



Notice of Permanent Adoption

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

October 25, 2017

I. Adopted Rule Amendments

As authorized by the Colorado Constitution¹, Colorado campaign finance law², and the State Administrative Procedure Act³, the Colorado Secretary of State gives notice that the following amendments to rules concerning campaign and political finance⁴ are permanently adopted.

The rules were considered at the October 3, 2017 rulemaking hearing in accordance with the State Administrative Procedure Act⁵.

Please note the following formatting key:

| Font effect | Meaning |
|--------------------------------|---|
| Sentence case | Retained/modified current rule language |
| SMALL CAPS | New language |
| Strikethrough | Deletions |
| <i>[Italic blue font text]</i> | Annotations and publication notes |

[Current 8 CCR 1505-6 is amended as follows:]

Amendments to Rule 1 concerning definitions:

[No amendments to current Rules 1.1 through 1.5]

~~1.6 — “Expenditures made, and obligations entered into” as used in section 1-45-108(1)(a)(I), C.R.S., means all committee related disbursements, including any agreement or acknowledgement of a liability to pay a certain amount.~~

~~1-7-1.6 “Frequent filing schedule” means:~~

¹ Article XXVIII, Section 9(1)(b) of the Colorado Constitution.

² Article 45 of Title 1, C.R.S. (2017).

³ Section 24-4-103(3)(a), C.R.S. (2017).

⁴ 8 CCR 1505-6.

⁵ Section 24-4-103(3)(a), C.R.S. (2017).

~~1.7.1~~1.6.1 For state candidates and committees, the filing schedule outlined in sections 1-45-108 (2)(a)(I)(B), (2)(a)(I)(C), (2)(a)(I)(D), and (2)(a)(I)(E), C.R.S.;

~~1.7.2~~1.6.2 For a county, municipal, and special district candidate or committee, the filing schedule outlined in section 1-45-108 (2)(a)(II), C.R.S.; and

~~1.7.3~~1.6.3 For political committees, small donor committees, independent expenditure committees, and political organizations participating in a regular biennial school election, the filing schedule outlined in sections 1-45-108(2)(a)(I)(C), (2)(a)(I)(D), and (2)(a)(I)(E), C.R.S.

1.7 “INDEPENDENT EXPENDITURE COMMITTEE” HAS THE SAME MEANING AS SET FORTH IN SECTION 1-45-103(11.5), C.R.S. AN INDEPENDENT EXPENDITURE COMMITTEE DIFFERS FROM A POLITICAL COMMITTEE IN THAT AN INDEPENDENT EXPENDITURE COMMITTEE MAY NOT DIRECTLY CONTRIBUTE TO A CANDIDATE COMMITTEE OR POLITICAL PARTY AND MAY NOT COORDINATE ITS CAMPAIGN-RELATED EXPENDITURES WITH A CANDIDATE, CANDIDATE COMMITTEE, OR POLITICAL PARTY. NOTHING IN THESE RULES LIMITS JOINT FUNDRAISING EFFORTS OR THE TRANSFER OF FUNDS RAISED THROUGH JOINT FUNDRAISING EFFORTS BY AN INDEPENDENT EXPENDITURE COMMITTEE OR OTHER COMMITTEE AS LONG AS EACH COMMITTEE PAYS ITS ALLOCATED SHARE OF JOINT FUNDRAISING EXPENSES AND NO COMMITTEE PARTICIPATING IN THE JOINT FUNDRAISING ACTIVITY RECEIVES MORE THAN ITS ALLOCATED SHARE OF FUNDS RAISED IN ACCORDANCE WITH APPLICABLE CONTRIBUTION LIMITS.

[No amendments to current Rules 1.8 through 1.12]

1.13 “Person”, for the purpose of Colo. Const. Article XXVIII, Section 7, “~~person~~” means any natural person.

[No amendments to current Rules 1.14 through 1.18]

1.19 “Registered agent” is a natural person or candidate designated to receive mailings, ~~and to~~ address concerns and questions regarding a committee, AND IS RESPONSIBLE FOR TIMELY FILING CAMPAIGN FINANCE REPORTS. [Sections 1-45-108(3)(b) and 1-45-109(4)(b), C.R.S.]

