



Notice of Proposed Rulemaking

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

Date of notice: June 15, 2020
Date and time of public hearing: July 16, 2020 at 2:00 p.m.

I. Hearing Notice

As required by the State Administrative Procedure Act,¹ the Secretary of State gives notice of proposed rulemaking. The hearing is scheduled for July 16, 2020 at 2:00 p.m. **This meeting will be conducted via webinar; no in-person option is available.** Details regarding how to join the webinar and testify during the hearing are outlined in section VI of this notice.

II. Subject

The Secretary is considering amendments to the rules concerning campaign and political finance² to improve the administration and enforcement of Colorado campaign finance law.³

Specifically, the Secretary is considering additional rule amendments including revisions necessary to ensure proper administration of legislation recently passed by the Colorado General Assembly, including SB19-232 concerning campaign finance enforcement; establish uniformity in the administration of current law; establish new definitions; clarify date of a contribution or donation; clarifying when a committee may file a termination report to terminate the committee; clarify rules concerning recall elections, local offices and home rule; clarify late filing penalties and waiver process; establish new complaint rules including rules for settlement of complaints; eliminate obsolete provisions; simplify the language of existing rules; remove language that is duplicative of statute or constitutional provisions; and ensure consistency with Department rulemaking standards. The Secretary may consider additional rule amendments.

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

¹ Section 24-4-103(3)(a), C.R.S. (2019).

² 8 CCR 1505-CCR 6.

³ Article 45 of Title 1, C.R.S. (2019).

III. Statutory authority

The Secretary proposes the rule revisions and amendments in accordance with the following statutory and constitutional provisions:

- Article XXVIII, Section 8 of the Colorado Constitution, which requires the Secretary of State to “promulgate rules related to filing in accordance with article 4 of title 24, C.R.S.”
- Article XXVIII, Section 9(1)(b) of the Colorado Constitution, which requires the Secretary of State to “[p]romulgate such rules, in accordance with article 4 of title 24, C.R.S., or any successor section, as may be necessary to administer and enforce any provision of [Article XVIII of the Colorado State Constitution].”
- Section 1-1-107(2)(a), C.R.S., (2019), which authorizes the Secretary of State “[t]o promulgate, publish, and distribute...such rules as the secretary of state finds necessary for the proper administration and enforcement of the election laws.”
- Section 1-45-111.5(1), C.R.S., (2019), which requires the Secretary of State to promulgate such rules “as may be necessary to enforce and administer any provision of” article 45 of title 1, C.R.S.

IV. Copies of draft rules

A preliminary draft of the proposed rules is posted on the Secretary of State’s rules and notices of rulemaking website at:

https://www.sos.state.co.us/pubs/rule_making/hearings/2020/CampaignFinanceRulesHearing20200716.html.

You may also contact our office to request an editable electronic copy of the draft rules.

As required by the State Administrative Procedures Act,⁴ if changes are made before the hearing, revised proposed draft rules will be available to the public and posted on the website by July 10, 2020.

V. Opportunity to testify and submit written comments

The Secretary values your feedback in our rulemaking process and we would very much like to hear your thoughts on the proposed amendments. Please review and consider the attached proposed draft rules.

Everyone will have the opportunity to testify and provide written comment concerning the rule amendments. You may submit written comments to SoS.Rulemaking@sos.state.co.us any time before and during the hearing. Additional opportunity to comment in writing will be announced

⁴ Section 24-4-103(3)(a), C.R.S. (2019). “Any proposed rule or revised proposed rule by an agency which is to be considered at the public hearing...shall be made available to any person at least five days prior to said hearing.”

at the conclusion of the hearing. Information regarding how to testify during the webinar hearing is providing in section VI of this notice.

As soon as possible after receipt, written comments will be posted online at the Secretary of State website:

https://www.sos.state.co.us/pubs/rule_making/hearings/2020/CampaignFinanceRulesHearing20200716.html. We will redact apparent personal contact information, including home address, email address, and telephone number(s), from submissions before posting the information online, unless otherwise directed by the contributor. All written comments will be added to the official rulemaking record.

