



Colorado
Secretary of State

Campaign and Political Finance



Lawn Chair Chat

August 10, 2023

Welcome!

Topic:

Disclaimer / Paid for by Statements



The Colorado Secretary of State's office does not provide legal advice.

This training was created for reference purposes only.

Information contained in the training is not a substitute for legal advice and actual knowledge of campaign finance laws and regulations.



Colorado
Secretary of State

Before we Start

How much do you know about
Disclaimer Statements?



What are Disclaimer Statements?

A statement disclosing to the reader, viewer, listener or recipient the:

- **Name of the person or committee responsible for paying for the communication.**
- **Name of the Registered Agent for the committee or person responsible for paying for the communication.**

**AKA
Paid For By Statements**

- **Electioneering Communications** refer to a specific candidate(s) and are distributed from 30 days prior to the primary until the day before the general election. Article XXVIII, Sec. 2(7) of the Colorado Constitution & 1-45-103(9), C.R.S.
- **Regular Biennial School Electioneering Communications** refer to a candidate(s) only for regular biennial school electioneering communications and are distributed 60 days before the election. 1-45-103(15.5), C.R.S.
- **Independent Expenditures** are those not controlled by or coordinated with candidates or their agents. Article XXVIII, Sec. 2(9), Sec. 5 of the Colorado Constitution
- **General Communications** are campaign communications that do not meet the definition of Electioneering Communication, are not Independent Expenditures, and exceed \$1,000 in a calendar year. 1-45-108.3(1) C.R.S.
- **Direct Ballot Issue or Ballot Question Expenditure** – means direct spending in support of or opposition to any single ballot issue or ballot question by a person who does not otherwise meet the requirements of an issue committee. Contributions to an issue committee are not direct ballot issue or ballot question expenditures. 1-45-103 (7.2), C.R.S.
- **Person** - includes a natural person, partnership, committee, association, corporation, labor organization, political party, or other organization or group of persons. Article XXVIII, Sec. 2(11) of the Colorado Constitution
- **A “NATURAL PERSON”** is a human being. You, me, the individual sitting next to you!



APPLY TO

- **Candidates**
- **Candidate Committees**
- **Political Committees**
- **Small Donor Committee**
- **Political Parties**
- **Issue Committees**
- **Small Scale Issue Committees**
- **527 Political Organizations**
- **Independent Expenditure Committees**
- **Any other person** including those not registered in TRACER making:
 - a Direct Ballot Issue or Ballot Question Expenditure, and/or
 - an electioneering communication expenditure aggregating to more than \$1,000 in a calendar year.



Electioneering Communication that is:

➤ **Broadcast**

➤ **Printed**

➤ **Mailed**

➤ **Delivered**

➤ **Placed on a website**

➤ **Streamed online for a fee**

➤ **Otherwise distributed**

and

➤ **Unambiguously refers to a candidate** Article XXVIII, Sec. 2(7) of the Colorado Constitution

and

➤ **Aggregates to \$1,000 or more per calendar year** 1-45-108.3(3), C.R.S.

and

➤ **Distributed anytime from 30 days prior to the Primary Election through the day prior to the General Election.**

and/or

➤ **Distributed starting 60 days prior to and through the day before a regular biennial school election.**



Independent Expenditures that are:

- **Broadcast**
- **Printed**
- **Mailed**
- **Delivered**
- **Placed on a website**
- **Streamed online for a fee**
- **Otherwise distributed**
- **Cost in excess of \$1,000 for the communication**
- **1-45-107.5(5), C.R.S.**

Must include the Paid For By Statement

**VOTE DANDI LION
For School Board**

Paid For By

**Coloradans for Dandi Lion
Registered Agent: Iris Anemone**

**This advertisement is not
authorized by any candidate.**

**Broadcast – Online Video/Audio communications:
See [FCC](#) requirements for Sponsorship Identification Requirements.**



General Communications are:

➤ **ANY CAMPAIGN COMMUNICATION**
costing more than \$1,000 in a
calendar year that is

- Broadcast
- Printed
- Mailed
- Delivered
- Placed on a website
- Streamed online for a fee
- Otherwise distributed
- Supports or opposes a ballot issue or ballot question 1-45-108.3(1), C.R.S.
- Costs more than \$1,000 per calendar year 1-45-108.3 (1)

