Colorado Campaign and Political Finance Laws & Filing Requirements







Disclaimer

The Colorado Secretary of State's office does not provide legal advice.

This training was created for reference purposes only.

Information contained in the training is not a substitute for legal advice and actual knowledge of campaign finance laws and regulations.



Topics for Discussion

- Types of Committees
- Contribution Limits
- Disclosure Reports & Filing Schedules
- Disclaimers / Paid for by Statements
- Closing / Terminating a Committee
- Penalties, Waivers, & Complaints
- Miscellaneous Information







Campaign & Political Finance Laws



Article XXVIII of the Colorado Constitution

Title 1, Article
45 of the
Colorado
Revised
Statutes
(FCPA)

Secretary of State's Rules Concerning Campaign & Political Finance

Home Rule Applicability

- These provisions may not apply to you if you're from a Home Rule county or municipality which has its own charter, ordinances, or resolutions regarding campaign finance.
 - Home Rule counties are Denver, Broomfield, Pitkin, & Weld.
- Consult your local government with questions regarding Home Rule

Note: Federal offices such as U.S. President, U.S. Senate, and U.S. Representative are regulated by the Federal Election Commission (FEC) and are not governed by Colorado campaign finance laws.



Candidates & Committees Under Colorado Secretary of State Jurisdiction

Candidates	Committees
 State Candidates Executive Office (Governor/Lt. Gov, Secretary of State, State Treasurer, Attorney General) General Assembly (State Senate and State House) District Attorney State Board of Education CU Regent RTD (Regional Transportation District) 	 State & County Candidate Committees Political Parties Political Committees Small Donor Committees Issue Committees Small-Scale Issue Committees Recall Committees Independent Expenditure Committees 527 Political Organizations
 County Candidates County offices (Assessor, Clerk, Commissioner, Coroner, Sheriff, Surveyor, and Treasurer) Special District School Board 	• Federal PACs (political action committees)



Political Party (State and County)

Definition / Purpose:

 A group of registered electors that nominates candidates for the general election ballot.

Registration Requirements:

Prior to accepting contributions

Prohibited Contributors / Donors:

- Corporations (profit & non-profit)
- Labor Organizations / Unions
- Foreign Citizens
- Foreign Governments
- Foreign Corporations
- Issue Committees
- Small-Scale Issue Committees

Contribution Limits?

Yes.

Note: Report due dates differ for state & county.



Contribution (Donation) Limits made to a Political Party

Contributors	Limits (are based on a calendar year)
Individual or Political Committee	\$4,025 (State, county, district, & local levels combined of which not more than \$3,350 may be given to the state party)
Candidate Committee	\$4,025 (State, county, district, & local levels combined of which not more than \$3,350 may be given to the state party)
Business Entity (Other than a corporation)	\$4,025 (State, county, district, & local levels combined of which not more than \$3,350 may be given to the state party)
Federal PAC or Federal 527 Political Organizations	\$4,025 (State, county, district, & local levels combined of which not more than \$3,350 may be given to the state party)
Small Donor Committee	\$20,325 (State, county, district, & local levels combined of which not more than \$16,925 may be given to the state party)



What a Political Party may give to candidate committees

Contributions to candidate committees by the Political Party	Amount (for the election cycle of the office sought)
Governor / Lt. Governor combined* (4yr.)	\$679,025
Secretary of State* (4 yr.)	\$135,775
Attorney General* (4 yr.)	\$135,775
State Treasurer* (4 yr.)	\$135,775
State Senate* (4 yr.)	\$ 24,425
State House of Representative* (2 yr.)	\$ 17,625
State Board of Education* (6 yr.)	\$ 17,625
Regent of the University of Colorado* (6 yr.)	\$ 17,625
District Attorney* (4 yr.)	\$ 17,625
County (4 yr.) (Assessor, Clerk & Recorder, Commissioner, Coroner, Sheriff, Surveyor & Treasurer)	\$ 22,125
School Director Districts (4 yr.)	\$ 2,500
RTD, special districts, and municipal candidate committees	No Limit currently under state law Municipal candidates should check with their municipal clerk

^{*} No political party shall contribute to a candidate committee more than 20% of the Voluntary Campaign Spending limit, if applicable. The above amounts reflect the 20% limit.