[No amendments to current Rule 1.20. New Rule 1.21.]

1.21 “SUPPORT OR OPPOSE”, FOR THE PURPOSE OF COLO. CONST. ARTICLE XXVIII, SECTION 2(12)(A), MEANS THAT THE ENTITY THAT CONTRIBUTED OR MADE AN EXPENDITURE DID SO IN COORDINATION WITH THE CANDIDATE OR CANDIDATE COMMITTEE. IF NO SUCH COORDINATION EXISTS, THE ENTITY IS NOT A POLITICAL COMMITTEE.

New Rule 2.2.4(c)(3) concerning candidates and candidate committees, managing unexpended campaign contributions:

(c) Candidates seeking election to a different office

- (1) A candidate committee may transfer funds to a candidate committee established by the same candidate for a different public office, subject to the political party contribution limit, only if the new office sought has contribution limits that are equal to or greater than the current office, or the new office sought has no contribution limits. [Colo. Const. Article XXVIII, Section 3]
- (2) A candidate committee transferring funds to a candidate committee for a different office must terminate within ten days of registering the new candidate committee.
- (3) A CANDIDATE SEEKING ELECTION TO A STATE, COUNTY, OR LOCAL OFFICE MAY NOT TRANSFER FUNDS FROM A FEDERAL CANDIDATE COMMITTEE TO A COLORADO CANDIDATE COMMITTEE THAT IS SUBJECT TO THE PROVISIONS OF THE FAIR CAMPAIGN PRACTICES ACT.

New Rule 2.4.5 concerning personal financial disclosures:

- 2.4.5 A PERSON WHO SITS ON A BOARD OR COMMITTEE NEED NOT DISCLOSE THE BOARD OR COMMITTEE MEMBERSHIP ON A PERSONAL FINANCE DISCLOSURE IF THE PERSON DOES NOT:
- (A) RECEIVE COMPENSATION; OR
 - (B) INDIVIDUALLY CONTROL BOARD FUNDS.

New Rule 2.5 concerning the special district election cycle:

- 2.5 FOR SPECIAL DISTRICT CANDIDATES AND COMMITTEES, ELECTION CYCLE MEANS THE PERIOD OF TIME BEGINNING THIRTY-ONE DAYS FOLLOWING THE SPECIAL DISTRICT ELECTION FOR THE PARTICULAR OFFICE AND ENDING THIRTY DAYS FOLLOWING THE NEXT SPECIAL DISTRICT ELECTION FOR THAT OFFICE.

New Rules 3.3 and 3.4 concerning political committees and independent expenditure committees:

- 3.3 ONLY THE FOLLOWING QUALIFY AS A CONTRIBUTION OR EXPENDITURE MADE TO “SUPPORT OR OPPOSE” A CANDIDATE, AS THOSE TERMS ARE USED IN THE DEFINITION OF “POLITICAL COMMITTEE” IN SUBSECTION (12) (a) OF SECTION 2 OF ARTICLE XXVIII OF THE COLORADO CONSTITUTION:
- 3.3.1 CONTRIBUTION TO THE CANDIDATE COMMITTEE: MUST BE A PAYMENT, LOAN, PLEDGE, GIFT, OR ADVANCE OF MONEY, GUARANTEE OF A LOAN, OR THE GIFT OR LOAN OF PROPERTY, MADE BY THE POLITICAL COMMITTEE AND GIVEN DIRECTLY TO THE CANDIDATE COMMITTEE FOR THE PURPOSE OF PROMOTING THE CANDIDATE’S NOMINATION, RETENTION, RECALL, OR ELECTION; OR

3.3.2 EXPENDITURE FROM THE POLITICAL COMMITTEE: MUST BE COORDINATED WITH A CANDIDATE COMMITTEE OR POLITICAL PARTY AND BE INTENDED TO:

- (a) SUPPORT THAT CANDIDATE'S NOMINATION, RETENTION, RECALL, OR ELECTION; OR
- (b) OPPOSE A COMPETING CANDIDATE'S NOMINATION, RETENTION, RECALL, OR ELECTION.

