



## Notice of Temporary & Permanent Adoption

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

December 13, 2019

#### 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 Rules Concerning Lobbyist Regulation<sup>3</sup> are adopted on a temporary and permanent basis.

The rules were considered at the November 15, 2019 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
Strikethrough	Deletions
<i>[Italic blue font text]</i>	Annotations and publication notes

*Amendments to 8 CCR 1505-8 follow:*

#### 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>~~

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~~

<sup>1</sup> Part 3 of Article 6 of Title 24, C.R.S. (2019).

<sup>2</sup> Section 24-4-103(3)(a), C.R.S. (2019).

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

<sup>4</sup> Section 24-4-103(3)(a), C.R.S. (2019).

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

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 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.

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<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) (e), C.R.S.

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

<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.

~~(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>~~

*[Current Rule 1.3.2(g) is relocated and recodified as New Rule 2.2.2(a)]*

~~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>~~

1.1 “CONTRIBUTION” MEANS A GIFT, SUBSCRIPTION, LOAN, ADVANCE, OR DEPOSIT OF MONEY OR ANYTHING OF VALUE AND INCLUDES A CONTRACT, PROMISE, OR AGREEMENT, WHETHER OR NOT LEGALLY ENFORCEABLE, TO MAKE A CONTRIBUTION. “CONTRIBUTION” ALSO INCLUDES THE COMPENSATION AND REIMBURSEMENT FOR EXPENSES OF A PERSON REQUIRED TO FILE A DISCLOSURE STATEMENT UNDER SECTION 24-6-302, C.R.S.

1.2 “DIVISION” MEANS THE DIVISION WITHIN THE OFFICE OF THE SECRETARY OF STATE RESPONSIBLE FOR ADMINISTERING THE STATE’S LAWS GOVERNING LOBBYING.

1.3 “FISCAL YEAR” MEANS THE PERIOD BEGINNING JULY 1 OF A CALENDAR YEAR AND ENDING JUNE 30 OF THE FOLLOWING CALENDAR YEAR.

1.4 “LEGISLATION” MEANS ANY BILL, RESOLUTION, AMENDMENT, NOMINATION, REPORT, OR ANY OTHER MATTER WHETHER OR NOT IN WRITING, PENDING, OR PROPOSED FOR CONSIDERATION BY EITHER HOUSE OR COMMITTEE OF THE GENERAL ASSEMBLY, WHETHER OR NOT THE GENERAL ASSEMBLY IS IN SESSION.

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>

1.7 “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.

1.8 “RESPONDENT” MEANS THE PERSON OR ENTITY AGAINST WHOM A COMPLAINT IS FILED.

1.9 “SESSION” MEANS A REGULAR OR SPECIAL SESSION OF THE GENERAL ASSEMBLY, AND, WHERE APPLICABLE, WHEN ANY MEASURE ADOPTED BY THE GENERAL ASSEMBLY IN REGULAR SESSION IS PENDING BEFORE THE GOVERNOR FOR APPROVAL OR DISAPPROVAL.

1.8-1.10 “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.

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<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.

~~4.9-1.11~~ "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.<sup>46</sup>

~~4.10~~ "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>47</sup>

## **Rule 2. Professional 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>48</sup>

2.1.2 The fee for filing a professional lobbyist registration statement is \$40.00.

- (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>49</sup>

2.1.3 A professional lobbyist must file an updated registration statement on or before July 15 each year.<sup>20</sup>

### **2.2 EXCEPTIONS TO REGISTRATION WITH THE SECRETARY OF STATE'S OFFICE**

#### **2.2.1 VOLUNTEER LOBBYIST**

- (A) A VOLUNTEER LOBBYIST, AS DEFINED IN SECTION 24-6-301(7), C.R.S., IS NOT REQUIRED TO REGISTER WITH THE SECRETARY OF STATE, BUT MUST REGISTER WITH THE GENERAL ASSEMBLY.

#### **2.2.2 GRASS ROOTS LOBBYING**

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<sup>46</sup> Section 24-6-303.5 (1) (a), C.R.S.

<sup>47</sup> Section 24-6-301 (7), C.R.S.

<sup>48</sup> Section 24-6-303 (1), C.R.S.

<sup>49</sup> Section 24-6-303 (1.3) (a), C.R.S.

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

~~4.3.2(g)-(A)~~ Activity IF AN ACTIVITY that could otherwise be considered lobbying if that activity is performed by an employee of an organization, and the activity occurs ONLY once a year, ~~or less~~ and the employee is not paid solely to lobby, THEN THAT ACTIVITY IS NOT CONSIDERED LOBBYING. 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.