VI. Webinar and audio recording of hearing

Register for the webinar hearing

To join and listen to the hearing, you must register for the webinar online: <https://attendee.gotowebinar.com/register/3064434971189137165>.

When you register, you must provide your full name and email address. Please provide additional contact information including your address and telephone number. You may also provide your job title and organization. Lastly, indicate whether you plan to testify during the hearing. When you submit your registration, you should receive a confirmation email including details about how to join the webinar.

Webinar hearing procedures

At the beginning of the webinar, we will mute all public participants. After the introduction and a brief summary of the rulemaking, we will open the hearing to testimony as follows:

- Referencing registration records, we will identify and individually unmute participants who indicated that they plan to testify during the hearing.
- When we exhaust the list, we will ask whether any additional attendees wish to testify. Attendees may raise/lower their hand by clicking the icon in their control panel.
- To ensure that the hearing is prompt and efficient, oral testimony may be time-limited.

Before the hearing concludes, we will announce an additional opportunity to submit written comments and the associated deadline.

Webinar audio requirements

Please be advised: we strongly encourage attendees to join the webinar through their computer even if they use their telephone to dial in for audio. To testify during the hearing, it is best to use your computer microphone and speakers or a headset. As outlined above, we will first receive testimony from attendees whose registration indicates that they plan to provide testimony and then we will offer attendees the option to raise their hand. If you access the webinar only by telephone, you may not appear in our webinar attendee list meaning we may not be able to unmute you. Moreover, the raise your hand feature is only available to attendees who access the webinar by computer.

Audio recording

After the hearing concludes, a recording will be available on our audio broadcasts page here: https://www.sos.state.co.us/pubs/info_center/audioBroadcasts.html.

VII. Office contact

If you have any questions or would like to submit written comments, please contact the Department Rulemaking Program Manager at SoS.Rulemaking@sos.state.co.us or (303) 894-2200 ext. 6329.

Dated this 15th Day of June, 2020.

Melissa Kessler
Legal and Policy Director

For

Jena Griswold
Colorado Secretary of State



Draft Statement of Basis, Purpose, and Specific Statutory Authority

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

June 15, 2020

I. Basis and Purpose

This statement explains amendments to the Colorado Secretary of State rules concerning campaign and political finance.¹ The amendments are intended to ensure uniform and proper administration, implementation, and enforcement of Colorado campaign finance law² as follows:

- New Rule 1.12 defines “municipal campaign finance matter.”
- Amendments to Rule 10.4, including New Rule 10.4.7, to clarify the date of a contribution or donation.
- Amendments to Rule 12.3, including New Rule 12.3.4, clarify when a committee may file a termination report terminating the committee. Specifically, to file a termination report, the committee may not have pending campaign and political financial complaints for related proceedings pending before the elections division or any court.
- Amendments to Rule 14.1 clarify that home rule municipality may adopt or use the requirements of Colo. Const. Article XXVIII and of Article 45 of Title 1, C.R.S., for their compliance and enforcement.
- Amendments to Rule 15.3 clarify that the incumbent in a recall election may not use his or her candidate committee to oppose the recall.
- Amendments to Rule 17.6 simplify the rule to state that any filing related to a municipal campaign matter, as defined under New Rule 1.12, must be filed with the municipal clerk.
- Amendments to Rule 18 clarify that requests for waiver or reduction of penalties concern late or missing filing penalties imposed under Colorado Constitution

¹ 8 CCR 1505-CCR 6.

² Article 45 of Title 1, C.R.S. (2019).

Article XXVIII, Section 10(2). Additionally, the rule is amended to only cover late filing penalties and waiver process. Current Rule 18.2 is amended and recodified under New Rule 23.