Must include the Paid For By Statement





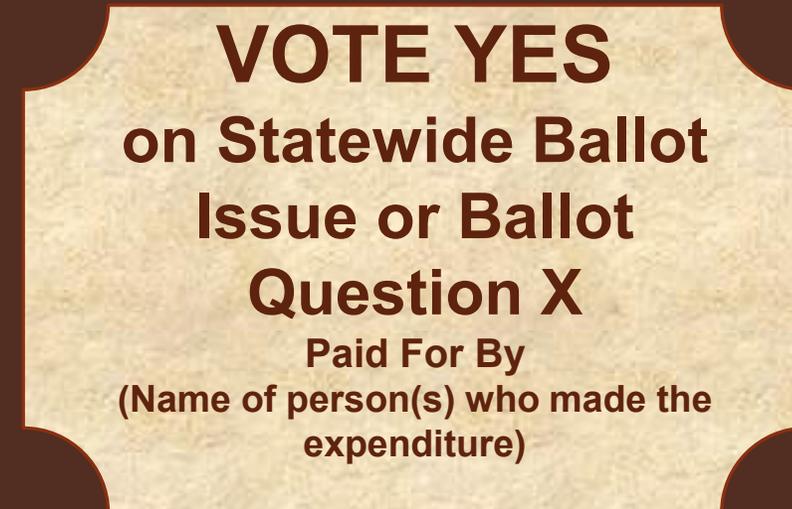
Direct Ballot Issue or Ballot Question Expenditure is:

- a **COMMUNICATION** that supports or opposes any single ballot issue or ballot question by a person who does not otherwise meet the requirements of an issue committee,

AND is:

- **Broadcast**
- **Printed**
- **Mailed**
- **Delivered**
- **Placed on a website**
- **Streaming media service or online forum for a fee, or**
- **Otherwise distributed**

Must include a Disclaimer Statement no matter the cost of the expenditure.





Colorado
Secretary of State

Can **all communications** have
Disclaimer Statements on them?

- YES -

OUR OFFICE RECOMMENDS
including disclaimer statements on
ALL COMMUNICATIONS



Candidate Committee

VOTE
COAL GRANITE
QUARTZITE COUNTY
SHERIFF
Paid for By
Coal Granite for Sheriff
Registered Agent: Coal Granite

Issue & Small-Scale Committee

VOTE YES
999A for Soft Sand
Paid for By
Citizens for 999A
Registered Agent: Janie Doe

Examples



Independent Expenditure Committees Examples of Signs



NOTE:

Independent Expenditures in excess of \$1,000 must also include a prominently featured statement that the communication is not authorized by any candidate. This is in addition to listing who paid for the communication and their registered agent.



What if there is no committee?

VOTE

**John Doe for
Governor**

**Paid for By
John Doe**

**Standalone
Candidates**

**Person other
than a committee
or natural person**

VOTE YES

on 999a

**Paid for By
The Triple Digit Bakery
Agent: Betty Dough**

If John Doe does not have a committee and is not accepting contributions, he is a standalone candidate and **DOES NOT NEED TO INCLUDE THE REGISTERED AGENT** because he is the person who paid for the communication.

A business or other “person” not required to register as a committee but still distributing communications mentioning one or more candidates or ballot issues must still include a **Paid For By** statement and the individual whom they consider their Agent.

Note: The disclaimer statement for Direct Ballot Issue or Ballot Question Expenditures are only required to list the person(s) that paid for the expenditure.

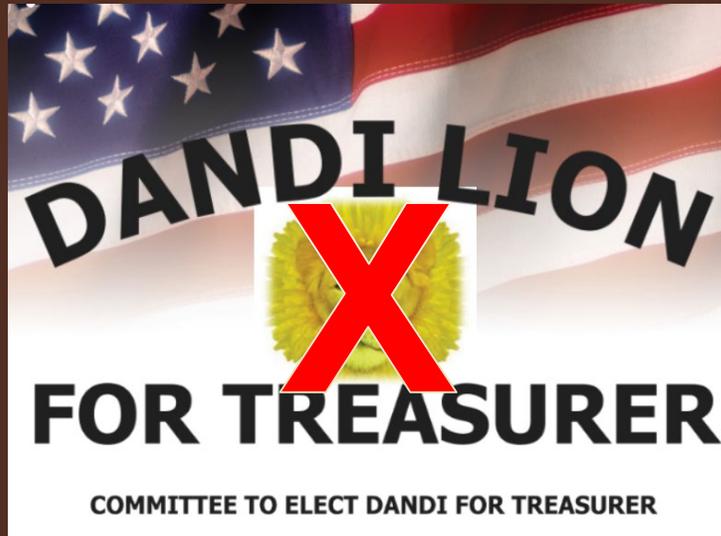


What is missing?

