



## Notice of Permanent Adoption

### Office of the Secretary of State Rules Concerning Lobbyist Regulation 8 CCR 1505-8

May 10, 2018

#### I. Adopted Rule Amendments

As authorized by Colorado laws regarding lobbyist regulation<sup>1</sup> and the State Administrative Procedure Act<sup>2</sup>, the Colorado Secretary of State gives notice that the following amendments to the Election Rules<sup>3</sup> are adopted on a permanent basis.

The Secretary of State considered the amendments at the April 16, 2018 rulemaking hearing in accordance with the State Administrative Procedure Act<sup>4</sup>.

Please note the following formatting key:

Font effect	Meaning
Sentence case	Retained/modified current rule language
SMALL CAPS	New language
<del>Strikethrough</del>	Deletions
<i>[Italic blue font text]</i>	Annotations and publication notes

*[Current 8 CCR 1505-8 is recodified as follows:]*

*[New Rules 1.1 through 1.6 and 1.10, concerning definitions. Current Rules 2.1.2 and 2.1.3 are relocated and recodified as New Rules 1.7 and 1.8. Current Rule 1.1, which defines "state liaison," is amended (a citation is converted to a footnote) and renumbered as Rule 1.9.]*

#### Rule 1. Definitions

- 1.1 "CLIENT" MEANS A PERSON OR ENTITY WHO INITIALLY HIRES, ENGAGES, OR OTHERWISE PAYS OR CONTRIBUTES MONEY TO A PROFESSIONAL LOBBYIST FOR LOBBYING SERVICES. "CLIENT" DOES NOT INCLUDE A LOBBYING FIRM THAT EMPLOYS A PROFESSIONAL LOBBYIST OR A PROFESSIONAL LOBBYIST WHO IS, ON A SUBCONTRACT BASIS, WORKING FOR ANOTHER PROFESSIONAL LOBBYIST.<sup>5</sup>

<sup>1</sup> Part 3 of Article 6 of Title 24, C.R.S. (2017).

<sup>2</sup> Section 24-4-103(3)(a), C.R.S. (2017).

<sup>3</sup> 8 CCR 1505-1.

<sup>4</sup> Section 24-4-103(3)(a), C.R.S. (2017).

<sup>5</sup> Section 24-6-301 (1), C.R.S.

1.2 "COVERED OFFICIAL" MEANS THE GOVERNOR, LIEUTENANT GOVERNOR, A MEMBER OF THE GENERAL ASSEMBLY, ANY MEMBER OF LEGISLATIVE COUNCIL STAFF, A MEMBER OF A RULEMAKING BOARD OR COMMISSION, OR A RULEMAKING OFFICIAL OF A STATE AGENCY WHO HAS JURISDICTION OVER THE SUBJECT MATTER OF A RULE, STANDARD, OR RATE.<sup>6</sup>

1.3 "LOBBYING:"

1.3.1 MEANS COMMUNICATING DIRECTLY, OR SOLICITING OTHERS TO COMMUNICATE, WITH A COVERED OFFICIAL FOR THE PURPOSE OF AIDING OR INFLUENCING:

- (A) THE DRAFTING, INTRODUCTION, SPONSORSHIP, CONSIDERATION, DEBATE, AMENDMENT, PASSAGE, DEFEAT, APPROVAL, OR VETO ON ANY:
  - (1) BILL, RESOLUTION, AMENDMENT, NOMINATION, APPOINTMENT, OR REPORT, WHETHER OR NOT IN WRITING, PENDING OR PROPOSED FOR CONSIDERATION BY THE GENERAL ASSEMBLY, WHETHER OR NOT THE GENERAL ASSEMBLY IS IN SESSION;
  - (2) ANY OTHER MATTER PENDING OR PROPOSED IN WRITING BY A COVERED OFFICIAL, WHETHER OR NOT THE GENERAL ASSEMBLY IS IN SESSION;
- (B) THE PREPARATION OF AN INITIAL FISCAL IMPACT STATEMENT FOR AN INITIATED MEASURE TO BE CONSIDERED BY THE TITLE SETTING BOARD;
- (C) THE CONVENING OF A SPECIAL SESSION OF THE GENERAL ASSEMBLY OR THE SPECIFICATION OF BUSINESS TO BE TRANSACTED DURING THE SPECIAL SESSION; OR
- (D) THE DRAFTING, CONSIDERATION, AMENDMENT ADOPTION, OR DEFEAT OF ANY RULE, STANDARD, OR RATE OF ANY STATE AGENCY THAT HAS RULEMAKING AUTHORITY.<sup>7</sup>

1.3.2 DOES NOT INCLUDE:

- (A) COMMUNICATIONS REQUIRED BY A STATUTE, RULE, REGULATION, OR ORDER;<sup>8</sup>
- (B) APPEARING BEFORE A COMMITTEE OF THE GENERAL ASSEMBLY OR A RULEMAKING BOARD OR COMMISSION IF THE COMMITTEE, BOARD, OR COMMISSION ISSUED A MANDATORY ORDER OR SUBPOENA COMMANDING APPEARANCE AND TESTIMONY OR COMMANDING A PERSON TO APPEAR AS A RESPONDENT;<sup>9</sup>
- (C) APPEARING BEFORE A COMMITTEE OF THE GENERAL ASSEMBLY OR A RULEMAKING BOARD OR COMMISSION AT THE REQUEST OF PUBLIC OFFICIAL OR EMPLOYEES. THIS EXEMPTION APPLIES ONLY TO A PERSON WHO IS NOT ALREADY

---

<sup>6</sup> Section 24-6-301 (1.7), C.R.S.

<sup>7</sup> Section 24-6-301 (3.5), C.R.S.

<sup>8</sup> Section 24-6-301 (3.5) (c), C.R.S.

<sup>9</sup> Section 24-6-301 (3.5) (d), C.R.S.