- New Rule 23 is necessary to implement SB19-232, concerning campaign finance enforcement, and establishes complaint rules, including disclosure of documents related to complaints, the settlement of complaints, and fines.

II. Rulemaking Authority

- Article XXVIII, Section 8 of the Colorado Constitution, which requires the Secretary of State to “promulgate rules related to filing in accordance with article 4 of title 24, C.R.S.”
- Article XXVIII, Section 9(1)(b) of the Colorado Constitution, which requires the Secretary of State to “[p]romulgate such rules, in accordance with article 4 of title 24, C.R.S., or any successor section, as may be necessary to administer and enforce any provision of [Article XVIII of the Colorado State Constitution].”
- Section 1-1-107(2)(a), C.R.S., (2019), which authorizes the Secretary of State “[t]o promulgate, publish, and distribute...such rules as the secretary of state finds necessary for the proper administration and enforcement of the election laws.”
- Section 1-45-111.5(1), C.R.S., (2019), which requires the Secretary of State to promulgate such rules “as may be necessary to enforce and administer any provision of” article 45 of title 1, C.R.S.

Preliminary Draft of Proposed Rules

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

June 15, 2020

Disclaimer:

In accordance with the State Administrative Procedure Act, this draft is filed with the Secretary of State and submitted to the Department of Regulatory Agencies.¹

This is a preliminary draft of the proposed rules that may be revised before the July 16, 2020 rulemaking hearing. If changes are made, a revised copy of the proposed rules will be available to the public and a copy will be posted on the Department of State's website no later than **July 10, 2020**.²

Please note the following formatting key:

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

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

2 *New Rule 1.12 concerning definitions; establishes definition of municipal campaign finance matter:*

3 1.12 "MUNICIPAL CAMPAIGN FINANCE MATTER" AS USED IN SECTION 1-45-111.7(9)(B), C.R.S., MEANS ANY
4 CAMPAIGN FINANCE MATTER EXCLUSIVELY RELATED TO A MUNICIPAL CAMPAIGN, INCLUDING MATTERS
5 INVOLVING A CANDIDATE FOR A MUNICIPAL OFFICE; A MUNICIPAL BALLOT ISSUE OR BALLOT QUESTION; AND
6 CONTRIBUTIONS OR EXPENDITURES MADE BY ANY PERSON, COMMITTEE, OR GROUP TO SUPPORT OR
7 OPPOSE ANY CANDIDATE FOR MUNICIPAL OFFICE, OR MUNICIPAL BALLOT ISSUE OR BALLOT QUESTION.
8 THIS DEFINITION IS NOT LIMITED TO HOME RULE MUNICIPALITIES THAT HAVE ADOPTED THEIR OWN
9 CAMPAIGN FINANCE RULES OR REGULATIONS, BUT APPLIES TO ALL MUNICIPALITIES.

10 *[Not shown: renumbering current Rules 1.12 – 1.23 as Rules 1.13 – 1.24.]*

11 *Amendments to Rule 10.4:*

12 10.4 ~~A-DATE OF A contribution or donation is received on the date that it is accepted by the committee.~~

¹ Sections 24-4-103(2.5) and (3)(a), C.R.S. (2019). A draft must be submitted to the Department at the time that a notice of proposed rulemaking is filed with the Secretary of State.

² Section 24-4-103(4)(a), C.R.S. (2019). "[A]ny proposed rule or revised proposed rule by an agency which is to be considered at the public hearing...shall be made available to any person at least five days prior to said hearing."

1 10.4.1 A contribution or donation by check or money order is accepted, AT THE EARLIEST ON THE
2 DATE THAT IT IS RECEIVED OR at the latest, on the date that the contribution or donation is
3 deposited into the committee account. If a committee receives a donation by check or
4 money order at least five business days before the end of a reporting period, the
5 committee must deposit the check or money order or return to the contributor before that
6 reporting period closes.

