

# Working Draft of Proposed Rules

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

May 16, 2018

### Disclaimer:

The following is a working draft concerning the Campaign and Political Finance Rules. The Secretary values your input and is seeking feedback about the proposed revisions before a formal notice of rulemaking.

Please send your feedback by 5:00 PM on May 23, 2018. Please reference the specific page and line number in your comments. We will consider all comments submitted by this date for inclusion in the official rulemaking draft.

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

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1 *Amendments to 8 CCR 1505-6 follow:*

2 *Amendments to Rule 1.6.1 concerning the definition of frequent filing schedule:*

3 1.6 “Frequent filing schedule” means:

4 1.6.1 For state AND SCHOOL DISTRICT DIRECTOR candidates and committees, the filing  
5 schedule outlined in sections 1-45-108 (2)(a)(I)(B), (2)(a)(I)(C), (2)(a)(I)(D), and  
6 (2)(a)(I)(E), C.R.S.;

7 *[No amendments to Current Rules 1.6.2 and 1.6.3]*

8 *Amendments to Rule 1.7 concerning the definition of independent expenditure committee:*

9 1.7 “Independent expenditure committee” has the same meaning as set forth in section 1-45-  
10 103(11.5), C.R.S. An ~~Independent~~-INDEPENDENT expenditure committee ~~differs from a political~~  
11 ~~committee in that an independent expenditure committee may not directly contribute to a~~  
12 ~~candidate committee or political party and~~ may not coordinate its campaign-related expenditures  
13 with a candidate, candidate committee, or political party. Nothing in these rules limits joint  
14 fundraising efforts or the transfer of funds raised through joint fundraising efforts by an

1 independent expenditure committee or other committee as long as each committee pays its  
2 allocated share of joint fundraising expenses and no committee participating in the joint  
3 fundraising activity receives more than its allocated share of funds raised in accordance with  
4 applicable contribution limits.

5 *Amendments to Rule 1.8.1 concerning the definition of infrequent filing schedule:*

6 1.8 “Infrequent filing schedule” means:

7 1.8.1 For a state AND SCHOOL DISTRICT DIRECTOR candidate or committee, the quarterly filing  
8 schedule outlined in section 1-45-108(2)(a)(I)(A), C.R.S.; and

9 *[No amendments to Current Rule 1.8.2]*

10 *Amendments to Rule 1.18 concerning the definition of public announcement:*

11 1.18 “Publicly announced an intention to seek election to public office or retention of a judicial office”  
12 means:

13 1.18.1 Registering a candidate committee; or

14 1.18.2 ~~A person has made a statement signifying an interest in, or exploring the possibility of~~  
15 ~~seeking the;~~ ANNOUNCING AN INTENTION TO SEEK PUBLIC OFFICE OR RETENTION OF A  
16 JUDICIAL OFFICE THROUGH:

17 ~~1.18.3 The statement is made by means of~~

18 (A) ~~a~~-A speech, advertisement, or other communication reported or appearing in  
19 public media; or

20 (B) A STATEMENT MADE in any place accessible to the public; ~~and~~ OR

21 ~~1.18.4~~ (C) A STATEMENT MADE IN A MANNER THAT ~~A~~-A reasonable person would expect ~~the~~  
22 ~~statement~~ to become public.

23 [Colo. Const. Article XXVIII, Section 2(2)]

24 *Amendments to Rule 2.2.2 through 2.2.4 concerning candidate committees:*

25 2.2.2 Once assigned a candidate committee must follow the frequent filing schedule for the  
26 remainder of the year, EXCEPT AS OUTLINED IN RULE 17.5.

27 2.2.3 A candidate committee may accept the contribution limit specified in Colo. Const. Article  
28 XXVIII, Section 3(1) for the primary election even if the primary election is canceled  
29 under section 1-4-104.5(1), C.R.S. OR THE CANDIDATE IS RUNNING UNOPPOSED.