REGISTERED AS A LOBBYIST, AND THE PERSON MUST CLEARLY IDENTIFY THEMSELVES AND THE INTEREST FOR WHOM THEY ARE TESTIFYING.<sup>10</sup>

- (D) COMMUNICATIONS MADE BY AN ATTORNEY AT LAW ON BEHALF OF A CLIENT THAT CONSTITUTE THE PRACTICE OF LAW IF THE CLIENT IS CLEARLY IDENTIFIED.<sup>11</sup> THIS EXEMPTION APPLIES ONLY TO AN ATTORNEY WHO IS REPRESENTING HIS OR HER CLIENT'S LEGAL RIGHTS BEFORE A TRIBUNAL OR ADJUDICATIVE BODY THAT CONTAINS COVERED OFFICIALS. EXAMPLES INCLUDE, BUT ARE NOT LIMITED TO, THE STATE TITLE SETTING BOARD, ADMINISTRATIVE LICENSURE HEARINGS, AND LEGISLATIVE ETHICS PANELS THIS EXEMPTION DOES NOT EXTEND TO AN ATTORNEY WHO IS MERELY LOBBYING, AS DEFINED ABOVE, ON BEHALF OF A CLIENT.
- (E) APPEARANCE AS A WITNESS IN A RULE, STANDARD, OR RATE-MAKING PROCEEDING;<sup>12</sup>
- (F) A POLITICAL COMMITTEE, VOLUNTEER, LOBBYIST, OR CITIZEN WHO LOBBIES ON HIS OR HER OWN BEHALF, A STATE OFFICIAL ACTING IN HIS OR HER OFFICIAL CAPACITY, OR A PUBLIC OFFICIAL ACTING IN HIS OR HER OFFICIAL CAPACITY.<sup>13</sup>
- (G) ACTIVITY THAT COULD OTHERWISE BE CONSIDERED LOBBYING IF THAT ACTIVITY IS PERFORMED BY AN EMPLOYEE OF AN ORGANIZATION AND THE ACTIVITY OCCURS ONCE A YEAR OR LESS AND THE EMPLOYEE IS NOT PAID SOLELY TO LOBBY. THIS EXCLUSION FROM LOBBYING COVERS "GRASSROOTS" LOBBYING BY EMPLOYEES OF AN ORGANIZATION WHO CONTACT MEMBERS OF THE ORGANIZATION IN RESPONSE TO A PIECE OF LEGISLATION OR RULE.

1.4 "LOBBYING FIRM" MEANS A PERSON OR ENTITY WHO EMPLOYS A PROFESSIONAL LOBBYIST ON BEHALF OF A CLIENT THAT IS NOT THE PERSON OR ENTITY. "LOBBYING FIRM" INCLUDES A SELF-EMPLOYED PROFESSIONAL LOBBYIST.<sup>14</sup>

1.5 "MONITORING" STATUS MEANS THAT A REGISTERED LOBBYIST IS NOT CURRENTLY COMMUNICATING SUPPORT OR OPPOSITION, OR INFLUENCING OR ATTEMPTING TO INFLUENCE A COVERED OFFICIAL ON THE DRAFTING, INTRODUCTION, SPONSORSHIP, CONSIDERATION, DEBATE, AMENDMENT, PASSAGE, DEFEAT, APPROVAL, OR VETO OF ANY BILL, RESOLUTION, AMENDMENT, NOMINATION, APPOINTMENT, OR REPORT, PENDING OR PROPOSED.

1.6 "PROFESSIONAL LOBBYIST" MEANS A PERSON, A BUSINESS ENTITY, INCLUDING A SOLE PROPRIETORSHIP, OR AN EMPLOYEE OF A CLIENT, WHO IS COMPENSATED BY A CLIENT, ANOTHER PROFESSIONAL LOBBYIST, OR LOBBYING FIRM FOR LOBBYING SERVICES.<sup>15</sup>

~~2.1.2-1.7~~ ~~A rate, meaning~~ "RATE" MEANS a ratio of valuation, percentage, percentage change, annual adjustment, or an amount charged for a good or service, adopted by a state agency having rulemaking authority; ~~or.~~

---

<sup>10</sup> Section 24-6-301 (3.5) (d), C.R.S.

<sup>11</sup> Section 24-6-301 (3.5) (e), C.R.S.

<sup>12</sup> Section 24-6-303 (5), C.R.S.

<sup>13</sup> Section 24-6-303 (6), C.R.S.

<sup>14</sup> Section 24-6-301 (3.6), C.R.S.

<sup>15</sup> Section 24-6-301 (6), C.R.S.

~~2.1.3-1.8~~ ~~A standard, meaning~~ “STANDARD” MEANS a criterion measuring acceptability, quality, accuracy, weight, or an amount, or a threshold for agency jurisdiction adopted by a state agency having rulemaking authority.

~~1.1-1.9~~ “State Liaison” means the one person designated by each principal department of state government who is responsible for any lobbying by a state official or employee on behalf of the principal department, ~~in accordance with section 24-6-303.5(1)(a), C.R.S.~~<sup>16</sup>

1.10 “VOLUNTEER LOBBYIST” MEANS A PERSON WHO ENGAGES IN LOBBYING BUT WHOSE ONLY RECEIPT OF MONEY FOR DOING SO CONSISTS OF NOTHING MORE THAN REIMBURSEMENT FOR ACTUAL AND REASONABLE EXPENSES SUCH AS MEALS, TRAVEL, LODGING AND PARKING.<sup>17</sup>

*[Current Rule 2.1 is repealed]*

## **Rule 2. Registration**

~~2.1~~ — ~~A rule making official includes an official of a state agency who has jurisdiction or authority to adopt any of the following:~~

~~2.1.1~~ — A rule;

*[Current Rules 2.1.2 and 2.1.3, which define the terms “rate” and “standard,” are amended and recodified as New Rules 1.7 and 1.8]*

*[New Rule 2, concerning professional lobbyists registration and disclosure]*

## **2-2-RULE 2. Professional lobbyists-LOBBYISTS**

### **2.1 REGISTRATION**

2.1.1 A PROFESSIONAL LOBBYIST MUST REGISTER ELECTRONICALLY VIA THE SECRETARY OF STATE’S WEBSITE BEFORE LOBBYING. THE STATEMENT MUST CONTAIN:

- (A) THE PROFESSIONAL LOBBYIST’S FULL NAME, BUSINESS ADDRESS, AND BUSINESS TELEPHONE NUMBER;
- (B) THE NAME, ADDRESS, AND TELEPHONE NUMBER OF THE LOBBYING FIRM OR ANY OTHER PERSON OR ENTITY THAT EMPLOYS THE PROFESSIONAL LOBBYIST;
- (C) THE NAME, ADDRESS, AND TELEPHONE NUMBER OF ALL CLIENTS THAT ENGAGE THE PROFESSIONAL LOBBYIST;
- (D) THE NAME, ADDRESS, AND TELEPHONE NUMBER OF ANY OTHER PROFESSIONAL LOBBYIST FOR WHOM THE PROFESSIONAL LOBBYIST IS LOBBYING ON A SUBCONTRACT BASIS.<sup>18</sup>

~~2.2-1.2.1.2~~ The fee for filing a professional lobbyist registration statement is \$40.00.

