disclose:
 - (1) The identity of the new client or other professional lobbyist in accordance with Rule 2.7.2 within 24 hours; and
 - (2) The legislation, standards, rules, or rates, on which the professional lobbyist is lobbying for that client or other professional lobbyist, in accordance with Rule 2.5.1(c), within 72 hours.

2.8.2 Lobbying disclosure during session for existing client or other professional lobbyist

- (a) New legislation, standards, rules, or rates.
 - (1) If a professional lobbyist agrees to lobby for an existing client during session in connection with new legislation, standards, rules, or rates, the professional lobbyist must disclose the lobbying activity, in accordance with Rule 2.5.1(c), within 72 hours.

- (2) New legislation includes an engagement to lobby for an existing client on lobbying activities that were not previously disclosed.
 - (b) Change of position on legislation, standards, rules, or rates
 - (1) If a professional lobbyist takes a new position on legislation, standards, rules, or rates for an existing client during session, the professional lobbyist must disclose the position change, in accordance with Rule 2.5.1(c), within 72 hours.
- 2.8.3 Disclosures made in accordance with this Rule 2.8 are proper when the professional lobbyist uploads the new legislation, change of position, or other lobbying activity to the electronic filing system.

Rule 3. Lobbying Firms

3.1 Registration

- 3.1.1 There is no registration requirement for a lobbying firm, but a lobbying firm must file disclosure statements in accordance with statute and as described in Rule 3.2 below.

3.2 Monthly disclosure statements for lobbying firms

- 3.2.1 Except as specified in paragraph (a) below, a lobbying firm must file a monthly disclosure statement electronically via the Secretary of State's website on or before the 15th day of the month following the month in which the lobbying firm began lobbying, and monthly thereafter.

- (a) A single-member lobbying firm that consists solely of one professional lobbyist need not file a lobbying-firm disclosure statement if the professional lobbyist's disclosure statement contains the name of both the professional lobbyist and the single-member firm that employs the professional lobbyist.

3.2.2 The statement must contain:

- (a) The name and address of each client or other professional lobbyist who has contributed \$100 or more to the lobbying firm for lobbying and the amount contributed by the client or other professional lobbyist since the previous disclosure statement;
 - (1) If the client or other professional lobbyist is an individual, the statement must include a description of the individual's business activity;
 - (2) If the client or other professional lobbyist is a business entity, the statement must include a description of the entity's business, and the names of any chief executive officer, partners, or other designated contact person; or
 - (3) If the client or other professional lobbyist is an industry, trade, organization, or group of persons, or professional association, the statement must include a description of the industry, trade, organization or group of persons, or professional association.
 - (b) The total sum of contributions to the lobbying firm received for lobbying activities since the previous disclosure statement and during the fiscal year;

- (c) The legislation, standards, rules, or rates, on which the lobbying firm is lobbying, which includes:
 - (1) The official number or other designation corresponding with the activity mentioned above, if available. If the official number or designation is not available, the lobbying firm must describe the nature and subject matter of the legislation, standards, rules or rates;
 - (2) The title or subject matter of the activity mentioned above; and
 - (3) Whether the lobbying firm is supporting, opposing, amending, or monitoring the activity mentioned above.
- (d) If the lobbying firm has made an expenditure that exceeds the current dollar gift limit, as established by the Independent Ethics Commission and posted on the Secretary of State website, on behalf of a covered official for gift or entertainment purposes, whether or not the professional lobbyist was reimbursed:
 - (1) The name of the covered official; and
 - (2) The amount, date, and principal purpose of the gift or entertainment;
- (e) The total amount of expenditures made by or on behalf of the lobbying firm in connection with lobbying, other than for gift or entertainment purposes;
- (f) If the lobbying firm has made an expenditure or given a contribution to a paper, periodical, magazine, radio or TV station, or other media of mass communication:
 - (1) The name of the entity; and
 - (2) The amount given to the entity;
- (g) Any direct business association the lobbying firm has with any pending legislation, measure, or question.

Rule 4. Complaints and Enforcement

4.1 Filing a complaint

- 4.1.1 Any person who believes that a professional lobbyist or lobbying firm is not complying with the Colorado Lobbyist Regulation laws or these rules, may file a complaint with the Secretary of State.
- 4.1.2 A person may file a written complaint with the Secretary of State, on the Secretary of State's approved form. At a minimum, the complaint must contain the following information:
 - (a) The complainant's name;
 - (b) The complainant's address and electronic mail address, if applicable;
 - (c) The alleged violation, which may include a reference to the specific statute or rule;
 - (d) The lobbyist or firm name;

- (e) The date and location of the alleged violation, if known; and
- (f) Other applicable or relevant information or documentation.

4.2 Notice of complaint

4.2.1 Upon receipt of a complaint, the division will:

- (a) Notify and provide a copy of the complaint to the respondent by mail or by electronic mail if electronic mail is available; and
- (b) In the case of a state liaison, notify the head of the principal department in writing;
- (c) In the case of a state official or employee lobbying on behalf of a principal department, notify the state liaison in writing; or
- (d) In the case of a state official or employee lobbying on behalf of an institution or governing board of higher education, notify the institution or governing board in writing.

4.3 Initial review

4.3.1 After receiving a complaint, the division will conduct an initial review within 21 days. The division may extend this time period to allow for clarification and further information gathering. The division will determine whether the lobbyist complaint:

- (a) Specifically identifies one or more violations of section 24-6-301 et seq. C.R.S. and
- (b) Alleges sufficient facts to support a basis for the violations of law alleged in the complaint.