30 2.2.4 Managing unexpended campaign contributions

31 (c) Candidates seeking election to a different office

32 (1) A candidate committee may transfer funds to a candidate committee  
33 established by the same candidate for a different public office, subject to

1 the political party contribution limit, ~~only if the new office sought has~~  
2 ~~contribution limits that are equal to or greater than the current office, or~~  
3 ~~the new office sought has no contribution limits~~ FOR THE NEW OFFICE  
4 SOUGHT. [Colo. Const. Article XXVIII, Section 3]

5 (2) CONTRIBUTIONS FROM PERSONS OR COMMITTEES MADE TO THE PRIOR  
6 CANDIDATE COMMITTEE DO NOT APPLY TOWARD THE CONTRIBUTION  
7 LIMITS FOR THE NEW CANDIDATE COMMITTEE.

8 ~~(2)~~(3) A candidate committee transferring funds to a candidate committee for a  
9 different office must terminate within ten days of registering the new  
10 candidate committee.

11 ~~(3)~~(4) A candidate seeking election to a state, county, or local office may not  
12 transfer funds from a federal candidate committee to a Colorado  
13 candidate committee that is subject to the provisions of the Fair  
14 Campaign Practices Act.

15 *Amendments to Rule 2.4.3 concerning personal financial disclosures:*

16 2.4.3 If a candidate withdraws his or her candidacy by submitting appropriate documentation  
17 before filing the disclosure statement required in section 1-45-110(2)(a), C.R.S., the  
18 candidate need not file a disclosure statement. Any fines that the candidate accrued  
19 before withdrawing ~~will remain in effect~~ MAY BE WAIVED BY THE SECRETARY OF STATE.

20 *Repeal of Rule 4.5 concerning issue committees:*

21 ~~4.5 — A matter becomes a ballot measure requiring a committee to register as an issue committee or~~  
22 ~~small scale issue committee under section 1-45-108(7)(a)(I), C.R.S., after a title has been~~  
23 ~~designated and fixed and any motion for rehearing has been heard.~~

24 ~~4.6~~4.5 For issue committees and small-scale issue committees, the election cycle is a calendar year,  
25 beginning January 1 and ending December 31. This rule does not apply to issue committees  
26 formed to support or oppose a recall.

27 *Amendments to Rule 10.3 concerning expenditures:*

28 10.3 Except for independent expenditure committees and small-scale issue committees, committees  
29 must report expenditures as follows:

30 10.3.1 A committee must list all expenditures ~~made and obligations entered into by a committee~~  
31 of \$20 or more during a reporting period, including the name and address of payees. THE  
32 COMMITTEE MAY REPORT ANY DISBURSEMENT NOT DEFINED AS AN EXPENDITURE TO THE  
33 APPROPRIATE OFFICER.

34 10.3.2 A committee must list individual expenditures ~~made and obligations entered into~~ in  
35 amounts less than \$20 that aggregate to total \$20 or more to the same payee during the  
36 reporting period.

37 10.3.3 A committee may report all other expenditures ~~made and obligations entered into~~ less  
38 than \$20 during a reporting period in total as non-itemized expenditures.

1 [Section 1-45-108(1), C.R.S.]

2 *New Rule 10.7 concerning contributions:*

3 10.7 A COMMITTEE MAY ACCEPT CONTRIBUTIONS IN CRYPTOCURRENCY, UP TO THE ACCEPTABLE  
4 LIMIT FOR A CASH OR COIN CONTRIBUTION. THE AMOUNT OF THE CONTRIBUTION IS THE VALUE  
5 OF THE CRYPTOCURRENCY AT THE TIME OF THE CONTRIBUTION. THE COMMITTEE MUST REPORT  
6 ANY GAIN OR LOSS AFTER THE CONTRIBUTION AS OTHER INCOME OR RECEIPTS.

7 ~~10.7-10.8~~ Contributions by anonymous contributor

8 ~~10.7.1-10.8.1~~ A committee may not keep anonymous contributions of \$20 or more.

9 ~~10.7.2-10.8.2~~ Anonymous contributions are contributions where the identity of the contributor  
10 or other required reporting information is unknown.