<sup>16</sup> Section 24-6-303.5 (1) (a), C.R.S.

<sup>17</sup> Section 24-6-301 (7), C.R.S.

<sup>18</sup> Section 24-6-303 (1), C.R.S.

~~2.2.2 — Waiver of registration fee~~

- (a) UPON REQUEST, THE SECRETARY OF STATE MAY WAIVE THE REGISTRATION FEE FOR A PROFESSIONAL LOBBYIST WHO IS LOBBYING FOR A NONPROFIT ORGANIZATION IF THE PROFESSIONAL LOBBYIST'S ONLY COMPENSATION IS FROM THE NONPROFIT ORGANIZATION. TO RECEIVE A WAIVER, THE PROFESSIONAL LOBBYIST MUST SUBMIT A WRITTEN REQUEST TO THE SECRETARY OF STATE ALONG WITH A COPY OF THE NONPROFIT ORGANIZATION'S MOST RECENT IRS FORM 990, 990EZ, OR 990-N SHOWING GROSS ANNUAL REVENUE OF \$50,000 OR LESS.<sup>19</sup>

~~Upon written request, the Secretary of State may waive the registration fee for a professional lobbyist who is lobbying for a nonprofit organization if:~~

- ~~(1) — The lobbyist derives compensation solely from the organization; and~~
- ~~(2) — (i) — The organization can demonstrate that it is operating under financial hardship conditions; or~~
- ~~(ii) — The lobbyist will have particular interest in only one issue or bill and does not intend to lobby throughout the State fiscal year.~~

- ~~(b) — To receive a registration fee waiver, a professional lobbyist for a nonprofit organization must obtain Secretary of State approval before registration. The written request must:~~

- ~~(1) — State the information required by Rule 2.2.2(a); and~~
- ~~(2) — Include a copy of the organization's most recently filed Internal Revenue Service form 990, 990EZ, or 990-N form showing gross annual revenue of \$50,000 or less.~~

*[Current Rule 2.2.2(b)(2) is retained and recodified in New Rule 2.1.2(a) above]*

~~2.2.3 — Repealed~~

- 2.1.3 A PROFESSIONAL LOBBYIST MUST FILE AN UPDATED REGISTRATION STATEMENT ON OR BEFORE JULY 15 EACH YEAR.<sup>20</sup>

*[Current Rule 2.3 is repealed]*

~~2.3 — A state liaison's registration statements must include information for:~~

~~2.3.1 — Each "state official or employee," as defined in section 24-6-303.5(3), C.R.S., lobbying for state principal departments, including any subdivision.~~

~~2.3.2 — Lobbyists hired by the principal department on a contract basis who are not registered as professional lobbyists as described in Rule 3.3.1 but excluding persons lobbying on behalf of an institution or governing board of higher education.~~

<sup>19</sup> Section 24-6-303 (1.3) (a), C.R.S.

<sup>20</sup> Section 24-6-303 (1.5), C.R.S.

**Rule 3-2.2 Disclosure**

*[Current Rule 3.1 is repealed]*

~~3.1 — Article XXIX of the Colorado Constitution prohibits lobbyists from offering or giving a gift or thing of value of any kind or nature to a covered official.~~

*[New Rules 2.2.1-2.2.3 concerning professional lobbyist disclosure]*

**3.2 — Professional lobbyists**

2.2.1 A PROFESSIONAL LOBBYIST MUST FILE A MONTHLY DISCLOSURE STATEMENT ELECTRONICALLY VIA THE SECRETARY OF STATE'S WEBSITE ON OR BEFORE THE 15<sup>TH</sup> DAY OF THE MONTH FOLLOWING THE MONTH IN WHICH THE PROFESSIONAL LOBBYIST BEGAN LOBBYING, AND MONTHLY THEREAFTER. THE STATEMENT MUST CONTAIN:<sup>21</sup>

- (A) THE NAME AND ADDRESS OF EACH CLIENT OR OTHER PROFESSIONAL LOBBYIST WHO HAS PAID THE PROFESSIONAL LOBBYIST \$100 OR MORE FOR LOBBYING AND THE AMOUNT PAID BY THE CLIENT OR OTHER PROFESSIONAL LOBBYIST SINCE THE PREVIOUS DISCLOSURE STATEMENT;<sup>22</sup>
  - (1) IF THE CLIENT OR OTHER PROFESSIONAL LOBBYIST IS AN INDIVIDUAL, A DESCRIPTION OF THE BUSINESS ACTIVITY IN WHICH THE INDIVIDUAL IS ENGAGED;
  - (2) IF THE CLIENT OR OTHER PROFESSIONAL LOBBYIST IS A BUSINESS ENTITY, A DESCRIPTION OF THE BUSINESS IN WHICH THE ENTITY IS ENGAGED AND THE NAMES OF ANY CHIEF EXECUTIVE OFFICER, PARTNERS, OR OTHER DESIGNATED CONTACT PERSON; OR
  - (3) IF THE CLIENT OR OTHER PROFESSIONAL LOBBYIST IS AN INDUSTRY, TRADE, ORGANIZATION, OR GROUP OF PERSONS, OR PROFESSIONAL ASSOCIATION, A DESCRIPTION OF THE INDUSTRY, TRADE, ORGANIZATION, OR GROUP OF PERSONS, OR PROFESSIONAL ASSOCIATION.<sup>23</sup>
- (B) THE TOTAL AMOUNT OF MONEY PAID TO OR FOR THE PROFESSIONAL LOBBYIST SINCE THE PREVIOUS DISCLOSURE STATEMENT AND DURING THE FISCAL YEAR;<sup>24</sup>
- (C) IF THE PROFESSIONAL LOBBYIST HAS MADE AN EXPENDITURE THAT EXCEEDS THE CURRENT DOLLAR GIFT LIMIT, AS ESTABLISHED BY THE INDEPENDENT ETHICS COMMISSION AND POSTED ON THE SECRETARY OF STATE WEBSITE, ON BEHALF OF A COVERED OFFICIAL FOR GIFT OR ENTERTAINMENT PURPOSES, WHETHER OR NOT THE PROFESSIONAL LOBBYIST WAS REIMBURSED:
  - (1) THE NAME OF THE COVERED OFFICIAL; AND

---

<sup>21</sup> Section 24-6-302 (2.5), C.R.S.