## 2.3 TERMINATION OF REGISTRATION

2.3.1 A PROFESSIONAL LOBBYIST MAY TERMINATE THEIR REGISTRATION AT ANY TIME IF THE PROFESSIONAL LOBBYIST:

- (A) WILL NOT LOBBY OR RECEIVE LOBBYING INCOME FOR THE REMAINDER OF THE FISCAL YEAR;
- (B) INDICATES ON THE NEXT MONTHLY DISCLOSURE STATEMENT THAT THE PROFESSIONAL LOBBYIST IS TERMINATING THEIR PROFESSIONAL LOBBYIST REGISTRATION; AND
- (C) FILES THEIR ANNUAL DISCLOSURE STATEMENT REQUIRED BY SECTION 24-6-302(3)(B), C.R.S.

## 2.4 REVOCATION OF REGISTRATION

2.4.1 THE DIVISION WILL REVOKE A PROFESSIONAL LOBBYIST'S REGISTRATION CERTIFICATE IF THE LOBBYIST:

- (A) IS CONVICTED 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.

2.4.2 THE DIVISION MAY REVOKE A PROFESSIONAL LOBBYIST'S REGISTRATION CERTIFICATE UNDER THE PROVISIONS OF SECTION 24-6-305 (2), C.R.S.

### 2-2-2.5 ~~Disclosure~~ MONTHLY DISCLOSURE STATEMENTS

~~2-2-1-2.5.1~~ 2.5.1 A professional lobbyist must file a monthly disclosure statement electronically via the Secretary of State's website on or before the 15th 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 CONTRIBUTED \$100 OR MORE TO 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, THE STATEMENT MUST INCLUDE a description of the INDIVIDUAL'S business. ~~activity in which the individual is engaged;~~
  - (2) If the client or other professional lobbyist is a business entity, THE STATEMENT MUST INCLUDE a description of the ENTITY'S business, ~~in which~~

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

<sup>22</sup> Section 24-6-301 (1.9) (a) (1), C.R.S.

~~the entity is engaged and the names of any chief executive officer, partners, or other designated contact person.~~<sup>23</sup>

- (3) If the client or other professional lobbyist is an industry, trade, organization, or group of persons, or professional association, THE STATEMENT MUST INCLUDE 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~~ SUM OF CONTRIBUTIONS the professional lobbyist RECEIVED FOR LOBBYING ACTIVITIES since the previous disclosure statement and during the fiscal year;<sup>24</sup>
- (c) THE LEGISLATION, STANDARDS, RULES, OR RATES, ABOUT WHICH THE PROFESSIONAL LOBBYIST IS LOBBYING, INCLUDING:
  - (1) THE OFFICIAL NUMBER OR OTHER DESIGNATION OF EACH LEGISLATIVE BILL, STANDARD, RULE, OR RATE, IF AVAILABLE. IF A NUMBER OR DESIGNATION IS NOT AVAILABLE, THE LOBBYIST MUST DESCRIBE THE NATURE AND SUBJECT MATTER OF THE LEGISLATION, STANDARDS, RULES OR RATES;
  - (2) THE TITLE OR SUBJECT MATTER OF THE ACTIVITY MENTIONED ABOVE; AND
  - (3) WHETHER THE LOBBYIST IS SUPPORTING, OPPOSING, AMENDING, OR MONITORING THE ACTIVITY MENTIONED ABOVE, INCLUDING ALL UP-TO-DATE AND CURRENT POSITIONS.
- ~~(e)-(D)~~ (D) 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, AND:
  - (1) The name of the covered official; and
  - (2) The amount, date, and principal purpose of the gift or entertainment;<sup>25</sup>
- ~~(e)-(E)~~ (E) 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)-(F)~~ (F) 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>

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<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.~~

<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.~~



- ~~(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>

2.6 ANNUAL CUMULATIVE DISCLOSURE STATEMENT

~~2.2.2.2.6.1~~ In addition to the monthly disclosure statement described in Rule 2.2.1, a 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:

- (A) ~~the~~ THE name of and THE CLIENT OR OTHER PROFESSIONAL LOBBYIST FOR WHOM THE PROFESSIONAL LOBBYIST IS LOBBYING;
- (B) THE total gross income the professional lobbyist has received from each client or other professional lobbyist; AND
- (C) 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>

2.7 NEW CLIENT DISCLOSURE

~~2.2.3.2.7.1~~ NEW CLIENT NOT DURING SESSION

- (A) ~~In addition to the monthly and annual disclosure statements described in Rules 2.2.1 and 2.2.2, when~~ 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.~~ WHILE THE GENERAL ASSEMBLY IS NOT IN SESSION, THE PROFESSIONAL LOBBYIST MUST NOTIFY THE SECRETARY OF STATE BY UPDATING THEIR REGISTRATION STATEMENT WITHIN FIVE BUSINESS DAYS OF THE ORAL OR WRITTEN AGREEMENT TO LOBBY.