Political Committee (PC)

Definition / Purpose:

 Two or more natural persons or another type of "person" (e.g., a corporation or labor union) who raises or spends more than \$200 to support or oppose the nomination or election of one or more candidates.

Registration Requirements:

 Immediately upon raising or spending in excess of \$200 to support or oppose one or more candidates.

Prohibited Contributors / Donors:

- Foreign Citizens
- Foreign Governments
- Foreign Corporations
- Small-Scale Issue Committees
- Issue Committees

Contribution Limits?

 Yes. Limited to \$625 per person per State House of Representative Election Cycle.





Small Donor Committee (SDC)

Definition / Purpose:

 A form of political committee that accepts only small amounts of money from natural persons who are U.S. citizens.

Registration Requirements:

 Immediately upon raising or spending in excess of \$200 to support or oppose one or more candidates.

Prohibited Contributors / Donors:

 Anyone who is not a U.S. Citizen (natural person)

Contribution Limits?

 Yes. Limited to \$50 per natural person (U.S. citizen) in a calendar year.



Note: A small donor committee does not include a married couple.



Political Committee vs. Small Donor Committee

What are the differences?

Political Committee	Small Donor Committee
Contributions made to candidate committees and political parties are lower than an SDC	Contributions made to candidate committees and political parties are higher than a PC
Intake of contributions limited to \$625 per person per House of Representative Election Cycle	Intake of contributions limited to \$50 in a calendar year from natural persons who are U.S. Citizens
Current cycle: December 4, 2020, through December 8, 2022	Calendar year: January 1st through December 31st

These types of committees do not replace a candidate's candidate committee. Candidates taking contributions (of any kind) for their election would register a candidate committee.



Independent Expenditure Committee (IEC)

Definition / Purpose:

 Any person who raises or spends more than \$1,000 to make an independent expenditure(s) that is not controlled by or coordinated with a political party, candidate or candidate's agent.

Registration Requirements:

 Required within two business days of raising or spending more than \$1,000.

Prohibited Contributors / Donors:

- Foreign Citizens
- Foreign Corporations
- Foreign Governments

Contribution Limits?

No.

Note: Pre-candidates who actively solicit funds for an IEC, 6 months before announcing candidacy, with the intent of benefitting his or her future candidacy are presumed to have coordinated that activity. That activity is considered to be a contribution from the IEC to the candidate's candidate committee and an expenditure by that candidate's candidate committee.

This also prohibits the IEC from making expenditures in that candidate's race.



527 Political Organizations

Definition / Purpose:

 Federal organization created to influence or attempt to influence the election, nomination, selection or appointment of candidates to a state or local office

AND

Is exempt or intends to seek
 exemption from taxation under section
 527 of the IRS code

Registration Requirements:

Prior to accepting contributions

Prohibited Contributors / Donors:

 Not determined by Colorado law; check with IRS or FEC

Contribution Limits?

 No limits imposed under Colorado law. Check with the IRS or FEC.



Federal Political Action Committee (PAC)

Definition / Purpose:

 Political Action Committee registered with the Federal Elections Commission (FEC).

Registration Requirements:

 Must register as a state political committee once contributions or expenditures to support or oppose Colorado candidates exceed \$200 in the aggregate.

Note: See FEC rules about Colorado federal candidates.

Prohibited Contributors / Donors:

 If registered as a state political committee same list as political committee.

Contribution Limits?