<sup>22</sup> Section 24-6-301 (1.9) (a) (I), C.R.S.

<sup>23</sup> Section 24-6-301 (1.9) (a) (XI), C.R.S.

<sup>24</sup> Section 24-6-301 (1.9) (a) (II), (III), and (VIII), C.R.S.

- (2) THE AMOUNT, DATE, AND PRINCIPAL PURPOSE OF THE GIFT OR ENTERTAINMENT;<sup>25</sup>
- (D) THE TOTAL AMOUNT OF EXPENDITURES MADE BY OR ON BEHALF OF THE PROFESSIONAL LOBBYIST IN CONNECTION WITH LOBBYING, OTHER THAN FOR GIFT OR ENTERTAINMENT PURPOSES;<sup>26</sup>
- (E) IF THE PROFESSIONAL LOBBYIST HAS MADE AN EXPENDITURE OR GIVEN A CONTRIBUTION TO A PAPER, PERIODICAL, MAGAZINE, RADIO OR TV STATION, OR OTHER MEDIA OF MASS COMMUNICATION:
  - (1) THE NAME OF THE ENTITY; AND
  - (2) THE AMOUNT GIVEN TO THE ENTITY;<sup>27</sup>
- (F) THE SPECIFIC LEGISLATION, STANDARDS, RULES, OR RATES FOR WHICH THE PROFESSIONAL LOBBYIST IS LOBBYING OR, IF NOT KNOWN, THE NATURE OF THE LEGISLATION, STANDARDS, RULES, OR RATES, INCLUDING:
  - (1) THE BILL NUMBER OF THE LEGISLATION; AND
  - (2) WHETHER THE LOBBYIST IS SUPPORTING, OPPOSING, AMENDING, OR MONITORING THE LEGISLATION.<sup>28</sup>
- (G) ANY DIRECT BUSINESS ASSOCIATION THE PROFESSIONAL LOBBYIST HAS WITH ANY PENDING LEGISLATION, MEASURE, OR QUESTION.<sup>29</sup>

2.2.2 IN ADDITION TO THE MONTHLY DISCLOSURE STATEMENT DESCRIBED IN RULE 2.2.1, A PROFESSIONAL LOBBYIST MUST FILE AN ANNUAL DISCLOSURE STATEMENT FOR THE ENTIRE FISCAL YEAR NO LATER THAN JULY 15. THE ANNUAL DISCLOSURE STATEMENT MUST INCLUDE THE NAME OF AND TOTAL GROSS INCOME THE PROFESSIONAL LOBBYIST HAS RECEIVED FROM EACH CLIENT OR OTHER PROFESSIONAL LOBBYIST. IF A SUBCONTRACT RELATIONSHIP EXISTS BETWEEN TWO PROFESSIONAL LOBBYISTS, BOTH LOBBYISTS MUST DISCLOSE THE AMOUNT OF MONEY PAID AND RECEIVED ON THE ANNUAL DISCLOSURE STATEMENT.<sup>30</sup>

2.2.3 IN ADDITION TO THE MONTHLY AND ANNUAL DISCLOSURE STATEMENTS DESCRIBED IN RULES 2.2.1 AND 2.2.2, WHEN A PROFESSIONAL LOBBYIST ENTERS INTO A NEW ORAL OR WRITTEN AGREEMENT WITH A CLIENT OR OTHER PROFESSIONAL LOBBYIST FOR LOBBYING THAT ISN'T DISCLOSED IN THE REGISTRATION STATEMENT DESCRIBED IN RULE 2.1.1, THE PROFESSIONAL LOBBYIST MUST NOTIFY THE SECRETARY OF STATE.

- (A) IF THE NEW ENGAGEMENT OCCURS WHILE THE GENERAL ASSEMBLY IS NOT IN SESSION THE PROFESSIONAL LOBBYIST MUST NOTIFY THE SECRETARY WITHIN FIVE WORKING DAYS.

<sup>25</sup> Section 24-6-301 (1.9) (a) (1) (IV), C.R.S.

<sup>26</sup> Section 24-6-301 (1.9) (a) (1) (V) and (VII), C.R.S.

<sup>27</sup> Section 24-6-301 (1.9) (a) (1) (IX), C.R.S.

<sup>28</sup> Section 24-6-301 (1.9) (a) (1) (X), C.R.S.

<sup>29</sup> Section 24-6-301 (1.9) (a) (1) (XII), C.R.S.

<sup>30</sup> Section 24-6-302 (3), C.R.S.

- (B) IF THE NEW ENGAGEMENT OCCURS WHILE THE GENERAL ASSEMBLY IS IN SESSION THE PROFESSIONAL LOBBYIST MUST NOTIFY THE SECRETARY WITHIN 24 HOURS, EXCEPT THAT, IF THE AGREEMENT IS ORAL, THE NOTIFICATION MUST OCCUR WITHIN 24 HOURS AFTER THE DATE OF THE SUBSEQUENT WRITTEN AGREEMENT.
- (C) IN ADDITION TO THE NOTIFICATION, THE PROFESSIONAL LOBBYIST MUST:
  - (1) FILE, CONCURRENTLY WITH THE NEXT DISCLOSURE STATEMENT, A SIGNED WRITTEN STATEMENT THAT CONTAINS THE NAME AND ADDRESS OF THE NEW CLIENT AND A SUMMARY OF THE TERMS OF THE AGREEMENT INCLUDING:
    - (A) CLIENT CONTACT INFORMATION;
    - (B) IF CLIENT IS A BUSINESS, THE ORGANIZATION NAME, BUSINESS TYPE, INDUSTRY/TRADE TYPE, AND THE NAME(S) OF THE ENTITY'S CHIEF EXECUTIVE OFFICER OR PARTNERS;
    - (C) DATE THE LOBBYIST WAS HIRED; AND
    - (D) DATE THE LOBBYIST'S EMPLOYMENT WILL END, IF KNOWN.
  - (2) UPDATE THE PROFESSIONAL LOBBYIST'S REGISTRATION STATEMENT WITHIN 24 HOURS.<sup>31</sup>

2.2.4 EFFECTIVE JANUARY 1, 2019, A PROFESSIONAL LOBBYIST MUST LOG BY DATE ALL POSITION CHANGES (MONITORING, OPPOSE, AND SUPPORT) ON A BILL AND FILE THE LOG COVERING THE PRECEDING MONTH WITH THE MONTHLY DISCLOSURE STATEMENT REQUIRED BY RULE 2.2.1.