2.7.2 NEW CLIENT DURING SESSION

- (A) IF A PROFESSIONAL LOBBYIST ENTERS INTO A NEW ORAL OR WRITTEN AGREEMENT WITH A CLIENT OR OTHER PROFESSIONAL LOBBYIST FOR LOBBYING WHILE THE GENERAL ASSEMBLY IS IN SESSION, THE PROFESSIONAL LOBBYIST MUST NOTIFY THE SECRETARY OF STATE BY UPDATING THEIR REGISTRATION STATEMENT WITHIN 24 HOURS IN ACCORDANCE WITH SECTION 24-6-302(6)(A), C.R.S. THE PROFESSIONAL LOBBYIST MUST UPDATE THEIR REGISTRATION BY PROVIDING:
  - (1) THE NAME OF THE CLIENT;

<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.

- (2) THE ADDRESS OF THE CLIENT; AND
- (3) A SUMMARY OF THE TERMS OF THE AGREEMENT INCLUDING:
  - (A) THE CLIENT'S CONTACT INFORMATION;
  - (B) THE DATE THE LOBBYIST WAS HIRED;
  - (C) THE DATE THE LOBBYIST'S EMPLOYMENT WILL END, IF KNOWN; AND
  - (D) IF THE CLIENT IS A BUSINESS:
    - (i) THE ORGANIZATION'S NAME;
    - (ii) THE BUSINESS TYPE;
    - (iii) THE INDUSTRY/TRADE TYPE; AND
    - (iv) THE NAMES OF THE ENTITY'S CHIEF EXECUTIVE OFFICER OR PARTNERS.

~~(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.~~

~~(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>34</sup>~~

~~2.2.4 Effective January 1, 2010, 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.~~

## 2.8 ADDITIONAL REQUIRED DISCLOSURE DURING SESSION

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



**2.8.1 LOBBYING DISCLOSURE DURING SESSION FOR NEW CLIENT**

- (A) IF A PROFESSIONAL LOBBYIST AGREES TO LOBBY FOR A NEW CLIENT OR OTHER PROFESSIONAL LOBBYIST DURING SESSION, THE PROFESSIONAL LOBBYIST MUST DISCLOSE:
- (1) THE IDENTITY OF THE NEW CLIENT OR OTHER PROFESSIONAL LOBBYIST IN ACCORDANCE WITH RULE 2.7.2 WITHIN 24 HOURS; AND
  - (2) THE LEGISLATION, STANDARDS, RULES, OR RATES, ON WHICH THE PROFESSIONAL LOBBYIST IS LOBBYING FOR THAT CLIENT OR OTHER PROFESSIONAL LOBBYIST, IN ACCORDANCE WITH RULE 2.5.1(C), WITHIN 72 HOURS.

**2.8.2 LOBBYING DISCLOSURE DURING SESSION FOR EXISTING CLIENT OR OTHER PROFESSIONAL LOBBYIST**

- (A) NEW LEGISLATION, STANDARDS, RULES, OR RATES.
- (1) IF A PROFESSIONAL LOBBYIST AGREES TO LOBBY FOR AN EXISTING CLIENT DURING SESSION IN CONNECTION WITH NEW LEGISLATION, STANDARDS, RULES, OR RATES, THE PROFESSIONAL LOBBYIST MUST DISCLOSE THE LOBBYING ACTIVITY, IN ACCORDANCE WITH RULE 2.5.1(C), WITHIN 72 HOURS.
  - (2) NEW LEGISLATION INCLUDES AN ENGAGEMENT TO LOBBY FOR AN EXISTING CLIENT ON LOBBYING ACTIVITIES THAT WERE NOT PREVIOUSLY DISCLOSED.
- (B) CHANGE OF POSITION ON LEGISLATION, STANDARDS, RULES, OR RATES
- (1) IF A PROFESSIONAL LOBBYIST TAKES A NEW POSITION ON LEGISLATION, STANDARDS, RULES, OR RATES FOR AN EXISTING CLIENT DURING SESSION, THE PROFESSIONAL LOBBYIST MUST DISCLOSE THE POSITION CHANGE, IN ACCORDANCE WITH RULE 2.5.1(C), WITHIN 72 HOURS.