1.



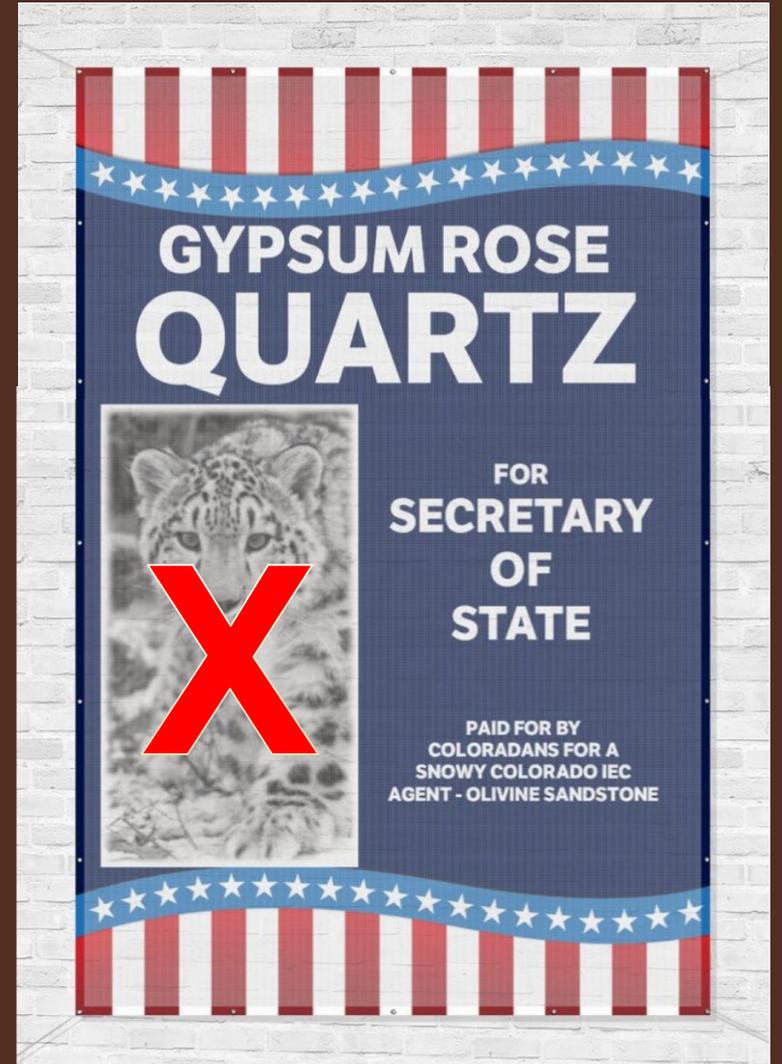
2.



3.



4.



A Good Disclaimer Statement is a Complete Disclaimer Statement.



A FEW EXAMPLES

**COAL GRANITE
LONG COUNTY
SHERIFF**

WWW.COALGRANITE4LCS.COM
PAID FOR BY COAL 4 SHERIFF
REGISTERED AGENT MARBLE GRANITE

**COAL GRANITE
LONG COUNTY
SHERIFF**

WWW.COALGRANITE4LCS.COM
PAID FOR BY COAL 4 SHERIFF
REGISTERED AGENT MARBLE GRANITE

8 PT FONT

12 PT FONT

**DANDI LION
FOR TREASURER**

PAID FOR BY
COMMITTEE TO ELECT DANDI FOR TREASURER
REGISTERED AGENT - DANDI LION

VOTE

**DANDI LION
GOVERNOR**

PAID FOR BY
COMMITTEE TO ELECT
DANDI LION FOR GOVERNOR
REGISTERED AGENT DANDI LION

**GYPSUM ROSE
QUARTZ**

FOR
SECRETARY
OF
STATE

PAID FOR BY
COLORADANS FOR A
SNOWY COLORADO IEC
AGENT - OLIVINE SANDSTONE

THIS ADVERTISEMENT IS
NOT AUTHORIZED BY ANY
CANDIDATE



What is wrong with Committee to Elect Kitty Whiskers' yard sign?