7 *[No changes to current Rules 10.4.2 through 10.4.6.]*

8 10.4.7 ANY OTHER CONTRIBUTION OR DONATION IS ACCEPTED ON THE DATE ITS RECEIVED.

9 *Amendments Rule 12.3 including New Rule 12.3.4 concerning changing or closing a committee:*

10 12.3 A committee may file a termination report terminating the committee if the following conditions are
11 met:

12 12.3.1 The committee no longer intends to receive contributions or make expenditures; ~~and~~

13 12.3.2 The committee's TRACER account has a zero balance, indicating it has no cash or
14 assets on hand and there are no outstanding debts, penalties, or obligations;

15 12.3.3 A committee may dispose of assets remaining in its possession before termination in the
16 same manner as allowed for unexpended contributions; AND

17 12.3.4 THE COMMITTEE HAS NO PENDING CAMPAIGN AND POLITICAL FINANCE COMPLAINTS OR RELATED
18 PROCEEDINGS PENDING BEFORE THE ELECTIONS DIVISION OR ANY COURT.

19 *Amendments to Rule 14.1 concerning local offices and home rule:*

20 14.1 The requirements of Colo. Const. Article XXVIII and of Article 45 of Title 1, C.R.S., do not apply to
21 home rule counties or home rule municipalities that have adopted charters, ordinances, or
22 resolutions that address any of the matters covered by Colo. Const. Article XXVIII or Article 45 of
23 Title 1. NOTHING PRECLUDES A HOME RULE MUNICIPALITY FROM ADOPTING OR USING COLO. CONST.
24 ARTICLE XXVIII AND OF ARTICLE 45 OF TITLE 1, C.R.S., FOR THEIR COMPLIANCE AND ENFORCEMENT.

25 *Amendments to Rule 15.3 concerning recall elections:*

26 15.3 The incumbent in a recall election is not a candidate for the successor election and may open an
27 issue committee or small-scale issue committee to oppose the recall. THE INCUMBENT MAY NOT USE
28 HIS OR HER CANDIDATE COMMITTEE TO OPPOSE THE RECALL.

29 *Amendments to Rule 17.6 filing calendars and reporting periods:*

30 17.6 ~~The following must file with the municipal clerk: A candidate in a municipal election, a candidate~~
31 ~~committee, a political committee supporting or opposing a municipal candidate, an issue~~
32 ~~committee or small-scale issue committee supporting or opposing a municipal ballot issue or~~
33 ~~ballot question, an independent expenditure committee supporting or opposing a municipal~~
34 ~~candidate, and a small donor committee making contributions to a municipal candidate. [Section~~
35 ~~1-45-109(1)(b), C.R.S.] ANY FILING RELATED TO A MUNICIPAL CAMPAIGN FINANCE MATTER MUST BE~~
36 ~~FILED WITH THE MUNICIPAL CLERK.~~

37 *Amendments to Rule 18:*

38 **Rule 18. Penalties, Violations, and Complaints - LATE FILING PENALTIES AND WAIVER PROCESS**

1 18.1 Requests for waiver or reduction of campaign finance penalties DUE TO LATE OR MISSING FILING
2 PENALTIES IMPOSED UNDER COLO. CONST. ARTICLE XXVIII, SECTION 10(2):

3 *[No changes to current Rule 18.1.1]*

4 18.1.2 Requests for waiver or reduction of campaign finance penalties DUE TO LATE OR MISSING
5 FILINGS imposed under Colo. Const. Article XXVIII, Section 10(2) must be considered by
6 the appropriate officer according to the following rules:

7 *[No changes to chart under current Rule 18.1.2]*

8 18.1.3 The appropriate officer may consider any additional factors that establish good cause or
9 may otherwise be relevant to the request for waiver or reduction of campaign finance
10 penalties FOR LATE OR MISSING FILINGS. In considering a request, the appropriate officer
11 may request additional information, including but not limited to financial or other records
12 maintained by the filer.