4.3.2 Upon initial review, the division will take at least one of the actions below:

- (a) Dismiss the complaint if the complainant failed to specifically identify one or more violations of section 24-6-301 et seq. C.R.S., or allege sufficient facts to support a factual and legal basis for the violations of law alleged in the complaint;
- (b) Conduct an investigation. If the division decides to conduct an investigation, it will notify the respondent and complainant in writing of the investigation.

4.4 Response to a complaint filed against lobbyist or lobbying firm

4.4.1 At any time during the division's initial review or investigation, the respondent may respond to the allegations and provide other relevant information or documentation. The division may extend this time period to allow for clarification and further information gathering.

4.5 Division investigation

4.5.1 The division may conduct an investigation of the alleged violation.

4.5.2 If the division conducts an investigation, it will do so within 28 days from the date of the notification sent in Rule 4.3. The division may extend this time period at its discretion.

- 4.5.3 If, after its investigation, the division does not have reasonable grounds to believe that a violation of section 24-6-301 et. seq. C.R.S. has occurred, or otherwise concludes that enforcement pursuant to Rule 4.6 is not warranted then the division must make a motion to the Secretary of State or their designee to dismiss the complaint as a final agency decision.
- 4.6 Enforcement
 - 4.6.1 If, after its investigation, the division has reasonable grounds to believe that a violation of section 24-6-301 et seq. C.R.S., has occurred, the division may initiate a hearing with the Secretary of State or their designee under section 24-4-105, C.R.S.
 - 4.6.2 During the hearing, the division may recommend that the Secretary of State or their designee take any one or more of the following actions:
 - (a) Impose penalties;
 - (b) Suspend, revoke, or bar a person or entity from registration;
 - (c) Refer the matter to the general assembly;
 - (d) Provide notice to the general assembly when a substantial violation has occurred;
 - (e) Apply to the district court for the issuance of an order in accordance with section 24-6-309(2), C.R.S.; or
 - (f) Determine another remedy in accordance with section 24-6-301 et seq. C.R.S.
 - 4.6.3 Following a hearing under Rule 4.6.1, the Secretary of State or their designee may dismiss the complaint or take any of the actions listed in Rule 4.6.1. The decision following a hearing is a final agency decision.

Rule 5. Requests for Waiver or Reduction of penalties.

- 5.1 A professional lobbyist or a lobbying firm may ask the division to waive or reduce a penalty automatically imposed in the electronic filing system by submitting a written request, on the Secretary of State's approved form, by electronic mail or mail within 30 days of the imposition of a penalty. The request must include:
 - 5.1.1 The professional lobbyist's or lobbying firm's name;
 - 5.1.2 The request date;
 - 5.1.3 The specific disclosure statement that the lobbyist or lobbying firm is requesting a waiver or reduction of a penalty from; and
 - 5.1.4 A brief summary of the reason, circumstances, or other justification of the bona fide personal emergency.
- 5.2 Bona fide personal emergency
 - 5.2.1 The Division will grant a waiver upon evidence of a bona fide personal emergency.

- 5.2.2 A bona fide personal emergency includes:
 - (a) A medical emergency involving the individual responsible for filing the required disclosure report or the individual's family.
 - (b) An nonmedical emergency that made the timely filing of a disclosure statement an impracticability.
- 5.3 The division may consider all appropriate facts and circumstances when granting or rejecting a waiver request or reducing an imposed penalty. The division may also consider:
 - 5.3.1 The frequency of requests to waive or reduce a penalty within a two-year period;
 - 5.3.2 Efforts to mitigate or remedy the failure to file;
 - 5.3.3 Whether the delinquent filer was required to register as a professional lobbyist; and
 - 5.3.4 Whether the professional lobbyist or lobbying firm demonstrated a commitment to meet the requirements of Colorado's lobbying laws.
- 5.4 The division will not consider a waiver request after a penalty has been paid.
- 5.5 A professional lobbyist or lobbying firm may request that the division reconsider a request for waiver or reduction of lobbying penalties.
- 5.6 When reducing a penalty, the division will round to the highest \$20. The division will not reduce a penalty to an amount less than \$20, unless it grants a full waiver.
- 5.7 The division may grant an exception to the electronic filing requirement based on hardship or good cause shown.
 - 5.7.1 All applications for an exception must include a brief statement of the hardship or good cause for the requested exception.
 - 5.7.2 A professional lobbyist or lobbying firm must submit written documentation on the Secretary of State's approved form to the division at least 15 calendar days before the first applicable filing deadline, unless the exception is based on emergency circumstances arising after the deadline, in which case the professional lobbyist or lobbying firm must describe the nature of the emergency in the application.
 - 5.7.3 Filing the application for exception based on emergency circumstances does not delay any reporting deadlines. If, however, a penalty is imposed for failure to file a disclosure statement on the due date, the division may reduce or waive the penalty in accordance with section 24-6-302(7), C.R.S.

Rule 6. Miscellaneous prohibitions applicable to professional lobbying.

- 6.1 Professional lobbyists are prohibited from making certain contributions, as outlined in section 1-45-105.5, C.R.S.
- 6.2 Professional lobbyists may not give any gift or thing of value to any public officer, member of the general assembly, government employee, or to a member of such person's immediate family, as outlined in Article XXIX, Section 3 (4) of the Colorado Constitution.

Editor's Notes

History

Entire rule eff. 01/01/2008.

Entire rule eff. 06/30/2011.

Entire rule eff. 11/14/2012.

Entire rule eff. 11/30/2013.

Rules 3.2.2, 5.3.1, 6.2 eff. 05/30/2015. Rule 2.2.3 repealed eff. 05/30/2015.

Entire rule eff. 06/30/2018.

Entire rule emer. rule eff. 01/01/2020.

Entire rule eff. 01/30/2020.