**2.8.3 DISCLOSURES MADE IN ACCORDANCE WITH THIS RULE 2.8 ARE PROPER WHEN THE PROFESSIONAL LOBBYIST UPLOADS THE NEW LEGISLATION, CHANGE OF POSITION, OR OTHER LOBBYING ACTIVITY TO THE ELECTRONIC FILING SYSTEM.**

**Rule 3. Lobbying Firms**

**3.1 Registration**

3.1.1 There is no registration requirement for a lobbying firm, but a lobbyist-LOBBYING firm must file disclosure statements in accordance with statute and as described in Rule 3.2 below.

**3.2 Disclosure MONTHLY DISCLOSURE STATEMENTS FOR LOBBYING FIRMS**

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 15th 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

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<sup>32</sup>Section 24-6-302 (2-5) (a), C.R.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~~ CONTRIBUTED \$100 OR MORE TO the lobbying firm ~~\$100 or more~~ for lobbying and the amount ~~paid~~ CONTRIBUTED 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, THE STATEMENT MUST INCLUDE a description of the INDIVIDUAL'S business activity ~~in which the individual is engaged~~;
  - (2) If the client or other professional lobbyist is a business entity, THE STATEMENT MUST INCLUDE a description of the ENTITY'S 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, THE STATEMENT MUST INCLUDE a description of the industry, trade, organization; or group of persons, or professional association.<sup>36</sup>
- (b) The total ~~amount of money paid~~ SUM OF CONTRIBUTIONS to ~~or for~~ the lobbying firm RECEIVED FOR LOBBYING ACTIVITIES since the previous disclosure statement and during the fiscal year;<sup>37</sup>
- (c) THE LEGISLATION, STANDARDS, RULES, OR RATES, ON WHICH THE LOBBYING FIRM IS LOBBYING, WHICH INCLUDES:
  - (1) THE OFFICIAL NUMBER OR OTHER DESIGNATION CORRESPONDING WITH THE ACTIVITY MENTIONED ABOVE, IF AVAILABLE. IF THE OFFICIAL NUMBER OR DESIGNATION IS NOT AVAILABLE, THE LOBBYING FIRM MUST DESCRIBE THE NATURE AND SUBJECT MATTER OF THE LEGISLATION, STANDARDS, RULES OR RATES;
  - (2) THE TITLE OR SUBJECT MATTER OF THE ACTIVITY MENTIONED ABOVE; AND
  - (3) WHETHER THE LOBBYING FIRM IS SUPPORTING, OPPOSING, AMENDING, OR MONITORING THE ACTIVITY MENTIONED ABOVE.
- (e)-(d) 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>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)(I), 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.~~

- ~~(d)~~(E) 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>38</sup>
- ~~(e)~~(F) 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>

#### **Rule 4. Complaints and Enforcement**

##### **4.1 FILING A COMPLAINT**

4.1.1 Any person who believes that a PROFESSIONAL lobbyist or lobbyist-LOBBYING firm is not complying with the Colorado Lobbyist Regulation laws or these rules, may file a complaint with the Secretary of State.<sup>43</sup>

4.1.1.1.2 A PERSON MAY FILE A written complaint filed with the Secretary of State, ON THE SECRETARY OF STATE'S APPROVED FORM. AT A MINIMUM, THE COMPLAINT 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), AND ELECTRONIC MAIL ADDRESS, IF APPLICABLE;
- (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 OR DOCUMENTATION.

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

<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) (e), C.R.S.

~~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 will take appropriate action under section 24-6-305, C.R.S.~~

## 4.2 NOTICE OF COMPLAINT

~~4.1.3~~ 4.2.1 Upon receipt of a properly submitted complaint, the Secretary of State DIVISION will:

- (a) Notify ~~the person against whom~~ AND PROVIDE A COPY OF THE COMPLAINT TO THE RESPONDENT ~~the complaint is filed~~ by certified mail OR BY ELECTRONIC MAIL IF ELECTRONIC MAIL IS AVAILABLE; 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.

