



Guidance on Disclaimer Statements

Note: While not every single communication requires a disclaimer statement, the Secretary of State's Office recommends including them on all communications for the reasons outlined in this document.

Communications can fall into three basic categories: General communications, Independent Expenditure communications, and Electioneering Communications. All three categories of communications have different requirements for disclaimer statements which are based on the content of the communication, the timeframe during which the communication is distributed, and the cost of the communication. Depending on these factors, it is possible for a communication to overlap and fall into one or more categories.

Colorado law requires all candidate committees, political committees, issue committees, small donor committees, 527 political organizations, political parties, and any other person making an expenditure or spending more than \$1,000 per calendar year on a communication to include a disclaimer statement on that communication.

Additionally, disclaimer statements are also required on every Independent Expenditure costing more than \$1,000 and on Electioneering Communications once the total spent on Electioneering Communications reaches \$1,000 or more.

The following are examples of the types of communications covered by disclaimer statement requirements:

- Broadcast and Non-broadcast communications (TV, radio, phone)
- Communications printed, mailed, delivered, or otherwise distributed (flyers, billboards, ads)
- Communications that appear on a website
- Communications that appear on streaming media services
- Communications placed in an online forum for a fee

General Communications (Section 1-45-108.3(1), C.R.S.)

These are communications that do not meet the definition of an Electioneering Communication or an Independent Expenditure. Generally speaking, any campaign communication, including those supporting or opposing ballot issues or ballot questions, requires a disclaimer statement if the cost of that communication exceeds \$1,000 in a calendar year although the guidance from this office is to include a disclaimer statement on **all** campaign communications regardless of cost.

The disclaimer statement must:

- Include the name of the person that paid for the communication; and
- Identify a natural person who is the registered agent if the person above is not a natural person

Example: Paid for by Citizens to Elect John Doe. Registered Agent: Jane Doe

The guidance from the Secretary of State's Office is that communications distributed via separate media or containing substantially different messaging and content are likely to each be treated as separate communications and therefore the \$1,000 threshold applies separately to each individual communication. For example, a flyer would be considered a unique and separate communication from a yard sign. If a person spent \$900 on flyers, \$500 on a newspaper ad, \$750 on yard signs, and \$1,200 on a billboard in a given calendar year, assuming all communications were made outside the electioneering communication window, only the billboard would require a disclaimer statement because only that communication cost more than \$1,000.

Important Guidance Note!

The Secretary of State's Office recommends that all candidates, committees, and other persons place disclaimer statements on **all** communications they distribute to avoid confusion or inadvertently violating current campaign finance laws. This is especially true for communications that might be reprinted or redistributed at a later point in time because the spending threshold of \$1,000 remains in place for an entire calendar year. For example, if an initial production run of yard signs only cost \$500, they would not require a disclaimer statement, but if a person spent another \$525 to redistribute additional quantities of the same yard signs at a later date, the **entire** run of yard signs would be subject to disclaimer requirements because the total cost of the yards signs has exceeded \$1,000.

Important Guidance Note!

It is important to note that some communications might also qualify as either independent expenditures or electioneering communications or even both depending on the timing of the communication and who paid for the expenditure. Even if the cost of a single independent expenditure or a unique communication is less than \$1,000, if the communication also constitutes an Electioneering Communication and the total spent by the person on Electioneering Communications has met or exceeded \$1,000 in aggregate during a calendar year, disclaimer statements are required on those communications. Again, the Secretary of State's Office recommends including disclaimer statements on **all** communication to avoid potential violations.

Electioneering Communications (Section 1-45-108.3(3), C.R.S.)

An Electioneering Communication is a communication that unambiguously refers to a candidate and is distributed:

- 30 days before the primary election through the day before the General Election; or
- 60 days before the Regular Biennial School Election

Anyone spending \$1,000 or more on Electioneering Communications (or Regular Biennial School Electioneering Communications) in aggregate during a calendar year, must include a disclaimer statement on all Electioneering Communications once total spending reaches \$1,000 including unique instances of Electioneering Communications that cost less than \$1,000.