13 *[No changes to current Rules 18.1.4 through 18.1.7]*

14 *Current Rule 18.2 is recodified under New Rule 23.*

15 *New Rule 23:*

16 **RULE 23. COMPLAINTS FILED UNDER SECTION 1-45-111.7, C.R.S.**

17 23.1 FILING COMPLAINTS

18 23.1.1 CAMPAIGN FINANCE COMPLAINTS MUST BE FILED IN WRITING AND CAN BE SUBMITTED BY
19 HARDCOPY OR ELECTRONICALLY. ELECTRONIC SIGNATURES ARE PERMITTED FOR ANY
20 COMPLAINT DOCUMENTATION THAT REQUIRES A SIGNATURE BY COMPLAINT, RESPONDENT, OR
21 THE ELECTIONS DIVISION.

22 23.1.2 A COMPLAINT MUST IDENTIFY BOTH A RESPONDENT AND A COMPLAINANT. ANONYMOUS
23 COMPLAINTS OR COMPLAINTS THAT FAIL TO IDENTIFY A COMPLAINANT AND RESPONDENT MAY BE
24 REJECTED AND NOT REVIEWED BY THE ELECTIONS DIVISION.

25 23.1.3 COMPLAINTS THAT STEM FROM A COMMON SET OF OPERATIVE FACTS AS A PENDING COMPLAINT
26 WILL BE CONSOLIDATED WHEN PRACTICABLE. WHEN CONSOLIDATION IS NOT PRACTICABLE AND
27 THE OUTCOME OF THE INITIAL CASE WILL BE DETERMINATIVE OF THE LATER CASE, A COMPLAINT
28 WILL BE STAYED UNTIL A FINAL AGENCY DECISION ISSUES ON THE INITIAL COMPLAINT AND ANY
29 APPEALS ARE RESOLVED.

30 23.1.4 VIOLATIONS STEMMING FROM LATE OR MISSING FILINGS THAT HAVE BEEN WAIVED OR ARE
31 PENDING A WAIVER DECISION UNDER RULE 18 ARE NOT SUBJECT TO THE COMPLAINT PROCESS
32 OUTLINED IN SECTION 1-45-111.7, C.R.S.

33 *Current Rules 18.2 and 18.2.1 are repealed:*

34 ~~18.2 — Complaints~~

35 ~~18.2.1 Any person who believes that a violation of Article XXVIII of the Colorado Constitution,~~
36 ~~the Fair Campaign Practices Act, or the Secretary of State's rules concerning campaign~~
37 ~~and political finance has occurred may file a complaint under section 1-45-111.7, C.R.S.~~

38 *Current Rule 18.2.2 is amended and recodified as New Rule 23.2:*

1 ~~18.2.2-23.2~~ The elections division will make documents related to a complaint publicly available as
2 follows: DOCUMENTS RELATED TO COMPLAINTS.

3 (a)-23.2.1 The original complaint, notice of initial review, MOTION TO DISMISS, AN ORDER
4 ISSUED BY THE SECRETARY OF STATE'S OFFICE, final agency decision, and any complaint
5 filed by the elections division with a hearing officer will be publicly available at the time
6 the elections division provides the document to the respondent.

7 (b) ~~Any additional documentation related to the complaint, including a notice of intent to cure
8 and supporting evidence, or documents related to the elections division's investigation,
9 will be publicly available, subject to the restrictions set forth in section 1-45-111.7(5)(a),
10 C.R.S. and section 1-45-107.5(14)(d)(IV)(c), C.R.S., at the time the elections division
11 issues a final agency decision or files a complaint with a hearing officer.~~

12 (c)-23.2.2 The elections division may redact any document related to a complaint if it THAT
13 IT WILL OTHERWISE MAKE AVAILABLE PURSUANT TO THIS RULE IF SUCH REDACTION IS NECESSARY
14 to protect any person's private or confidential PERSONAL PRIVATE information OR
15 PERSONALLY IDENTIFIABLE INFORMATION, IS NOT RELEVANT OR MATERIAL TO THE
16 DETERMINATION, OR IS OTHERWISE REQUIRED UNDER THE COLORADO OPEN RECORDS ACT.