~~4.1.4 Notification of a complaint in accordance with Rule 4.1.3 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.~~

## 4.3 INITIAL REVIEW

4.3.1 AFTER RECEIVING A COMPLAINT, THE DIVISION WILL CONDUCT AN INITIAL REVIEW WITHIN 21 DAYS. THE DIVISION MAY EXTEND THIS TIME PERIOD TO ALLOW FOR CLARIFICATION AND FURTHER INFORMATION GATHERING. THE DIVISION WILL DETERMINE WHETHER THE LOBBYIST COMPLAINT:

- (A) SPECIFICALLY IDENTIFIES ONE OR MORE VIOLATIONS OF SECTION 24-6-301 ET SEQ. C.R.S. AND
- (B) ALLEGES SUFFICIENT FACTS TO SUPPORT A BASIS FOR THE VIOLATIONS OF LAW ALLEGED IN THE COMPLAINT.

4.3.2 UPON INITIAL REVIEW, THE DIVISION WILL TAKE AT LEAST ONE OF THE ACTIONS BELOW:

- (A) DISMISS THE COMPLAINT IF THE COMPLAINANT FAILED TO SPECIFICALLY IDENTIFY ONE OR MORE VIOLATIONS OF SECTION 24-6-301 ET SEQ. C.R.S., OR ALLEGE SUFFICIENT FACTS TO SUPPORT A FACTUAL AND LEGAL BASIS FOR THE VIOLATIONS OF LAW ALLEGED IN THE COMPLAINT;
- (B) CONDUCT AN INVESTIGATION. IF THE DIVISION DECIDES TO CONDUCT AN INVESTIGATION, IT WILL NOTIFY THE RESPONDENT AND COMPLAINANT IN WRITING OF THE INVESTIGATION.

**4.4 RESPONSE TO A COMPLAINT FILED AGAINST LOBBYIST OR LOBBYING FIRM**

**4.4.1 AT ANY TIME DURING THE DIVISION'S INITIAL REVIEW OR INVESTIGATION, THE RESPONDENT MAY RESPOND TO THE ALLEGATIONS AND PROVIDE OTHER RELEVANT INFORMATION OR DOCUMENTATION. THE DIVISION MAY EXTEND THIS TIME PERIOD TO ALLOW FOR CLARIFICATION AND FURTHER INFORMATION GATHERING.**

**4.5 DIVISION INVESTIGATION**

**4.5.1 THE DIVISION MAY CONDUCT AN INVESTIGATION OF THE ALLEGED VIOLATION.**

**4.5.2 IF THE DIVISION CONDUCTS AN INVESTIGATION, IT WILL DO SO WITHIN 28 DAYS FROM THE DATE OF THE NOTIFICATION SENT IN RULE 4.3. THE DIVISION MAY EXTEND THIS TIME PERIOD AT ITS DISCRETION.**

**4.5.3 IF, AFTER ITS INVESTIGATION, THE DIVISION DOES NOT HAVE REASONABLE GROUNDS TO BELIEVE THAT A VIOLATION OF SECTION 24-6-301 ET. SEQ. C.R.S. HAS OCCURRED, OR OTHERWISE CONCLUDES THAT ENFORCEMENT PURSUANT TO RULE 4.6 IS NOT WARRANTED THEN THE DIVISION MUST MAKE A MOTION TO THE SECRETARY OF STATE OR THEIR DESIGNEE TO DISMISS THE COMPLAINT AS A FINAL AGENCY DECISION.**

**4.6 ENFORCEMENT**

**4.6.1 IF, AFTER ITS INVESTIGATION, THE DIVISION HAS REASONABLE GROUNDS TO BELIEVE THAT A VIOLATION OF SECTION 24-6-301 ET SEQ. C.R.S., HAS OCCURRED, THE DIVISION MAY INITIATE A HEARING WITH THE SECRETARY OF STATE OR THEIR DESIGNEE UNDER SECTION 24-4-105, C.R.S.**

**4.6.2 DURING THE HEARING, THE DIVISION MAY RECOMMEND THAT THE SECRETARY OF STATE OR THEIR DESIGNEE TAKE ANY ONE OR MORE OF THE FOLLOWING ACTIONS:**

- (A) IMPOSE PENALTIES;**
- (B) SUSPEND, REVOKE, OR BAR A PERSON OR ENTITY FROM REGISTRATION;**
- (C) REFER THE MATTER TO THE GENERAL ASSEMBLY;**
- (D) PROVIDE NOTICE TO THE GENERAL ASSEMBLY WHEN A SUBSTANTIAL VIOLATION HAS OCCURRED;**
- (E) APPLY TO THE DISTRICT COURT FOR THE ISSUANCE OF AN ORDER IN ACCORDANCE WITH SECTION 24-6-309(2), C.R.S.; OR**
- (F) DETERMINE ANOTHER REMEDY IN ACCORDANCE WITH SECTION 24-6-301 ET SEQ. C.R.S.**