*[Current Rules 3.2.1, 3.2.2, and 3.3 are repealed]*

~~3.2.1 A professional lobbyist who contracts to lobby on behalf of a principal department or an institution or governing board of higher education must continue to file professional lobbyist disclosure statements.~~

~~3.2.2 Subcontractor requirements:~~

~~(a) A lobbyist or lobbying firm that subcontracts lobbying activities to another lobbyist or lobbying firm must disclose:~~

- ~~(1) The name of each subcontractor;~~
- ~~(2) The date and amount of each payment or other compensation made to each subcontractor; and~~
- ~~(3) The name of the client for whom the subcontractor is lobbying.~~

---

<sup>31</sup> Section 24-6-302 (6) (b), C.R.S.



~~(b) A subcontractor that performs lobbying activities for another lobbyist or lobbyist firm must disclose:~~

~~(1) The name of the lobbyist or lobbying firm that engaged the subcontractor;~~

~~(2) The date and amount of each payment or other compensation received from the lobbyist or lobbying firm for lobbying; and~~

~~(3) A description of the lobbying activity, the position taken, and the name of the client for whom the subcontractor lobbies.~~

### ~~3.3 Lobbying by state officials and employees~~

~~3.3.1 In accordance with section 24-6-303.5(3), C.R.S., lobbyists hired on a contract basis to lobby on behalf of a principal department who are not registered as professional lobbyists under sections 24-6-302 or 24-6-303, C.R.S., at the time of hiring must report their lobbying activities to the state liaison for the principal department.~~

~~3.3.2 A state liaison's disclosure statements must include information for:~~

~~(a) Each "state official or employee," as defined in section 24-6-303.5(3), C.R.S., lobbying for state principal departments, including any subdivision.~~

~~(b) Lobbyists hired by the principal department on a contract basis who are not registered as professional lobbyist as described in Rule 3.3.1 but excluding persons lobbying on behalf of an institution or governing board of higher education.~~

~~3.3.3 Nothing in these rules or section 24-6-303.5, C.R.S., authorizes a state liaison to manage, control, supervise, or direct the lobbying activities of any state official or employee except as necessary to enable the state liaison to comply with registration and reporting requirements.~~

*[Current Rule 4 is amended and recodified as New Rule 5.]*

*[New Rule 3, concerning lobbying firms registration and disclosure]*

## **RULE 3. LOBBYING FIRMS**

### **3.1 REGISTRATION**

**3.1.1 THERE IS NO REGISTRATION REQUIREMENT FOR A LOBBYING FIRM, BUT A LOBBYIST FIRM MUST FILE DISCLOSURE STATEMENTS IN ACCORDANCE WITH STATUTE AND AS DESCRIBED IN RULE 3.2 BELOW.**

### **3.2 DISCLOSURE**

**3.2.1 EXCEPT AS SPECIFIED IN PARAGRAPH (A) BELOW, A LOBBYING FIRM MUST FILE A MONTHLY DISCLOSURE STATEMENT ELECTRONICALLY VIA THE SECRETARY OF STATE'S**

WEBSITE ON OR BEFORE THE 15<sup>TH</sup> DAY OF THE MONTH FOLLOWING THE MONTH IN WHICH THE LOBBYING FIRM BEGAN LOBBYING, AND MONTHLY THEREAFTER.<sup>32</sup>

- (A) A SINGLE-MEMBER LOBBYING FIRM THAT CONSISTS SOLELY OF ONE PROFESSIONAL LOBBYIST NEED NOT FILE A LOBBYING-FIRM DISCLOSURE STATEMENT IF THE PROFESSIONAL LOBBYIST'S DISCLOSURE STATEMENT CONTAINS THE NAME OF BOTH THE PROFESSIONAL LOBBYIST AND THE SINGLE-MEMBER FIRM THAT EMPLOYS THE PROFESSIONAL LOBBYIST.<sup>33</sup>

3.2.2 THE STATEMENT MUST CONTAIN:<sup>34</sup>

- (A) THE NAME AND ADDRESS OF EACH CLIENT OR OTHER PROFESSIONAL LOBBYIST WHO HAS PAID THE LOBBYING FIRM \$100 OR MORE FOR LOBBYING AND THE AMOUNT PAID BY THE CLIENT OR OTHER PROFESSIONAL LOBBYIST SINCE THE PREVIOUS DISCLOSURE STATEMENT;<sup>35</sup>
  - (1) IF THE CLIENT OR OTHER PROFESSIONAL LOBBYIST IS AN INDIVIDUAL, A DESCRIPTION OF THE BUSINESS ACTIVITY IN WHICH THE INDIVIDUAL IS ENGAGED;
  - (2) IF THE CLIENT OR OTHER PROFESSIONAL LOBBYIST IS A BUSINESS ENTITY, A DESCRIPTION OF THE BUSINESS IN WHICH THE ENTITY IS ENGAGED AND THE NAMES OF ANY CHIEF EXECUTIVE OFFICER, PARTNERS, OR OTHER DESIGNATED CONTACT PERSON; OR
  - (3) IF THE CLIENT OR OTHER PROFESSIONAL LOBBYIST IS AN INDUSTRY, TRADE, ORGANIZATION, OR GROUP OF PERSONS, OR PROFESSIONAL ASSOCIATION, A DESCRIPTION OF THE INDUSTRY, TRADE, ORGANIZATION, OR GROUP OF PERSONS, OR PROFESSIONAL ASSOCIATION.<sup>36</sup>
- (B) THE TOTAL AMOUNT OF MONEY PAID TO OR FOR THE LOBBYING FIRM SINCE THE PREVIOUS DISCLOSURE STATEMENT AND DURING THE FISCAL YEAR;<sup>37</sup>
- (C) IF THE LOBBYING FIRM HAS MADE AN EXPENDITURE THAT EXCEEDS THE CURRENT DOLLAR GIFT LIMIT, AS ESTABLISHED BY THE INDEPENDENT ETHICS COMMISSION AND POSTED ON THE SECRETARY OF STATE WEBSITE, ON BEHALF OF A COVERED OFFICIAL FOR GIFT OR ENTERTAINMENT PURPOSES, WHETHER OR NOT THE PROFESSIONAL LOBBYIST WAS REIMBURSED:
  - (1) THE NAME OF THE COVERED OFFICIAL; AND
  - (2) THE AMOUNT, DATE, AND PRINCIPAL PURPOSE OF THE GIFT OR ENTERTAINMENT;<sup>38</sup>

---

<sup>32</sup> Section 24-6-302 (2.5) (a), C.R.S.

