



Notice of Proposed Rulemaking

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

Date of notice: June 15, 2020
Date and time of public hearing: July 16, 2020 at 2:00 p.m.

I. Hearing Notice

As required by the State Administrative Procedure Act,¹ the Secretary of State gives notice of proposed rulemaking. The hearing is scheduled for July 16, 2020 at 2:00 p.m. **This meeting will be conducted via webinar; no in-person option is available.** Details regarding how to join the webinar and testify during the hearing are outlined in section VI of this notice.

II. Subject

The Secretary is considering amendments to the rules concerning campaign and political finance² to improve the administration and enforcement of Colorado campaign finance law.³

Specifically, the Secretary is considering additional rule amendments including revisions necessary to ensure proper administration of legislation recently passed by the Colorado General Assembly, including SB19-232 concerning campaign finance enforcement; establish uniformity in the administration of current law; establish new definitions; clarify date of a contribution or donation; clarifying when a committee may file a termination report to terminate the committee; clarify rules concerning recall elections, local offices and home rule; clarify late filing penalties and waiver process; establish new complaint rules including rules for settlement of complaints; eliminate obsolete provisions; simplify the language of existing rules; remove language that is duplicative of statute or constitutional provisions; and ensure consistency with Department rulemaking standards. The Secretary may consider additional rule amendments.

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

¹ Section 24-4-103(3)(a), C.R.S. (2019).

² 8 CCR 1505-CCR 6.

³ Article 45 of Title 1, C.R.S. (2019).

III. Statutory authority

The Secretary proposes the rule revisions and amendments in accordance with the following statutory and constitutional provisions:

- 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., (2019), 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.”
- Section 1-45-111.5(1), C.R.S., (2019), which requires the Secretary of State to promulgate such rules “as may be necessary to enforce and administer any provision of” article 45 of title 1, C.R.S.

IV. Copies of draft rules

A preliminary draft of the proposed rules is posted on the Secretary of State’s rules and notices of rulemaking website at:

https://www.sos.state.co.us/pubs/rule_making/hearings/2020/CampaignFinanceRulesHearing20200716.html.

You may also contact our office to request an editable electronic copy of the draft rules.

As required by the State Administrative Procedures Act,⁴ if changes are made before the hearing, revised proposed draft rules will be available to the public and posted on the website by July 10, 2020.

V. Opportunity to testify and submit written comments

The Secretary values your feedback in our rulemaking process and we would very much like to hear your thoughts on the proposed amendments. Please review and consider the attached proposed draft rules.

Everyone will have the opportunity to testify and provide written comment concerning the rule amendments. You may submit written comments to SoS.Rulemaking@sos.state.co.us any time before and during the hearing. Additional opportunity to comment in writing will be announced

⁴ Section 24-4-103(3)(a), C.R.S. (2019). “Any proposed rule or revised proposed rule by an agency which is to be considered at the public hearing...shall be made available to any person at least five days prior to said hearing.”

at the conclusion of the hearing. Information regarding how to testify during the webinar hearing is providing in section VI of this notice.

As soon as possible after receipt, written comments will be posted online at the Secretary of State website:

https://www.sos.state.co.us/pubs/rule_making/hearings/2020/CampaignFinanceRulesHearing20200716.html. We will redact apparent personal contact information, including home address, email address, and telephone number(s), from submissions before posting the information online, unless otherwise directed by the contributor. All written comments will be added to the official rulemaking record.

VI. Webinar and audio recording of hearing

Register for the webinar hearing

To join and listen to the hearing, you must register for the webinar online: <https://attendee.gotowebinar.com/register/3064434971189137165>.

When you register, you must provide your full name and email address. Please provide additional contact information including your address and telephone number. You may also provide your job title and organization. Lastly, indicate whether you plan to testify during the hearing. When you submit your registration, you should receive a confirmation email including details about how to join the webinar.

Webinar hearing procedures

At the beginning of the webinar, we will mute all public participants. After the introduction and a brief summary of the rulemaking, we will open the hearing to testimony as follows:

- Referencing registration records, we will identify and individually unmute participants who indicated that they plan to testify during the hearing.
- When we exhaust the list, we will ask whether any additional attendees wish to testify. Attendees may raise/lower their hand by clicking the icon in their control panel.
- To ensure that the hearing is prompt and efficient, oral testimony may be time-limited.

Before the hearing concludes, we will announce an additional opportunity to submit written comments and the associated deadline.

Webinar audio requirements

Please be advised: we strongly encourage attendees to join the webinar through their computer even if they use their telephone to dial in for audio. To testify during the hearing, it is best to use your computer microphone and speakers or a headset. As outlined above, we will first receive testimony from attendees whose registration indicates that they plan to provide testimony and then we will offer attendees the option to raise their hand. If you access the webinar only by telephone, you may not appear in our webinar attendee list meaning we may not be able to unmute you. Moreover, the raise your hand feature is only available to attendees who access the webinar by computer.

Audio recording

After the hearing concludes, a recording will be available on our audio broadcasts page here: https://www.sos.state.co.us/pubs/info_center/audioBroadcasts.html.

VII. Office contact

If you have any questions or would like to submit written comments, please contact the Department Rulemaking Program Manager at SoS.Rulemaking@sos.state.co.us or (303) 894-2200 ext. 6329.

Dated this 15th Day of June, 2020.

Melissa Kessler
Legal and Policy Director

For

Jena Griswold
Colorado Secretary of State



Draft Statement of Basis, Purpose, and Specific Statutory Authority

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

June 15, 2020

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:

- New Rule 1.12 defines “municipal campaign finance matter.”
- Amendments to Rule 10.4, including New Rule 10.4.7, to clarify the date of a contribution or donation.
- Amendments to Rule 12.3, including New Rule 12.3.4, clarify when a committee may file a termination report terminating the committee. Specifically, to file a termination report, the committee may not have pending campaign and political financial complaints for related proceedings pending before the elections division or any court.
- Amendments to Rule 14.1 clarify that home rule municipality may adopt or use the requirements of Colo. Const. Article XXVIII and of Article 45 of Title 1, C.R.S., for their compliance and enforcement.
- Amendments to Rule 15.3 clarify that the incumbent in a recall election may not use his or her candidate committee to oppose the recall.
- Amendments to Rule 17.6 simplify the rule to state that any filing related to a municipal campaign matter, as defined under New Rule 1.12, must be filed with the municipal clerk.
- Amendments to Rule 18 clarify that requests for waiver or reduction of penalties concern late or missing filing penalties imposed under Colorado Constitution

¹ 8 CCR 1505-CCR 6.

² Article 45 of Title 1, C.R.S. (2019).

Article XXVIII, Section 10(2). Additionally, the rule is amended to only cover late filing penalties and waiver process. Current Rule 18.2 is amended and recodified under New Rule 23.

- New Rule 23 is necessary to implement SB19-232, concerning campaign finance enforcement, and establishes complaint rules, including disclosure of documents related to complaints, the settlement of complaints, and fines.

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., (2019), 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.”
- Section 1-45-111.5(1), C.R.S., (2019), which requires the Secretary of State to promulgate such rules “as may be necessary to enforce and administer any provision of” article 45 of title 1, C.R.S.