**4.6.3 FOLLOWING A HEARING UNDER RULE 4.6.1, THE SECRETARY OF STATE OR THEIR DESIGNEE MAY DISMISS THE COMPLAINT OR TAKE ANY OF THE ACTIONS LISTED IN RULE 4.6.1. THE DECISION FOLLOWING A HEARING IS A FINAL AGENCY DECISION.**

~~**4.2 Penalty waiver process**~~

~~**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;
  - (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.

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.~~



~~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.).~~

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

~~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.~~

~~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.~~

~~4.5 If the Secretary of State deems any of the violations contained in Rule 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:~~

~~4.5.1 The extent of noncompliance;~~

~~4.5.2 The purpose of the applicable provision and whether that purpose is substantially achieved despite the alleged noncompliance; and~~

~~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.~~

#### **Rule 5. ~~Electronic Filing Hardship Exemption~~ REQUESTS FOR WAIVER OR REDUCTION OF PENALTIES.**

5.1 A PROFESSIONAL LOBBYIST OR A LOBBYING FIRM MAY ASK THE DIVISION TO WAIVE OR REDUCE A PENALTY AUTOMATICALLY IMPOSED IN THE ELECTRONIC FILING SYSTEM BY SUBMITTING A WRITTEN REQUEST, ON THE SECRETARY OF STATE'S APPROVED FORM, BY ELECTRONIC MAIL OR MAIL WITHIN 30 DAYS OF THE IMPOSITION OF A PENALTY. THE REQUEST MUST INCLUDE:

5.1.1 THE PROFESSIONAL LOBBYIST'S OR LOBBYING FIRM'S NAME;

5.1.2 THE REQUEST DATE;

5.1.3 THE SPECIFIC DISCLOSURE STATEMENT THAT THE LOBBYIST OR LOBBYING FIRM IS REQUESTING A WAIVER OR REDUCTION OF A PENALTY FROM; AND

5.1.4 A BRIEF SUMMARY OF THE REASON, CIRCUMSTANCES, OR OTHER JUSTIFICATION OF THE BONA FIDE PERSONAL EMERGENCY.

5.2 BONA FIDE PERSONAL EMERGENCY

5.2.1 THE DIVISION WILL GRANT A WAIVER UPON EVIDENCE OF A BONA FIDE PERSONAL EMERGENCY.

- 5.2.2 A BONA FIDE PERSONAL EMERGENCY INCLUDES:
- (A) A MEDICAL EMERGENCY INVOLVING THE INDIVIDUAL RESPONSIBLE FOR FILING THE REQUIRED DISCLOSURE REPORT OR THE INDIVIDUAL'S FAMILY.
  - (B) AN NONMEDICAL EMERGENCY THAT MADE THE TIMELY FILING OF A DISCLOSURE STATEMENT AN IMPRACTICABILITY.
- 5.3 THE DIVISION MAY CONSIDER ALL APPROPRIATE FACTS AND CIRCUMSTANCES WHEN GRANTING OR REJECTING A WAIVER REQUEST OR REDUCING AN IMPOSED PENALTY. THE DIVISION MAY ALSO CONSIDER:
- 5.3.1 THE FREQUENCY OF REQUESTS TO WAIVE OR REDUCE A PENALTY WITHIN A TWO-YEAR PERIOD;
  - 5.3.2 EFFORTS TO MITIGATE OR REMEDY THE FAILURE TO FILE;
  - 5.3.3 WHETHER THE DELINQUENT FILER WAS REQUIRED TO REGISTER AS A PROFESSIONAL LOBBYIST; AND
  - 5.3.4 WHETHER THE PROFESSIONAL LOBBYIST OR LOBBYING FIRM DEMONSTRATED A COMMITMENT TO MEET THE REQUIREMENTS OF COLORADO'S LOBBYING LAWS.
- 5.4 THE DIVISION WILL NOT CONSIDER A WAIVER REQUEST AFTER A PENALTY HAS BEEN PAID.
- 5.5 A PROFESSIONAL LOBBYIST OR LOBBYING FIRM MAY REQUEST THAT THE DIVISION RECONSIDER A REQUEST FOR WAIVER OR REDUCTION OF LOBBYING PENALTIES.
- 5.6 WHEN REDUCING A PENALTY, THE DIVISION WILL ROUND TO THE HIGHEST \$20. THE DIVISION WILL NOT REDUCE A PENALTY TO AN AMOUNT LESS THAN \$20, UNLESS IT GRANTS A FULL WAIVER.
- ~~5.1-5.7~~ The ~~Secretary of State~~ DIVISION may grant an exception to the electronic filing requirement based on hardship or good cause shown.
- ~~5.1.1-5.7.1~~ All applications for an exception must include a brief statement of the hardship or good cause for the requested exception.
  - ~~5.1.2-5.7.2~~ A PROFESSIONAL lobbyist OR LOBBYING FIRM must submit WRITTEN DOCUMENTATION ON THE SECRETARY OF STATE'S APPROVED FORM ~~an application~~ to the ~~Secretary of State~~ DIVISION 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 PROFESSIONAL lobbyist OR LOBBYING FIRM must describe the nature of the emergency in the application.
  - ~~5.1.3-5.7.3~~ 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~~ DIVISION may reduce or set the penalty aside WAIVE THE PENALTY in accordance with section 24-6-302(7), C.R.S.
- Rule 6. Contributions to members of the general assembly or elected members of the executive branch during consideration of legislation MISCELLANEOUS PROHIBITIONS APPLICABLE TO PROFESSIONAL LOBBYING.**
- 6.1 PROFESSIONAL LOBBYISTS ARE PROHIBITED FROM MAKING CERTAIN CONTRIBUTIONS, AS OUTLINED IN SECTION 1-45-105.5, C.R.S.