<sup>33</sup> Section 24-6-302 (2.5) (a), C.R.S.

<sup>34</sup> Section 24-6-302 (2.5), C.R.S.

<sup>35</sup> Section 24-6-301 (1.9) (a) (1), C.R.S.

<sup>36</sup> Section 24-6-301 (1.9) (a) (XI), C.R.S.

<sup>37</sup> Section 24-6-301 (1.9) (a) (II), (III), and (VIII), C.R.S.

<sup>38</sup> Section 24-6-301 (1.9) (a) (1) (IV), C.R.S.

- (D) THE TOTAL AMOUNT OF EXPENDITURES MADE BY OR ON BEHALF OF THE LOBBYING FIRM IN CONNECTION WITH LOBBYING, OTHER THAN FOR GIFT OR ENTERTAINMENT PURPOSES;<sup>39</sup>
- (E) IF THE LOBBYING FIRM HAS MADE AN EXPENDITURE OR GIVEN A CONTRIBUTION TO A PAPER, PERIODICAL, MAGAZINE, RADIO OR TV STATION, OR OTHER MEDIA OF MASS COMMUNICATION:
  - (1) THE NAME OF THE ENTITY; AND
  - (2) THE AMOUNT GIVEN TO THE ENTITY;<sup>40</sup>
- (F) THE SPECIFIC LEGISLATION, STANDARDS, RULES, OR RATES FOR WHICH THE LOBBYING FIRM IS LOBBYING OR, IF NOT KNOWN, THE NATURE OF THE LEGISLATION, STANDARDS, RULES, OR RATES, INCLUDING:
  - (1) THE BILL NUMBER OF THE LEGISLATION; AND
  - (2) WHETHER THE LOBBYING FIRM IS SUPPORTING, OPPOSING, AMENDING, OR MONITORING THE LEGISLATION.<sup>41</sup>
- (G) ANY DIRECT BUSINESS ASSOCIATION THE LOBBYING FIRM HAS WITH ANY PENDING LEGISLATION, MEASURE, OR QUESTION.<sup>42</sup>

*[Current Rule 5 is renumbered as Rule 4 and concerns complaints and enforcement]*

**Rule 5-RULE 4. COMPLAINTS AND Enforcement**

*[Current Rule 5.1 is repealed]*

~~5.1 For the purposes of this Rule 5, the term “lobbyist” includes a professional lobbyist, state liaison, and a state official or employee lobbying on behalf of an institution or governing board of higher education, unless otherwise specified.~~

*[Renumbering and technical edits to New Rules 4.1-4.5 (Current Rule 5.2-5.6)]*

~~5.2-4.1 Complaints—Any person who believes THAT a lobbyist or lobbyist firm is not complying with the Colorado Lobbyist Regulation laws or these rules, may file a complaint with the Secretary of State in accordance with Section 24-6-305(2)(e), C.R.S.<sup>43</sup>~~

~~5.2-4.1.1 A written complaint filed with the Secretary of State must be verified and notarized and contain the following information:~~

- ~~(a) The complainant’s name;~~
- ~~(b) The complainant’s residential address and mailing address (if different from residence);~~

<sup>39</sup> Section 24-6-301 (1.9) (a) (1) (V) and (VII), C.R.S.

<sup>40</sup> Section 24-6-301 (1.9) (a) (1) (IX), C.R.S.

<sup>41</sup> Section 24-6-301 (1.9) (a) (1) (X), C.R.S.

<sup>42</sup> Section 24-6-301 (1.9) (a) (1) (XII), C.R.S.

<sup>43</sup> Section 24-6-305 (2) (c), C.R.S.

- (c) The alleged violation, which may include a reference to the specific statute or rule;
- (d) The lobbyist or firm name;
- (e) The date and location of the alleged violation, if known; and
- (f) Other applicable or relevant information.

~~5.2.2~~4.1.2 The Secretary of State will review all properly submitted complaints and investigate as appropriate. If the Secretary determines that a violation occurred, the Secretary ~~must~~ WILL take appropriate action under section 24-6-305, C.R.S.

~~5.2.3~~4.1.3 Upon receipt of a properly submitted complaint, the Secretary of State ~~must~~ WILL:

- (a) Notify the person against whom the complaint is filed by certified mail; and
- (b) In the case of a state liaison, notify the head of the principal department in writing;
- (c) In the case of a state official or employee lobbying on behalf of a principal department, notify the state liaison in writing; or
- (d) In the case of a state official or employee lobbying on behalf of an institution or governing board of higher education, notify the institution or governing board in writing.

~~5.2.4~~4.1.4 Notification of a complaint in accordance with Rule ~~5.2.3-4.1.3~~ ~~must~~ WILL include:

- (a) The date and factual basis of each act alleged;
- (b) The particular provision of the statute that the lobbyist or firm allegedly violated;
- (c) The action the Secretary of State plans to take; and
- (d) Other relevant information.