17 (d)-23.2.3 Any document the elections division receives under section 1-45-111.7(5)(a)(III),
18 C.R.S. will not be retained after the time necessary to review, investigate, prosecute a
19 complaint, or any appeal, as applicable.

20 *Current Rules 18.2.3 and 18.2.4 are repealed:*

21 ~~18.2.3 The review by the deputy secretary or the deputy secretary's designee of the initial
22 determination made by a hearing officer under section 1-45-111.7(6)(b), C.R.S. must be
23 in accordance with the procedures outlined in sections 24-4-105(14) and 24-4-105(15),
24 C.R.S.~~

25 ~~18.2.4 Rule 18.2 as it was enacted between June 19, 2018 and August 1, 2019 applies to
26 complaints filed before July 1, 2019. Complaints filed on or after July 1, 2019 must be
27 filed under section 1-45-111.7, C.R.S., (2019).~~

28 23.3 SETTLEMENT OF COMPLAINTS AND FINE STRUCTURE FOR VIOLATIONS

29 23.3.1 AFTER A COMPLAINT HAS BEEN FILED WITH A HEARING OFFICER THE ELECTIONS DIVISION MAY
30 ENTER INTO A SETTLEMENT AGREEMENT WITH THE RESPONDENT.

31 23.3.2 IN REACHING A SETTLEMENT AND FINE AMOUNT, THE DEPUTY SECRETARY OF STATE OR A
32 HEARING OFFICER WILL CONSIDER ALL OF THE FOLLOWING FACTORS:

33 (A) SPECIFIC FINE AMOUNTS OUTLINED IN RULE 23.3.3; AND

34 (B) ANY APPROPRIATE SPECIFIC ACTION IN RULE 23.3.4; AND

35 (C) THE MITIGATING AND AGGRAVATING FACTORS IN RULE 23.3.5 TO INCREASE OR
36 DECREASE THE MONETARY FINE OR TERMS.