6.2 PROFESSIONAL LOBBYISTS MAY NOT GIVE ANY GIFT OR THING OF VALUE TO ANY PUBLIC OFFICER, MEMBER OF THE GENERAL ASSEMBLY, GOVERNMENT EMPLOYEE, OR TO A MEMBER OF SUCH PERSON'S IMMEDIATE FAMILY, AS OUTLINED IN ARTICLE XXIX, SECTION 3 (4) OF THE COLORADO CONSTITUTION.

~~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~~

~~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>~~

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<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.

<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.

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

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

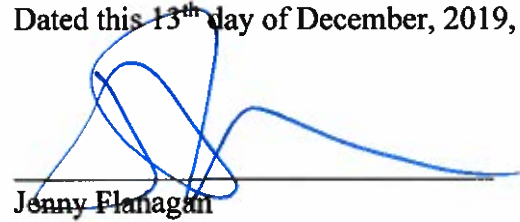
**III. Statement of Justification and Reasons for Adoption of Temporary Rules**

A statement of the Secretary of State's findings to justify adoption of these new and amended rules on a temporary basis follows this notice and is incorporated by reference.<sup>49</sup>

**IV. Effective Date of Adopted Rules**

These new and amended rules are effective on January 1, 2020 on a temporary basis. The rules will become permanently effective twenty days after publication in the Colorado Register.<sup>50</sup>

Dated this 13<sup>th</sup> day of December, 2019,



Jenny Flanagan  
Deputy Secretary of State

For

Jena Griswold  
Colorado Secretary of State

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<sup>49</sup> Section 24-4-103(6), C.R.S. (2019).

<sup>50</sup> Section 24-4-103(5), C.R.S. (2019).



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

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

December 13, 2019

#### I. Basis and Purpose

This statement explains proposed amendments and 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:

In general, rules duplicative of statute have been repealed to match departmental rulemaking standards. Footnotes have also been repealed to match departmental rulemaking standards. Those rules remaining have in some cases been re-ordered to better clarify what is required by rule.

Specific proposed changes include:

- Repeal of current Rules 1.1 through 1.3. These rules are duplicative of statute and do not match departmental rulemaking standards.
- Relocation of current Rule 1.3.2(g) to New Rule 2.2.2(a) to better clarify what is required by rule.
- Repeal of current Rule 1.4. This rule is duplicative of statute and does not match departmental rulemaking standards.
- New Rules 1.1 through 1.4 to ensure uniform and proper administration of lobbyist regulation law in Colorado. We received written comments and testimony on new Rule 1.4 which were concerned that this rule expanded the information that professional lobbyists would need to disclose beyond that currently required by law. Current law, however, already requires that lobbyists disclose work on legislation, regardless of whether or not the general assembly is in session. *See* section 24-6-301 (3.5)(a)(I)(A), C.R.S. (lobbying includes communicating with a covered official on legislation “whether

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

<sup>2</sup> Part 3 of Article 6 of Title 24, C.R.S. (2019).

or not the general assembly is in session”). This rule does not expand on this statutory requirement.