#### 5.3-4.2 Penalty waiver process

~~5.3.1~~4.2.1 A registered professional lobbyist or lobbyist firm may ask the Secretary of State to excuse or reduce an imposed fine by submitting a written request by mail, email, fax, or hand-delivery within 30 days of the imposition of fine. The request must include:

- (a) The professional lobbyist's name;
- (b) The request date;
- (c) The due date of the delinquently filed disclosure statement;
- (d) The filing date the professional lobbyist actually filed the disclosure statement;

- (e) Any measures the professional lobbyist or firm has instituted or will institute to avoid future delinquencies, if applicable; and
- (f) ~~A brief summary of the reason, circumstance, or other justification of the bona fide personal emergency;~~
- (g) —A brief summary of the reason, circumstance, or other justification of the bona fide personal emergency;
  - (1) A Bona fide personal emergency, includes:
    - (A) A medical emergency involving the individual responsible for filing or the individual's immediate family. The medical emergency can include but is not limited to incapacitation, hospitalization, death, or debilitating illness or injury.
    - (B) A practical emergency, including extraordinary obstacles beyond the control of the professional lobbyist or lobbyist firm, that precludes timely disclosure. For example:
      - (i) The loss or unavailability of records, or a computer due to fire, flood, or theft;
      - (ii) A web site error that made it impossible to file a required registration document; or
      - (iii) Other compelling reasons beyond the professional lobbyist's or lobbyist firm's control.
  - (2) The following are not bona fide personal emergencies:
    - (A) Failure to timely file registration documents due to failure to plan;
    - (B) Misunderstandings of applicable disclosure requirements and deadlines;
    - (C) Mistakes in electronic filing submissions, including incomplete filings;
    - (D) Lack of access to the internet or personal computer; or
    - (E) Lack of credit card or other means of making online payments.

~~5.3.2-4.2.2~~ The Secretary of State may take into account all appropriate facts and circumstances when granting or rejecting a waiver request or in reducing an imposed fine. The Secretary may also consider the frequency of the requests to excuse or reduce a fine within a two-year period, efforts to mitigate or remedy the failure to register or file, and the registrant's demonstrated commitment to meet the requirements of Colorado's laws concerning professional lobbyist regulation.

5-4-4.3 The Secretary of State will investigate, provide notice of hearings, and hold hearings for a violation of Part 3 of Article 6 of Title 24, C.R.S., in accordance with the State Administrative Procedure Act (Article 4 of Title 24, C.R.S.).

5-5-4.4 In accordance with section 24-6-305, C.R.S., the Secretary of State:

5-5-1-4.4.1 May suspend, revoke, or bar from registration any lobbyist who fails to:

- (a) File disclosure statements under section 24-6-303, C.R.S.;
- (b) Upon request of the Secretary of State, provide books and records for the Secretary of State's examination under section 24-6-304.5, C.R.S.; or
- (c) Pay penalties in full under section 24-6-302(7), C.R.S.

5-5-2-4.4.2 Will revoke the registration certificate of an individual who:

- (a) Is convicted in district court of violating any provision of Part 3 of Article 6 of Title 24, C.R.S.; or
- (b) Has been suspended from lobbying by the General Assembly.

5-6-4.5 If the Secretary of State deems any of the violations contained in Rule 5-5-4.4 to be substantial violations, the Secretary of State will notify the president of the senate and speaker of the house. In determining whether the violation is substantial, the Secretary of State will consider:

(a)-4.5.1 The extent of noncompliance;

(b)-4.5.2 The purpose of the applicable provision and whether that purpose is substantially achieved despite the alleged noncompliance; and

(e)-4.5.3 Whether there was a good-faith effort to comply or whether noncompliance is based on a conscious decision to lobby covered officials without registering or filing disclosure statements.

*[Current Rule 6 is repealed.]*

#### **Rule 6- Collections**

~~6.1 If a lobbyist or firm fails to pay a penalty within 90 days, the Secretary of State will send the penalty to collections.~~

~~6.2 The Secretary of State will remove a registration statement restriction if a lobbyist or firm with penalties in collections is making payments and showing a good faith effort to cure the fine.~~

*[Current Rule 4 is amended and recodified as New Rule 5:]*

#### **Rule 4- RULE 5 Electronic filing and record retention FILING HARDSHIP EXEMPTION**

~~4.1 Electronic filing.~~

~~4.1.1 A professional lobbyist or state liaison must file registration and disclosure statements electronically using the Secretary of State's system.~~

*[The electronic filing requirement that was outlined in Current Rule 4.1, is retained by integration into new rules.]*

4.1.2-5.1 The Secretary of State may grant an exception to the electronic filing requirement based on hardship or good cause shown.

~~(a)~~ 5.1.1 All applications for an exception must include a brief statement of the hardship or good cause for the requested exception.

~~(b)~~ 5.1.2 A lobbyist must submit an application to the Secretary of State at least 15 calendar days before the first applicable filing deadline, unless the exception is based on emergency circumstances arising after the deadline, in which case the lobbyist must describe the nature of the emergency in the application.

~~(e)~~ 5.1.3 Filing the application for exception based on emergency circumstances does not delay any reporting deadlines. If, however, a penalty is imposed for failure to file a disclosure statement on the due date, the Secretary of State may reduce or set the penalty aside in accordance with section 24-6-302(7), C.R.S.

~~4.1.3 When a lobbyist or authorized agent uses the electronic filing system to submit a registration or disclosure statement, the submission constitutes the lobbyist's or agent's electronic signature in accordance with section 24-71-101, C.R.S., under penalty of perjury.~~

~~4.2 Any person who is required to file statements or reports under Part 3 of Article 6 of Title 24, C.R.S., must retain receipts for expenditures or contributions made, documentation of income, and contracts for five years.~~

### *New Rule 6:*

#### **RULE 6. CONTRIBUTIONS TO MEMBERS OF THE GENERAL ASSEMBLY OR ELECTED MEMBERS OF THE EXECUTIVE BRANCH DURING CONSIDERATION OF LEGISLATION.**

6.1 NO PROFESSIONAL LOBBYIST, VOLUNTEER LOBBYIST, OR PRINCIPAL OF A PROFESSIONAL LOBBYIST OR VOLUNTEER LOBBYIST MAY MAKE OR PROMISE TO MAKE A CONTRIBUTION TO, OR SOLICIT OR PROMISE TO SOLICIT A CONTRIBUTION FOR:<sup>44</sup>

6.1.1 A MEMBER OF THE GENERAL ASSEMBLY OR CANDIDATE FOR THE GENERAL ASSEMBLY, WHEN THE GENERAL ASSEMBLY IS IN REGULAR SESSION;<sup>45</sup>

6.1.2 THE GOVERNOR OR A CANDIDATE FOR GOVERNOR WHEN THE GENERAL ASSEMBLY IS IN REGULAR SESSION OR WHEN ANY MEASURE ADOPTED BY THE GENERAL ASSEMBLY IN A REGULAR SESSION IS PENDING BEFORE THE GOVERNOR FOR APPROVAL OR DISAPPROVAL;<sup>46</sup> OR

<sup>44</sup> Section 1-45-105.5 (1) (a), C.R.S.