11 ~~10.7.3-10.8.3~~ A committee must donate an anonymous contribution of \$20 or more to a  
12 charitable organization recognized by the Internal Revenue Service, or transmit the  
13 contribution to the State Treasurer within 30 days after receipt.

14 *Repeal of Rule 14.4 concerning home rule jurisdictions:*

15 ~~14.4~~ Section 1-45-117, C.R.S., applies to home rule counties or home rule municipalities.

16 *Amendments to Rule 17.5 concerning filing calendars and reporting periods:*

17 17.5 Reports for former officeholders ~~or~~, persons not elected to office, AND TERM-LIMITED OFFICE  
18 HOLDERS

19 17.5.1 Annual reporting

20 (a) A candidate committee for a candidate not elected to office, ~~or~~ who was formerly  
21 in office, OR WHO IS TERM-LIMITED may submit a written request to file only an  
22 annual report for each calendar year.

23 (1) Statewide candidate committees must file an annual report not later than  
24 January 15th of the following year.

25 (2) All other candidate committees must file an annual report on the first day  
26 of the month in which the anniversary of the major election occurs, in  
27 accordance with section 1-45-108(2)(a)(II), C.R.S.

28 (b) A change in the balance of funds resulting solely from the accrual of interest or  
29 dividends to the account and/or the automatic deduction of periodic service fees  
30 does not subject a candidate committee to the reporting requirements of section  
31 1-45-108, C.R.S. At a minimum, a candidate committee must file an annual  
32 report as set forth in subsection (a) of this Rule.

33 [Sections 1-45-108(2)(c) and (2)(d), C.R.S.]

34 *Amendments to Rule 18.1 concerning penalty waivers:*

1 18.1.1 A request for waiver or reduction of campaign finance penalties imposed under Colo.  
2 Const. Article XXVIII, Section 10(2) must state the reason for the delinquency.

3 (a) The filer should provide an explanation that includes all relevant factors relating  
4 to the delinquency and any mitigating circumstances, including measures taken  
5 to avoid future delinquencies.

6 (b) Before the appropriate officer will consider a request, the report must be filed,  
7 and a request including the required information must be submitted.

8 (c) ~~Payment of the penalty for which a waiver has been requested voids the request.~~  
9 THE SECRETARY OF STATE WILL NOT CONSIDER A WAIVER REQUEST AFTER A  
10 PENALTY HAS BEEN PAID.

11 *Repeal of Rule 18.1.4 concerning penalty waivers:*

12 ~~18.1.4 For waiver requests that apply to more than one penalty, the guidelines will be applied~~  
13 ~~separately to each penalty in chronological order using the single request as the basis for~~  
14 ~~each.~~

15 ~~18.1.5~~ 18.1.4 Filers may request that the appropriate officer reconsider a request for waiver or  
16 reduction of campaign finance penalties. A filer must submit, in writing any request for  
17 reconsideration within 30 days of the date on which the waiver decision was mailed. The  
18 filer must present additional material facts that are significantly different than those  
19 ~~alleged~~ PRESENTED in the original request for reduction or waiver.

20 *Proposed permanent adoption of Rule 18.2.4 concerning complaints (Rule 18.2.4 was originally adopted*  
21 *10/25/17, corrective amendments were temporarily adopted 1/5/18, and the corrected version was*  
22 *temporarily re-adopted 5/4/18):*

23 18.2.4 In determining whether an entity registered or disclosed in “Good faith” as that term is  
24 used in section 1-45-109(4), C.R.S., the appropriate officer must determine whether ten  
25 percent or less of the entity’s disclosures or reported dollar amounts on the report or  
26 reports at issue in the complaint are out of compliance. If so, the entity is deemed to have  
27 attempted to comply in good faith.

28 *New Rule 18.5 concerning complaints:*

29 18.5 COMPLAINTS CONCERNING MUNICIPAL CAMPAIGN FINANCE MATTERS MUST BE FILED WITH THE  
30 MUNICIPAL CLERK.