- New Rules 1.8 through 1.9 to ensure uniform and proper administration of lobbyist regulation law in Colorado.
- Repeal of Rule 1.10. This rule is duplicative of statute and does not match departmental rulemaking standards.
- New Rules 2.2 through 2.3 to prescribe the proper use of the electronic filing system maintained by the Secretary of State.
- New Rule 2.4 to better enforce lobbyist regulation law in Colorado.
- Amendments to renumbered Rules 2.5 and 2.6 (formerly Rules 2.2 and 2.2.2) to better prescribe the proper use of the electronic filing system maintained by the Secretary of State and to remove duplicative references to statute to better match departmental rulemaking standards. We received written comments and testimony on several of these rule changes which were concerned that these rules expanded upon the activities that lobbyists are currently required to disclose. However, all of the elements of a monthly disclosure statement and annual disclosure statement found in Rule 2.5 and 2.6 are required by statute. *See* section 24-6-302 (2.5), C.R.S. (monthly statement required); section 34-6-302 (3), C.R.S. (annual statement required); 24-6-301 (1.9), C.R.S. (outlining the required elements of a disclosure statement). These rules do not expand on these statutory requirements.
- Amendments to renumbered Rules 2.7 and 2.8 (formerly Rules 2.2.3 and 2.2.4) concerning new client disclosure and disclosure requirements during the session, to ensure uniform and proper administration of lobbyist regulation law in Colorado, to implement changes required by HB 19-1248, and to remove duplicative references to statute to better match departmental rulemaking standards. We received written comments on these rules asking for clarification of how to file 72-hour reports during the session. Our office will post guidance on the lobbyist program website before the beginning of the next legislative session regarding compliance with this new statutory requirement in the electronic filing system.
- Amendments to Rule 3.2.2 to better prescribe the proper use of the electronic filing system maintained by the Secretary of State and to remove duplicative references to statute to better match departmental rulemaking standards.
- Amendments to Rule 4 to better prescribe the enforcement process the department will take when enforcing lobbyist regulation law in Colorado.
- Amendments to Rule 4.1 to remove duplicative references to statute to better match departmental rulemaking standards.
- Repeal of current Rule 4.2. The waiver process has been restated and moved to Rule 5.



- Repeal of current Rules 4.3 through 4.5. The entire enforcement process has been restated and reordered in Rule 4.
- Amendments to Rule 5 to better prescribe the enforcement process the department will take when enforcing lobbyist regulation law in Colorado, and more specifically, prescribing the process by which the department may grant waivers or reduction of penalties associated with enforcing lobbyist regulation law in Colorado.
- Repeal of current Rule 6. This rule is duplicative of statute and does not match departmental rulemaking standards.
- New Rule 6 to ensure uniform and proper administration of lobbyist regulation law in Colorado.

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.

Written comments received during the formal rulemaking are available online at: [https://www.sos.state.co.us/pubs/rule\\_making/hearings/2019/LobbyistRulesHearing20191115.html](https://www.sos.state.co.us/pubs/rule_making/hearings/2019/LobbyistRulesHearing20191115.html). An audio recording of the public rulemaking hearing is also available online at <http://pub.sos.state.co.us/20191115130410B>. This audio record and written comments are incorporated into the official rulemaking record.

In a separate effort, the Secretary of State’s Lobbyist Program is developing a policy manual to help lobbyists understand and comply with those legal requirements set out in the constitution, statute, and rule. Our office will provide more details and make the manual available to stakeholders online as soon as possible upon conclusion of this rulemaking proceeding.

## **II. Rulemaking Authority**

The statutory and constitutional authority is as follows:

- Section 24-6-303(6.3)(a), C.R.S., (2019), which authorizes the Secretary of State to adopt rules concerning the manner in which reports filed by lobbyists may be filed electronically, including but not limited to the information to be contained in such reports, the procedure for amending such reports, and public access to the electronic filing system.
- Section 24-6-305(2)(b), C.R.S., (2019), which authorizes the Secretary of State to adopt rules and regulations to define, interpret, implement, and enforce the provisions of and to prevent the evasion of the requirements of the Colorado lobbyist regulation law (Part 3, Article 6, Title 24 of the Colorado Revised Statutes).