3.4 WHERE THERE IS NO COORDINATION AS DESCRIBED IN RULE 3.3, AND THE AGGREGATE AMOUNT OF THE EXPENDITURES IS IN EXCESS OF ONE THOUSAND DOLLARS, THE ENTITY IS AN INDEPENDENT EXPENDITURE COMMITTEE RATHER THAN A POLITICAL COMMITTEE. IF THE PERSON OR GROUP MEETS THE REGISTRATION REQUIREMENTS OF AN INDEPENDENT EXPENDITURE COMMITTEE, IT MUST REGISTER AS AN INDEPENDENT EXPENDITURE COMMITTEE.

Amendments to Rule 4.4.3 concerning issue committees:

4.4.3 The disclosure report required by section 1-45-108(1.5)(c)(i)(I), C.R.S., must be filed with the appropriate officer within five calendar days after notification to the appropriate officer that the small-scale issue committee qualifies as an issue committee under section 1-45-108(1.5)(c)(III), C.R.S.

New Rules 4.5 and 4.6 concerning issue committees and small-scale issue committees:

4.5 A MATTER BECOMES A BALLOT MEASURE REQUIRING A COMMITTEE TO REGISTER AS AN ISSUE COMMITTEE OR SMALL-SCALE ISSUE COMMITTEE UNDER SECTION 1-45-108(7)(A)(I), C.R.S., AFTER A TITLE HAS BEEN DESIGNATED AND FIXED AND ANY MOTION FOR REHEARING HAS BEEN HEARD.

4.6 FOR ISSUE COMMITTEES AND SMALL-SCALE ISSUE COMMITTEES, THE ELECTION CYCLE IS A CALENDAR YEAR, BEGINNING JANUARY 1 AND ENDING DECEMBER 31. THIS RULE DOES NOT APPLY TO ISSUE COMMITTEES FORMED TO SUPPORT OR OPPOSE A RECALL.

[Current Rule 9.3 is relocated and recodified as New Rule 12.5]

New Rule 10.1.3 concerning unexpended campaign contributions:

10.1.3 UNEXPENDED CONTRIBUTIONS MAY NOT BE USED FOR PERSONAL PURPOSES.

Amendments to Rule 10.2.3(b) regarding disclosure of occupation and employer:

10.2.3 Disclosure of occupation and employer

- (a) The requirement to disclose the occupation and employer of a contributor in Colo. Const. 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—EXCEPT FOR A COMMITTEE EXERCISING ITS RIGHT TO CURE UNDER SECTION 1-45-109(4)(C),~~ IF a committee does not report occupation and employer information for a contribution of \$100 or more, and the committee is unable to gather the information within 30 days after receipt of the contribution, the committee must return the contribution to the contributor no later than the 31st day after receipt. [Colo. Const. Article XXVIII, Section 7]

New Rule 10.4.6 concerning managing contributions:

10.4.6 IF A COMMITTEE ACCEPTS A CONTRIBUTION OR DONATION FROM A JOINT ACCOUNT AND THE CONTRIBUTOR OR DONOR IS NOT SPECIFIED, THE COMMITTEE MAY APPORTION THE ENTIRE AMOUNT TO THE JOINT ACCOUNT WHO SIGNED THE CHECK OR DETERMINE HOW TO APPORTION THE CONTRIBUTION OR DONATION BETWEEN JOINT ACCOUNT HOLDERS. IF THE COMMITTEE APPORTIONS A CONTRIBUTION OR DONATION BETWEEN JOINT ACCOUNT HOLDERS, THE COMMITTEE MUST NOTIFY EACH JOINT ACCOUNT HOLDER OF THE APPORTIONMENT.

Technical amendment to Rule 10.11.3:

10.11.3 An ~~Immediate~~ IMMEDIATE reimbursement for committee expenses is not a contribution.

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

Amendments to Rule 12.4 concerning changing or closing a committee:

12.4 Administrative committee terminations. The appropriate officer may terminate a standalone candidate or committee if the standalone candidate or committee fails to file any required reports for six consecutive reporting periods or 18 months, whichever is shorter, OR FILES “ZERO” REPORTS OR REPORTS WITH NO ACTIVITY FOR THE SAME TIME PERIOD in accordance with the procedures set out in the State Administrative Procedure Act. [Colo. Const. Article XXVIII, Section 2(3), and section 24-4-105, C.R.S.]