5.



6.



7.





What is wrong with Committee to Elect Kitty Whiskers' yard sign?

5.



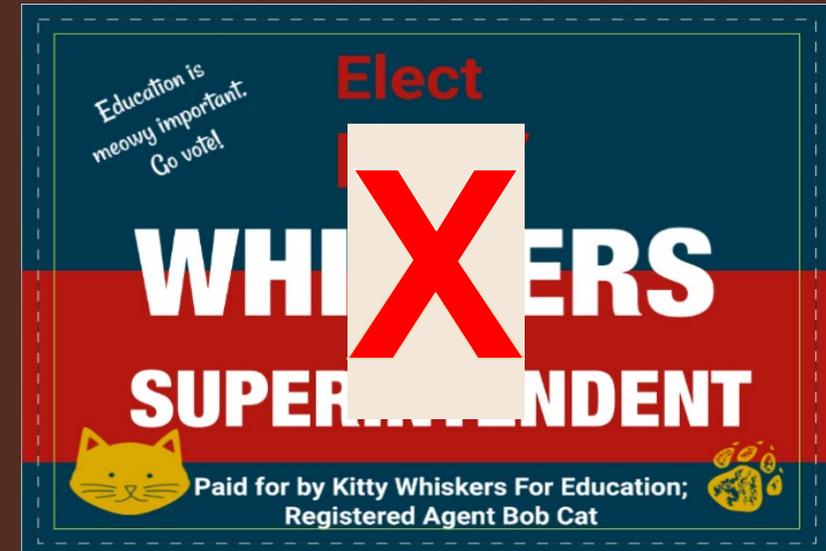
While the disclaimer has the name of the person who paid and the Registered Agent for the committee, it's not readable because the text of the disclaimer is pink on a red background.

6.



While the disclaimer has the name of the person who paid and the Registered Agent for the committee, it's not readable as graphics are covering up part of the disclaimer.

7.



While the disclaimer lists the Registered Agent, the name of the person who paid for the sign isn't the actual name of the committee.

Remember, a Good Disclaimer Statement is a Complete Disclaimer Statement.



Colorado
Secretary of State

What type of communications need Disclaimers?



(Example: Facebook Ads)



Colorado
Secretary of State

How small is too small?



Campaign and Political Finance Rule 22.1.2 states, “These requirements do not apply to bumper stickers, pins, buttons, pens, and similar small items upon which the disclaimer cannot be reasonably printed.”

Note: The Rule is not an exhaustive list of items that may be exempted from the disclosure requirement, rather examples of possible items. You may need to exercise your best judgement when determining whether an item(s) is exempted, or you may need/wish to consult an attorney.



HOW BIG DOES THE PAID FOR BY NEED TO BE?

- **Clearly Readable**
- **Printed in text**
- **Specific Size: No Less than 15% of the size of the largest font used in the communication**

OR

- **At least size 8-point font**
- **Rule 22**



ALL ONLINE COMMUNICATIONS

What if an online communication's size, format, or display doesn't allow for a disclaimer statement?

**Online communications unable to accommodate disclaimer statements must include a link to a resource, such as web page, that provides and prominently displays the disclaimer/
Paid for By statement. 1-45-107.5(5)(c), C.R.S.**



UNIQUE SCENARIOS

1

Communications from prior years that are within your control or to which you have access – usually okay to use but information must be currently accurate. If there's a new committee name or agent, communications must be updated to be accurate.