37 23.3.3 FINE AMOUNTS

38 (A) FAILURE TO REGISTER A COMMITTEE

- 1 (1) AMOUNT OF CONTRIBUTIONS OR DONATIONS ACCEPTED OR EXPENDITURES
2 MADE WHILE OUT OF COMPLIANCE, OUTLINED BELOW:
- 3 (A) LESS THAN \$1,000 FINE IS AT LEAST \$150;
- 4 (B) BETWEEN \$1,001 AND UP TO \$5,000 FINE IS AT LEAST \$300; OR
- 5 (C) GREATER THAN \$5,000 THE FINE OF AT LEAST \$300 PLUS AT LEAST
6 10 PERCENT OF TOTAL AMOUNT OF THE CONTRIBUTIONS AND
7 EXPENDITURES MADE.
- 8 (B) FAILURE TO FILE COMPLETE AND ACCURATE REPORTS
- 9 (1) FAILURE TO FILE COMPLETE AND ACCURATE REPORTS IS A \$100 FINE PER
10 REPORT PLUS 5 PERCENT OF THE ACTIVITY NOT ACCURATELY OR COMPLETELY
11 REPORTED;
- 12 (2) FAILURE TO FILE, OR FILE AN ACCURATE, CANDIDATE AFFIDAVIT
- 13 (A) IF AFFIDAVIT IS SUBMITTED WITHIN 14 DAYS OF REGISTRATION
14 DEADLINE THE FINE IS AT LEAST \$50; OR
- 15 (B) IF AFFIDAVIT IS SUBMITTED AFTER 14 DAYS POST DEADLINE, THE FINE
16 IS AT LEAST \$100.
- 17 (C) PROHIBITED CONTRIBUTIONS, DONATIONS, AND EXPENDITURES
- 18 (1) FOR ACCEPTING A PROHIBITED CONTRIBUTION INCLUDING ACCEPTING AN
19 AMOUNT THAT EXCEEDS A CONTRIBUTION LIMIT OR MAKING PROHIBITED
20 EXPENDITURES, THE FINE IS AT LEAST \$100 AND 10 PERCENT OF THE
21 PROHIBITED ACTIVITY:
- 22 (2) PROHIBITED USE OF UNSPENT CAMPAIGN FUNDS AND EXCEEDING VOLUNTARY
23 CONTRIBUTION LIMITS
- 24 (A) A FINE OF AT LEAST \$250 PER VIOLATION; AND
- 25 (B) A FINE THAT IS UP TO 25 PERCENT OF THE AMOUNT OF THE
26 PROHIBITED ACTIVITY.
- 27 (D) DISCLAIMER AND ELECTIONEERING COMMUNICATIONS
- 28 (1) IF NONCOMPLIANT COMMUNICATION IS MITIGATED PRIOR TO THE ELECTION: A
29 FINE OF AT LEAST 5 PERCENT COST OF THE NONCOMPLIANT COMMUNICATION
30 INCLUDING COST TO BROADCAST; OR
- 31 (2) IF NONCOMPLIANT COMMUNICATION IS NOT MITIGATED PRIOR TO THE
32 ELECTION: A FINE OF AT LEAST 10 PERCENT OF THE COST OF THE
33 COMMUNICATION INCLUDING COST TO BROADCAST.
- 34 (E) OTHER VIOLATIONS OF CAMPAIGN AND POLITICAL FINANCE RULES AND REGULATIONS
35 WILL BE ASSESSED PENALTIES BASED ON THE CIRCUMSTANCES OF THE VIOLATIONS AND
36 FACTORS OUTLINED IN RULE 23.3.4.

37 23.3.4 SPECIFIC ACTION(S)

1 (A) IN ADDITION TO MONETARY FINES THE DEPUTY SECRETARY OF STATE OR ASSIGNEE MAY
2 SEEK A SPECIFIC ACTION(S) FROM THE RESPONDENT. SPECIFIC ACTIONS MAY INCLUDE:

- 3 (1) REGISTERING AS A COMMITTEE OR CANDIDATE IN TRACER;
- 4 (2) RETURN OR DONATION OF PROHIBITED CONTRIBUTION OR DISGORGEMENT OF
5 THE VALUE OF THE IMPROPER CONDUCT;
- 6 (3) FILING OR AMENDING DISCLOSURE REPORTS;
- 7 (4) INCLUSION OR CORRECTION OF DISCLAIMER ON THE COMMUNICATION; OR
- 8 (5) OTHER SPECIFIC PERFORMANCE OR TERMS THAT MAY BE WARRANTED.

9 23.3.5 THE ELECTIONS DIVISION MAY ALSO CONSIDER THE FOLLOW MITIGATING AND AGGRAVATING
10 FACTORS:

- 11 (A) NATURE AND EXTENT OF THE VIOLATION;
- 12 (B) TIMING OF THE VIOLATION (INCLUDING PROXIMITY TO THE ELECTION);
- 13 (C) ABILITY OR EFFORT TO MITIGATE THE VIOLATION;
- 14 (D) EVIDENCE OF AN INTENTIONAL ACT OR A PATTERN OR PRACTICE OF MISCONDUCT;
- 15 (E) EXTENT TO WHICH THE HARM CAUSED BY THE VIOLATION OR THE VALUE OF THE
16 VIOLATION CANNOT BE REASONABLY CALCULATED; OR
- 17 (F) OTHER AGGRAVATING OR MITIGATING FACTORS MAY BE TAKEN INTO CONSIDERATION IN
18 REACHING A JUST AND EQUITABLE OUTCOME.