

Designated Representatives

A summary of designated representatives' responsibilities under Colorado's initiative and referendum laws

The following summary has been prepared by the Secretary of State as required by law and is meant as a reference guide only. Designated representatives should consult Article 40 of Title 1 of the Colorado Revised Statutes.

“Designated Representative” Defined [Sections 1-40-104, and 1-40-102(3.7), C.R.S.]

When the initiative proponents file a draft text of the proposed initiative with legislative staff for review and comment, the proponents must designate the names and mailing addresses of two people who will represent the proponents in all matters affecting the petition and to whom all notices and information concerning the petition will be delivered. These people are defined as the “designated representatives.”

Responsibilities During the Title Board Process [Section 1-40-106, C.R.S.]

Each designated representative must appear at any Title Board meeting during which the designated representatives' proposed initiative is to be heard, including rehearings.

Notarized Affidavit of Designated Representatives

- At the first Title Board meeting, the Secretary of State will provide each designated representative with an affidavit form, on which the designated representative must affirm that he or she is familiar with the provisions of Article 40 of Title 1, C.R.S., including but not limited to:
 - The prohibition on circulators' use of false addresses in completing circulator affidavits; and
 - The requirements contained in this summary of designated representatives' responsibilities.
- Each designated representative must include on the affidavit form his or her physical address at which legal process may be served.
- Each designated representative must also include an email address to which all correspondence will be sent, unless the designated representative requests correspondence via mail.
- The Secretary of State will provide a notary public for the designated representatives at the Title Board meeting.
- To ensure a prompt start time, designated representatives should arrive early to the Title Board meeting in order to sign and file the affidavit.

Failure to Appear at a Meeting of the Title Board

If either designated representative fails to appear at a Title Board meeting or fails to file the affidavit, the Title Board will not set a title for the proposed initiative. In this event, the Title Board may consider the proposed initiative at its next meeting, but both designated representatives must comply with the requirements that they appear at that meeting and complete the affidavit.

Filing the Petition Format [Section 1-40-113, C.R.S.]

The designated representatives must file a hard copy of the petition format with the Secretary of State for approval before the petition may be circulated. The Secretary of State will notify the designated representatives within 48 hours whether the petition format is approved.

Filing the Completed Petition [Section 1-40-113 (3), C.R.S.]

Both designated representatives must file the completed petition with the Secretary of State in accordance with section 1-40-113(3), C.R.S. **Both representatives must be present when the petition is filed with the Secretary of State.**

Curing an Insufficient Petition [Section 1-40-117(3)(b), C.R.S.]

If the Secretary of State issues a statement of insufficiency, the designated representatives may cure the insufficiency by adding additional signatures through an addendum the designated representatives must file the addendum:

- Within 15 days after the insufficiency is declared; and
- No later than three months before the election at which the initiative is to be voted on.

Both representatives must be present when the addendum is filed with the Secretary of State.

Filing a List of Circulators and Notaries Related to Petition Circulation [Section 1-40-111(4), C.R.S.]

When the designated representatives file the completed petition with the Secretary of State, they must also submit a list that includes:

- The names and addresses of all circulators who circulated petition sections;
- The names of all notaries public who notarized petition sections; and
- The petition section numbers that each circulator circulated and that each notary public notarized.

If the designated representatives fail to provide a list, the Secretary of State will prepare the list. The Secretary of State will then charge the designated representatives a fee, which shall be determined and collected pursuant to section 24-21-104(3), C.R.S. to cover the cost of the preparation.

Filing a Report of Expenditures Related to Petition Circulation [Section 1-40-121, C.R.S.]

No later than 10 days after the petition has been submitted to the Secretary of State, the designated representatives must sign and file an expenditure report with the Secretary of State that includes:

- The dates of circulation by all circulators who were paid to circulate a petition section;
- The total hours for which each circulator was paid to circulate a petition section;
- The gross amount of wages paid for each circulator;
- Any addresses used by circulators on their affidavits that the designated representatives or their agents have determined, prior to petition filing, to be false addresses; and
- Any other expenditure made by any person or issue committee related to the circulation of petitions for signatures, including the name of the person or issue committee that made the expenditure and the amount of the expenditure.

Complaint by a Registered Elector

Within 10 days after the expenditure report is filed, a registered elector may file a complaint alleging a violation of the requirements for the report.

- The designated representatives may cure any alleged violation by filing a new report or an addendum to the original report within 10 days after the date the complaint is filed.
- If the violation is not cured, an administrative law judge must conduct a hearing on the complaint within 14 days after the date of the additional filing or the deadline for the additional filing, whichever is sooner.
 - If the administrative law judge determines that the designated representatives intentionally violated the reporting requirements, the designated representatives will be subject to a penalty that is equal to three times the amount of any expenditure that was omitted from or erroneously included in the report.
 - If the administrative law judge determines that the designated representatives intentionally misstated or omitted a material fact in the report, or never filed a report, the registered elector who filed the complaint may commence a civil action to recover reasonable attorney fees and costs from the designated representatives.

Withdrawal of an Initiative Petition [Section 1-40-134, C.R.S.]

The designated representatives may withdraw the petition from consideration as a ballot issue by filing a letter with the Secretary of State requesting that the petition not be placed on the ballot. The letter must be signed and notarized by both designated representatives and must be filed no later than sixty days before the election at which the initiative is to be voted upon.

If you have any questions, please contact:



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