Current Rule 9.3 is recodified as New Rule 12.5 with the following amendments:

~~9.3-12.5 In the case of a candidate who is the registered agent for a candidate committee, if~~
IF the Secretary of State receives verifiable information in writing that the candidate is deceased, the Secretary of State may immediately terminate the CANDIDATE’S candidate committee in TRACER.

Formatting amendments to Rule 15.4:

15.4 The aggregate contribution limits specified for a general election in Colo. Const. Article XXVIII, Section 3, as adjusted by these Rules, apply to the recall election with respect to each successor candidate.

Amendments to Rule 18.2 regarding campaign finance complaints:

18.2 Written complaints.

18.2.1 A written complaint filed under Colo. Const. Article XXVIII, Section 9(2)(a) must include the Secretary of State's complaint cover sheet, and must include the following information:

- (a) The name, address, EMAIL, and signature of the complainant (if the complainant is represented by counsel, include the counsel's name, address, and signature);
- (b) The name and, address, AND EMAIL IF AVAILABLE, of each person alleged to have committed a violation; and
- (c) THE PROVISION OF COLO. CONST. ARTICLE XXVIII, THE FAIR CAMPAIGN PRACTICES ACT, OR THESE RULES VIOLATED AND ~~The~~ THE particulars of the violation.

~~18.2.2 If an incomplete complaint is received, the date on which the originally filed complaint was received is considered the filed date for purposes of Colo. Const. 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.~~

~~18.2.3 Any person may submit a complaint 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 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 WITHIN THREE BUSINESS DAYS OF RECEIPT OF THE ORIGINAL, SIGNED COMPLAINT WITH THE REQUIRED COVER SHEET AND ANY APPLICABLE EXHIBITS, which AND will notify the respondents BY EMAIL of the filing of the complaint and which will issue all other appropriate notices to the parties. THE SECRETARY OF STATE WILL NOT TRANSMIT ANY COMPLAINT THAT IS NOT COMPLETE. [Colo. Const. Article XXVIII, Section 9(2)(a)]~~

18.2.3 IN DETERMINING WHETHER AN ENTITY SUBSTANTIALLY COMPLIED UNDER SECTION 1-45-109(4), C.R.S., THE APPROPRIATE OFFICER MUST CONSIDER:

- (A) THE EXTENT OF THE RESPONDENT'S NONCOMPLIANCE;
- (B) THE PURPOSE OF THE PROVISION VIOLATED AND WHETHER THAT PURPOSE WAS SUBSTANTIALLY ACHIEVED DESPITE THE NONCOMPLIANCE;
- (C) WHETHER THE RESPONDENT RECEIVED AND FOLLOWED GUIDANCE FROM THE SECRETARY OF STATE'S OFFICE REGARDING THE NONCOMPLIANCE; AND
- (D) WHETHER THE NONCOMPLIANCE CAN BE VIEWED AS THE PRODUCT OF AN INTENT TO MISLEAD THE ELECTORATE.

18.2.4 IN DETERMINING WHETHER AN ENTITY REGISTERED OR DISCLOSED IN “GOOD FAITH” AS THAT TERM IS USED IN SECTION 1-45-109(4), C.R.S., THE APPROPRIATE OFFICER MUST DETERMINE WHETHER TEN PERCENT OR LESS OF THE ENTITY’S DISCLOSURES OR REPORTED DOLLAR AMOUNTS ON THE REPORT OR REPORTS AT ISSUE IN THE COMPLAINT ARE IN COMPLIANCE. IF SO, THE ENTITY IS DEEMED TO HAVE ATTEMPTED TO COMPLY IN GOOD FAITH.

New Rule 18.4 concerning collection of debt:

18.4 IF THE SECRETARY OF STATE SENDS AN INVOICE TO THE STATE CONTROLLER FOR THE COLLECTION OF A DEBT IN ACCORDANCE WITH COLO. CONST. ARTICLE XXVIII, SECTION 10 (2) (D), THE STATE CONTROLLER MAY NOT ATTEMPT TO COLLECT OR COLLECT THE DEBT FROM A NON-CANDIDATE REGISTERED AGENT OR DESIGNATED FILING AGENT OF A COMMITTEE.