<sup>45</sup> Section 1-45-105.5 (1) (a) (I), C.R.S.

<sup>46</sup> Section 1-45-105.5 (1) (a) (II) (A), C.R.S.

6.1.3 THE LIEUTENANT GOVERNOR, THE SECRETARY OF STATE, THE STATE TREASURER, THE ATTORNEY GENERAL, OR A CANDIDATE FOR ANY OF SUCH OFFICES WHEN THE GENERAL ASSEMBLY IS IN REGULAR SESSION.<sup>47</sup>

6.2 AS USED IN THIS RULE, "PRINCIPAL" MEANS ANY PERSON THAT EMPLOYS, RETAINS, ENGAGES, OR USES, WITH OR WITHOUT COMPENSATION, A PROFESSIONAL OR VOLUNTEER LOBBYIST. A PERSON SERVING AS AN OFFICER, EMPLOYEE, MEMBER, SHAREHOLDER, OR PARTNER OF AN ORGANIZATION OR BUSINESS ENTITY THAT EMPLOYS, RETAINS, ENGAGES, OR USES A LOBBYIST IS NOT CONSIDERED A PRINCIPAL.<sup>48</sup>

## II. Basis, Purpose, and Specific Statutory Authority

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

## III. Effective Date of Adopted Rules

These new and amended rules will become permanently effective twenty days after publication in the Colorado Register.<sup>49</sup>

Dated this 10<sup>th</sup> day of May, 2018,



\_\_\_\_\_  
Suzanne Staiert  
Deputy Secretary of State

For

Wayne W. Williams  
Colorado Secretary of State

<sup>47</sup> Section 1-45-105.5 (1) (a) (II) (B), C.R.S.

<sup>48</sup> Section 1-45-105.5 (1) (b) (I), C.R.S.

<sup>49</sup> Section 24-4-103(5), C.R.S. (2017).





## **Statement of Basis, Purpose, and Specific Statutory Authority**

### **Office of the Secretary of State Rules Concerning Lobbyist Regulation 8 CCR 1505-8**

**May 10, 2018**

#### **I. Basis and Purpose**

This statement explains the recodification of the Colorado Secretary of State rules concerning lobbyist regulation.<sup>1</sup> The rules are intended to ensure uniform and proper administration, implementation, and enforcement of Colorado laws regarding lobbyist regulation<sup>2</sup> as follows:

- New Rule 1 concerns definitions:
  - In accordance with section 24-6-301(1), C.R.S., New Rule 1.1 clarifies that “client” includes a person or entity who initially hires, engages, or otherwise pays or contributes money to a professional lobbyist.
  - New Rule 1.2 defines “covered official”
  - New Rule 1.3 outlines what constitutes “lobbying,” as provided in section 24-6-301(3.5), C.R.S. The rule further clarifies that lobbying does not include communications made by an attorney at law on behalf of a client, and that this exemption only applies to an attorney who is representing his or her client’s legal rights before a tribunal or adjudicative body that contains covered officials; the exemption does not extend to an attorney who is merely lobbying on behalf of a client. The rule also clarifies that the exclusion from lobbying covers “grassroots” lobbying.
  - New Rule 1.4 defines “lobbying firm.”
  - New Rule 1.5 defines “monitoring.”
  - New Rule 1.6 defines “professional lobbyist,” as provided in section 24-6-301(6), C.R.S., and further clarifies that the term includes a person, business entity, including a sole proprietorship, or an employee of a client, who is compensated by a lobbying firm for lobbying services.
  - Current Rules 2.1.2 and 2.1.3, which define “rate” and “standard” are renumbered as Rules 1.7 and 1.8.

---

<sup>1</sup> 8 CCR 1505-8.

<sup>2</sup> Part 3 of Article 6 of Title 24, C.R.S. (2017).

- Current Rule 1.1, which defines “state liaison,” is amended (a citation is converted to a footnote) and renumbered as Rule 1.9.
- New Rule 1.10 defines “volunteer lobbyist”.
- Current Rule 2.1, concerning a rule making official is repealed.
- New Rule 2 outlines and clarifies professional lobbyist registration and disclosure requirements.
- Current Rules 2.3 and 3.3, concerning state liaison registration statements and lobbying by state officials and employees, are repealed. Previous clarification repealed statute or is no longer considered necessary.
- Current Rules 3.1, 3.2.1, and 3.2.2 are repealed.
- New Rule 3 concerns lobbyist firms concerning registration and disclosure requirements.
- Amendments to Current Rule 5, concerning complaints and enforcement, including technical edits and renumbering as Rule 4.
- New Rule 5 (formerly Rule 4), clarifies the electronic filing hardship exemption. The electronic filing requirement (described in current Rule 4.1.1) is retained by integration into new rules.
- Current Rule 6, concerning collections, is repealed.
- New Rule 6 clarifies that professional lobbyists, volunteer lobbyists, and the principal of a professional or volunteer lobbyist are prohibited from making, promising to make, a contribution or promise to solicit a contribution for members of general assembly and governor during consideration of legislation in accordance with Sections 1-45-105.5 and 24-6-308(1), C.R.S. Additionally the rule clarifies the term “principal” for the purposes of this rule.

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.

On February 23, 2018, the Secretary issued a request for public comment to help our office develop preliminary draft rules. The comments we received in anticipation of rulemaking are available online at: [www.sos.state.co.us/pubs/rule\\_making/lobbyRuleComments.html](http://www.sos.state.co.us/pubs/rule_making/lobbyRuleComments.html) and are incorporated into the official rulemaking record.

## **II. Rulemaking Authority**

- Section 24-6-303(6.3)(a), C.R.S., (2017), which authorizes the Secretary of State to promulgate rules concerning electronic filing of required reports including information that the reports must contain.
- Section 24-6-305(2)(b), C.R.S., (2017), which authorizes the Secretary of State to adopt rules and regulations to define, interpret, implement, and enforce the provisions of the Colorado lobbyist regulation law (Part 3, Article 6, Title 24 of the Colorado Revised Statutes).