2

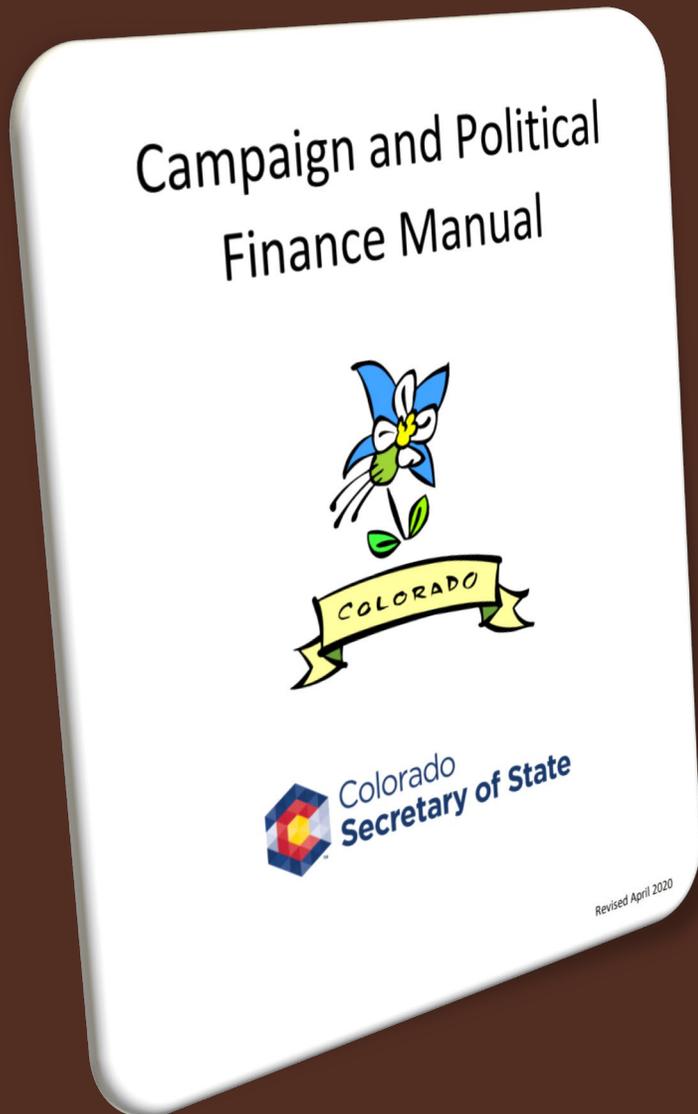
Communications already printed before realizing they required disclaimer statements: These are not exempt from the disclaimer requirements and would need to be updated with the necessary information.

3

What if: Green Grass Mowers (GGM) purchases a \$1,000 gift certificate from Yellow Daisy Printing and contributes it to The Committee to Elect Sky Blue for Governor? Who is listed as the Paid for By? The Committee to Elect Sky Blue for Governor.



Find it in the CPF Manual



**Colorado Constitution
Article XXVIII**

Campaign and Political Finance

Section 2(7)(a)

Section 2(8)

Section 2(9)

Section 2(11)

Colorado Revised Statutes

Title 1 – Article 45

Fair Campaign Practices Act

1-45-103, C.R.S.

1-45-108.3, C.R.S.

1-45-107.5, C.R.S.

**Colorado Secretary of State Rules Concerning
Campaign and Political Finance**

[8 CCR 1505-6]

Rule 22 – Disclaimer Statements



STATE OF COLORADO
Department of State
1700 Broadway, Suite 200
Denver, CO 80290



Jena M. Griswold
Secretary of State
Judd Choate
Director, Elections Division

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 yard 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, 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.

Unique communication? (e.g. yard sign 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	Yes	Yes
Yes	Yes	Yes	Yes	Yes	Yes
Yes	No	No	No	N/A	No
Yes	No	No	Yes	No	No
Yes	No	Yes	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: help@sos.state.co.us or call 303-894-2200 (dial 3, then 1)



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.

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



COST SHARING BY CANDIDATES

❖ **Campaign and Political Finance Rule 10.11 reads:**

“Cost-sharing by candidates. Each candidate committee that shares the cost of brochures, office space, or other overhead must pay its proportionate share of the cost within 30 days of the expenditure. The reimbursing committee must report the payment as an expenditure and the reimbursed committee must report it as a returned expenditure. A committee need not report discounts resulting from shared expenses as contributions.”

❖ **Why is this important?**

- ❖ Disclaimers will need to list all persons/committees who paid for the communication,
- ❖ To avoid a candidate committee from contributing (monetarily or non-monetarily / in-kind) accidentally to another candidate committee by not sharing the cost proportionately.
 - ❖ Article XXVIII, Section 3(6) of the Colorado Constitution prohibits candidate committees from accepting or making contributions to another candidate committee.



Colorado
Secretary of State



Chat Box Questions





Colorado
Secretary of State

Questions?





Colorado
Secretary of State

Campaign Finance

303-894-2200

Select Option 3 then 1

CPFHelp@coloradosos.gov

[Campaign Finance Home Page](#)

[Campaign Finance Manual](#)

[TRACER](#)