II. Basis, Purpose, and Specific Statutory Authority

A Statement of Basis, Purpose, and Specific Statutory Authority follows this notice and is incorporated by reference.

III. Effective Date of Adopted Rules

These new and amended rules will become permanently effective twenty days after publication in the Colorado Register.⁶

Dated this 25th day of October, 2017,



Suzanne Staiert
Deputy Secretary of State

For

Wayne W. Williams
Colorado Secretary of State

⁶ Section 24-4-103(5), C.R.S. (2017).



Statement of Basis, Purpose, and Specific Statutory Authority

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

October 25, 2017

I. Basis and Purpose

This statement explains amendments to the Colorado Secretary of State rules concerning campaign and political finance.¹ The amendments are intended to ensure uniform and proper administration, implementation, and enforcement of Colorado campaign finance law² as follows:

- Repeal of Rule 1.6 to ensure uniformity in the administration of current law.
- Renumbering of Rule 1.7.
- New Rule 1.7 to ensure uniformity in administration of current law and provide clear guidance to filers on registration requirements and the applicability of Colorado campaign finance law.
- Clarifying amendment to Rule 1.13 to remove an unnecessary word.
- Amendment to Rule 1.19 to ensure uniformity in administration of current law.
- New Rule 1.21 to ensure uniformity in administration of current law and provide clear guidance to filers on registration requirements and the applicability of Colorado campaign finance law.
- Amendment to Rule 2.2.4(c)(3) to ensure uniformity in the administration of current law.
- New Rule 2.4.5 to ensure uniformity in the administration of current law.
- New Rule 2.5 to ensure uniformity in the administration of current law.

¹ 8 CCR 1505-CCR 6.

² Article 45 of Title 1, C.R.S. (2017).

- New Rules 3.3 and 3.4 to ensure uniformity in administration of current law and provide clear guidance to filers on registration requirements and the applicability of Colorado campaign finance law.
- Technical amendments to Rule 4.4.3 to correct a citation.
- New Rule 4.5 to ensure uniformity in administration of current law and provide clear guidance to filers on registration requirements and the applicability of Colorado campaign finance law.
- New Rule 4.6 to ensure uniformity in the administration of current law.
- New Rule 10.1.3 to ensure uniformity in the administration of current law.
- Amendments to Rule 10.2.3 to ensure proper administration of House Bill 17-1155.
- New Rule 10.4.6 to ensure uniformity in administration of current law and provide clarity to filers.
- Technical amendments to Rule 10.11.3 to correct an incorrect capitalization.
- Amendments to Rule 12.4 to ensure uniformity in administration of current law.
- Current Rule 9.3, concerning registered agents, is recodified as New Rule 12.5 with clarifying amendments.
- Formatting amendments to Rule 15.4 to correct indentation error.
- Amendments to Rule 18.2 to ensure proper administration of House Bill 17-1155.
- New Rule 18.4 to ensure uniformity in administration of current law.

Other changes to rules not specifically listed are non-substantive and necessary for consistency with Department rulemaking format and style. Cross-references in rules are also corrected or updated.

On August 10, 2017, the Secretary issued a request for public comment to help our office develop preliminary draft rules. The comments we received in anticipation of rulemaking are available online at: www.sos.state.co.us/pubs/rule_making/CPFRuleComments.html. Additional comments received during the formal rulemaking are available online at: www.sos.state.co.us/pubs/rule_making/hearings/2017/CPFRulesHearing20171003.html. All comments are incorporated into the official rulemaking record.

II. Rulemaking Authority

- Article XXVIII, Section 8 of the Colorado Constitution, which requires the Secretary of State to “promulgate rules related to filing in accordance with article 4 of title 24, C.R.S.”
- Article XXVIII, Section 9(1)(b) of the Colorado Constitution, which requires the Secretary of State to “[p]romulgate such rules, in accordance with article 4 of title 24, C.R.S., or any successor section, as may be necessary to administer and enforce any provision of [Article XVIII of the Colorado State Constitution].”
- Section 1-1-107(2)(a), C.R.S., (2017), which authorizes the Secretary of State “[t]o promulgate, publish, and distribute...such rules as the secretary of state finds necessary for the proper administration and enforcement of the election laws.”