The disclaimer statement must:

- Include the name of the person that paid for the communication; and
- Identify a natural person who is the registered agent if the person above is not a natural person

Example: Paid for by Colorful Colorado. Registered Agent: Jane Doe

For example, if a person first spent \$400 on flyers, then spent \$400 on a newspaper ad, and then subsequently spent \$400 on yard signs and all of that spending took place within the Electioneering Communication window, the yard signs would require disclaimer statements even though they only cost \$400 because the aggregate amount spent on Electioneering Communications has now exceeded \$1,000 during the calendar year.

Additionally, the guidance from this office is that even if a person paid for a communication before the Electioneering Communication window began, if the communication unambiguously refers to a candidate and the actual distribution of the communication occurs during the Electioneering Communication window, it qualifies as an Electioneering Communication.

Independent Expenditure Communications (Section 1-45-107.5(5), C.R.S)

These are communications that are not paid for by, controlled by, or coordinated with any candidate or agent of that candidate.

If the communication costs more than \$1,000, the communication requires a disclaimer statement. The content of the disclaimer is contingent upon the method of distribution as outlined below:

Broadcast	Non-Broadcast (including online)
<ul style="list-style-type: none">• Name of the person that paid for the communication• Identifies a natural person who is the registered agent if the person above is not a natural person	<ul style="list-style-type: none">• Name of the person that paid for the communication• Identifies a natural person who is the registered agent if the person above is not a natural person• A statement that the communication is not authorized by any candidate

Each communication is treated as a unique instance in determining whether or not a disclaimer statement is necessary. For communications that do not cost more than \$1,000, no disclaimer statement is required.

For example, if a person spent \$1,200 on flyers, \$900 on a newspaper ad, and \$2,000 on a radio ad, only the flyers and the radio ad would require disclaimer statements assuming all communications were made outside the electioneering communication window. The \$900 newspaper ad is below the \$1,000 threshold requiring a disclaimer statement on an independent expenditure.

Disclaimer Review

The Secretary of State's Office has put together the following chart to help you determine if a specific communication requires a disclaimer statement. However, please note that the guidance from this office is to include a disclaimer statement on **all** campaign communications regardless of cost or timing (full size table available on page 6).

Unique communication? (e.g yard sign vs. flyer vs. Facebook ad)	Is communication an Independent Expenditure?	Did communication cost more than \$1,000? (Calculate all production runs of a communication including reprints and subsequent distributions)	Does the communication fall within the window for Electioneering Communications?	If communication is an Electioneering Communication, is the aggregate cost of electioneering spending \$1,000 or more? (including the cost of this communication)	Disclaimer Required?
Yes	Yes	No	No	N/A	No
Yes	Yes	Yes	No	N/A	Yes
Yes	Yes	No	Yes	No	No
Yes	Yes	No	Yes	Yes	Yes
Yes	Yes	Yes	Yes	Yes	Yes
Yes	No	No	No	N/A	No
Yes	No	No	Yes	No	No
Yes	No	No	Yes	Yes	Yes
Yes	No	Yes	No	N/A	Yes
Yes	No	Yes	Yes	Yes	Yes

Note: For additional information on size and placement requirements for disclaimer statements, please refer to Campaign and Political Finance Rule 22.

For additional questions about Colorado's Campaign Finance laws and rules e-mail us at: cpfhelp@sos.state.co.us or call 303-894-2200 (dial 3, then 1)

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Unique communication? (e.g. yard sign vs. flyer vs. Facebook ad)	Is communication an Independent Expenditure?	Did communication cost more than \$1,000? (Calculate all production runs of a communication including reprints and subsequent distributions)	Does the communication fall within the window for Electioneering Communications?	If communication is an Electioneering Communication, is the aggregate cost of electioneering spending \$1,000 or more? (including the cost of this communication)	Disclaimer Required?
Yes	Yes	No	No	N/A	No
Yes	Yes	Yes	No	N/A	Yes
Yes	Yes	No	Yes	No	No
Yes	Yes	No	Yes	Yes	Yes
Yes	Yes	Yes	Yes	Yes	Yes
Yes	No	No	No	N/A	No
Yes	No	No	Yes	No	No
Yes	No	No	Yes	Yes	Yes
Yes	No	Yes	No	N/A	Yes
Yes	No	Yes	Yes	Yes	Yes