



Notice of Proposed Rulemaking

Colorado Department of State Rules Concerning Campaign and Political Finance 8 CCR 1505-6

Date of notice: August 15, 2022

Date and time of public hearing: September 15, 2022, at 11 a.m.

I. Hearing Notice

As required by the State Administrative Procedure Act,¹ the Colorado Department of State gives notice of proposed rulemaking. The hearing is scheduled for September 15, 2022, at 11 a.m. in the Red Rocks Conference Room on the 5th floor of the Department of State's office at 1700 Broadway, Denver, CO 80290. **This meeting will be conducted in person and via webinar.** Details regarding how to join the webinar and testify online during the hearing are outlined in section VI of this notice.

II. Subject

The Department 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 Department is considering additional rule amendments including revisions necessary to ensure proper administration of legislation recently passed by the Colorado General Assembly, including House Bills 22-1060 and 22-1156 concerning campaign contribution limits and financial reporting deadlines; 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 Department may consider additional rule amendments.

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

III. Statutory and constitutional authority

¹ Section 24-4-103(3)(a), C.R.S. (2021).

² 8 CCR 1505-6.

³ Article 45 of Title 1, C.R.S. (2021).

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

- Article XXVIII, Section 3(13) of the Colorado Constitution, which requires the Secretary of State to “calculate . . . and specify [contribution] limits in rules promulgated in accordance with article 4 of title 24, C.R.S., or any successor section.”
- 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 1-45-108(2)(c), C.R.S., (2021), which authorizes the Secretary of State to establish reporting periods “pursuant to rules promulgated by the secretary of state in accordance with article 4 of title 24, C.R.S.”
- Section 1-45-111.5(1), C.R.S., (2021), 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 Department of State’s rules and notices of rulemaking website at:

https://www.coloradosos.gov/pubs/rule_making/hearings/2022/CampaignFinanceRulesHearing20220915.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 **September 10, 2022**.

V. Opportunity to testify and submit written comments

The Department 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 comments concerning the rule amendments. You may submit written comments to SoS.Rulemaking@coloradosos.gov any time

⁴ Section 24-4-103(3)(a), C.R.S. (2021). “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.”

before and during the hearing. If you attend the hearing in person, you may submit written comments to the hearing panel as well. An additional opportunity to comment in writing will be announced at the conclusion of the hearing. Information regarding how to testify via webinar during the hearing is provided in section VI of this notice.

All written comments will be posted online on the Department of State's website:

https://www.coloradosos.gov/pubs/rule_making/hearings/2022/CampaignFinanceRulesHearing20220915.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 to attend online

To join and listen to the hearing, you must register for the webinar: <https://register.gotowebinar.com/register/9039231751813711119>.

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.

Hybrid hearing procedures

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

- For the sake of efficiency, those who are attending this hearing in person will be called upon first to provide their public comment. We will reference the sign-up sheet provided and individually call upon participants who wish to provide their testimony. Once we have exhausted the sign-up sheet, we will move forward with the testimony of online participants.
- Referencing webinar registration records, we will identify and individually unmute online 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. In-person attendees may raise their hands to indicate their intention to testify, and online 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 or GoToWebinar app, 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 or headphones. As outlined above, we will first receive online 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 or by app.

Audio recording

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

Office contact

If you have any questions or would like to submit written comments, please contact the Department Rulemaking Program Assistant at SoS.Rulemaking@coloradosos.gov or (303) 894-2200 ext. 6124.

Dated this 15th of August 2022.



Christopher P. Beall
Colorado Deputy Secretary of State

For

Jena Griswold
Colorado Secretary of State



Draft Statement of Basis, Purpose, and Specific Statutory Authority

Colorado Department of State Rules Concerning Campaign and Political Finance 8 CCR 1505-6

August 15, 2022

I. Basis and Purpose

This statement explains amendments to the Colorado Department 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:

- Amendments to Rule 2.2.4, concerning the change to the financial reporting deadline from 30 days to 35 days, in compliance with HB 22-1156.
- New Rule 2.4.5, concerning that incumbents seeking reelection do not need to file a new personal financial disclosure statement, in compliance with section 24-6-202(4)(b), C.R.S.
- Amendments to Rule 8, including Rules 8.1.1 and 8.1.2, simplifying language for the registration process.
- Amendments to Rule 10.17, concerning the addition of contribution limits for candidates for school district director and the implementation of the changes to comply with HB 22-1060.
- Repeal of current Rule 17.3.4, concerning the change to post-election reporting from 30 days to 35 days, in compliance with HB 22-1156.
- Repeal of current Rule 17.4, removing language duplicative to statute, section 1-45-108, C.R.S.

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.

¹ 8 CCR 1505-6.

² Article 45 of Title 1, C.R.S. (2021).

II. Rulemaking Authority

- Article XXVIII, Section 3(13) of the Colorado Constitution, which requires the Secretary of State to “calculate . . . and specify [contribution] limits in rules promulgated in accordance with article 4 of title 24, C.R.S., or any successor section.”
- 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 1-45-108(2)(c), C.R.S., (2021), which authorizes the Secretary of State to establish reporting periods “pursuant to rules promulgated by the secretary of state in accordance with article 4 of title 24, C.R.S.”
- Section 1-45-111.5(1), C.R.S., (2021), 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.

Preliminary Draft of Proposed Rules

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

August 15, 2022

Disclaimer:

In accordance with the State Administrative Procedure Act, this draft is filed with the Department of State and submitted to the Department of Regulatory Agencies.¹

This is a preliminary draft of the proposed rules that may be revised before the September 15, 2022, rulemaking hearing. If changes are made, a revised copy of the proposed rules will be available to the public and a copy will be posted on the Department of State's website no later than **September 10, 2022**.²

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

Amendments to 8 CCR 1505-6 follow:

Amendments to Rule 2:

[Not shown: no changes to Rules 2.1-2.2.3.]

Amendments to Rule 2.2.4 concerning financial reporting deadlines:

2.2.4 Managing unexpended campaign contributions

- (a) A candidate committee must report its unexpended balance as the ending balance at the end of the election cycle. A candidate committee must report its unexpended balance from the report filed 30-35 days after the major election as the beginning balance in the next election cycle. The candidate committee's beginning balance must reflect what amount is retained for use in a subsequent election cycle and what amount is retained for use as unexpended funds.

New Rule 2.4.5 concerning incumbents filing personal financial disclosure statements:

¹ Sections 24-4-103(2.5) and (3)(a), C.R.S. (2021). A draft must be submitted to the Department at the time that a notice of proposed rulemaking is filed with the Secretary of State.

² Section 24-4-103(4)(a), C.R.S. (2021). "[A]ny proposed rule or revised proposed rule by an agency which is to be considered at the public hearing...shall be made available to any person at least five days prior to said hearing."

2.4.5 INCUMBENTS SEEKING REELECTION NEED NOT FILE A NEW PERSONAL FINANCIAL DISCLOSURE STATEMENT IF THEY HAVE ALREADY FILED THEIR ANNUAL PERSONAL FINANCIAL DISCLOSURE STATEMENT. [SECTION 24-6-202(4)(B), C.R.S.]

[Not shown: current Rule 2.4.5 renumbered to Rule 2.4.6.]

Amendments to Rule 8:

Amendments to Rule 8.1 concerning registering a committee:

8.1 The committee registration must include the purpose or nature of interest of the committee or party.

8.1.1 A candidate committee must identify the name of the candidate ~~and the public office sought.~~

8.1.2 A political committee, independent expenditure committee, small donor committee, or political organization must identify the types of candidates it supports or opposes, ~~including party affiliation and, as applicable, office(s) sought or~~ AND THE OFFICES THEY SEEK AND, AS APPLICABLE, public policy position(s).

[Not shown: no changes to Rule 8.1.3.]

Amendments to Rule 10:

[Not shown: no changes to Rules 10.1-10.16.]

Amendments to Rule 10.17.1 concerning contribution limits for candidates for school district director:

10.17.1 Adjusted limits made in the first quarter of 2019 and effective until the next adjustment is made in 2023:

[No changes to subsections (a)-(g).]

(H) THE AGGREGATE LIMITS ON CONTRIBUTIONS TO CANDIDATES FOR SCHOOL DISTRICT DIRECTOR ARE AS FOLLOWS:

(1) \$2,500 PER ELECTION CYCLE FROM ANY PERSON OTHER THAN A SMALL DONOR COMMITTEE; AND

(2) \$25,000 PER ELECTION CYCLE FROM ANY SMALL DONOR COMMITTEE.

(h)(i) This table contains the contribution limits listed in subsections ~~(a)-(g)~~ (A)-(H).

Contributor:

Recipient:	CONTRIBUTOR:				
	Natural Person	Person, other than a natural person	Political committee	Small donor committee	Political party
Political committee	\$625 per election cycle	\$625 per election cycle	\$625 per election cycle	\$625 per election cycle	\$625 per election cycle

Small donor committee	\$50 per year	Prohibited	Prohibited	Prohibited	Prohibited
Governor (governor & lt. governor)	\$625 per election cycle*	\$625 per election cycle*	\$625 per election cycle*	\$6,750 per election cycle*	\$679,025 per election cycle
Secretary of state, state treasurer, attorney general	\$625 per election cycle*	\$625 per election cycle*	\$625 per election cycle*	\$6,750 per election cycle*	\$135,775 per election cycle
State senate	\$200 per election cycle*	\$200 per election cycle*	\$200 per election cycle*	\$2,675 per election cycle*	\$24,425 per election cycle
State house of representatives, state board of education, regent of the University of Colorado, district attorney	\$200 per election cycle*	\$200 per election cycle*	\$200 per election cycle*	\$2,675 per election cycle*	\$17,625 per election cycle
Political party	\$4,025 (\$3,350 at the state level) per year	\$4,025 (\$3,350 at the state level) per year	\$4,025 (\$3,350 at the state level) per year	\$20,325 (\$16,925 at the state level) per year	Transfers within a party may be made without limitation.
County candidate	\$1,250 per election cycle*	\$1,250 per election cycle*	\$1,250 per election cycle*	\$12,500 per election cycle*	\$22,125 per election cycle
SCHOOL DISTRICT DIRECTOR	\$2,500 PER ELECTION CYCLE	\$2,500 PER ELECTION CYCLE	\$2,500 PER ELECTION CYCLE	\$25,000 PER ELECTION CYCLE	\$2,500 PER ELECTION CYCLE

* A candidate may accept the contribution limit for both the primary election and the general election.

(f)(j) The voluntary spending limits for a candidate described in Colo. Const. Article XXVIII, Section 4(1), are adjusted as follows:

[Not shown: no changes to sub-subsections (1)-(4).]

[Not shown: no changes to Rule 10.18.]

Amendments to Rule 17:

[Not shown: no changes to Rules 17.1-17.3.3.]

Current Rule 17.3.4 is repealed:

17.3.4 Except in the case of a recall election, 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 the 30th 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.]

Current Rule 17.4 is repealed:

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.]~~

[Not shown: current Rules 17.5 and 17.6 renumbered to Rules 17.4 and 17.5.]