 Must adhere to requirements for state political committee (CPF Rule 7.1)



Candidate Committees & Contribution Limits





Contributions to Candidate Committees Statewide – Executive Offices

From To	Governor / Lt. Governor	Secretary of State	Attorney General	State Treasurer
 Individual Political Committee LLC* or Business Entity (other than a corporation) Committee Individual Political Committee LLC* or Business Entity (other than a corporation) Individual Individual	\$625 Primary	\$625 Primary	\$625 Primary	\$625 Primary
• Federal PAC Note: Other permissible contributors are treated like an Individual for contribution limits.	\$625 General	\$625 General	\$625 General	\$625 General
Small Donor Committee	\$6,750 Primary	\$6,750 Primary	\$6,750 Primary	\$6,750 Primary
Committee	\$6,750 General	\$6,750 General	\$6,750 General	\$6,750 General
Political Party	\$679,025 Election Cycle	\$135,775 Election Cycle	\$135,775 Election Cycle	\$135,775 Election Cycle

^{*}Review requirements for LLCs in 1-45-103.7, C.R.S.; Note: Limits combine both monetary and non-monetary.



Contributions to Candidate Committees State Offices – General Assembly

From To	State Senate	State House of Representative
IndividualPolitical Committee	\$200 Primary	\$200 Primary
 LLC* or Business Entity (other than a corporation) Federal PAC 	\$200 General	\$200 General
Note: Other permissible contributors are treated like an Individual for contribution limits.		
Small Donor Committee	\$2,675 Primary	\$2,675 Primary
	\$2,675 General	\$2,675 General
Political Party	\$24,425 Election Cycle	\$17,625 Election Cycle

^{*}Review requirements for LLCs in 1-45-103.7, C.R.S.; Note: Limits combine both monetary and non-monetary.



Contributions to Candidate Committees Other State Offices

From To	State Board of Education	CU Regent	District Attorney	RTD
 Individual 	\$200 Primary	\$200 Primary	\$200 Primary	No limit
 Political Committee 				
 LLC* or Business 				
Entity (other than a corporation)	\$200 General	\$200 General	\$200 General	No limit
 Federal PAC 				
Note: Other permissible contributors are treated like an Individual for contribution limits.				
Small Donor Committee	\$2,675 Primary	\$2,675 Primary	\$2,675 Primary	No limit
	\$2,675 General	\$2,675 General	\$2,675 General	No limit
Political Party	\$17,625 Election Cycle	\$17,625 Election Cycle	\$17,625 Election Cycle	No limit

^{*}Review requirements for LLCs in 1-45-103.7, C.R.S.; Note: Limits combine both monetary and non-monetary.



Contributions to Candidate Committees County Candidate Committees

County candidates include: Assessor, Clerk & Recorder, Commissioner, Coroner, Sheriff, Surveyor and Treasurer.

Type of Donor	Donation Limit
 Individual (Natural Person) 	\$1,250 Primary
 Political Committee 	
 LLC* or Business Entity 	
(other than a corporation)	\$1,250 General
• Federal PAC	
Note: Other permissible contributors are treated like an Individual for contribution limits.	
Small Donor Committee	\$12,500 Primary
	\$12,500 General
Political Party	\$22,125 Per Election Cycle

^{*}Review requirements for LLCs in 1-45-103.7, C.R.S.

Contributions to Candidate Committees School District Director

House Bill 22-1060 created contribution limits for School Board District Directors; Signed by the Governor on 04-13-2022; **Effective July 1, 2022**

Type of Donor	Donation Limit
· Individual (Natural Person)	\$2,500
 Political Committee 	For the entire Election cycle
 LLC* or Business Entity 	
(other than a corporation)	
· Federal PAC	
Note: Other permissible contributors are treated like an Individual for contribution limits.	
Small Donor Committee	\$25,000
	For the entire Election cycle
Political Party	\$2,500
	For the entire Election cycle

^{*}Review requirements for LLCs in 1-45-103.7, C.R.S.







Basic Disclosure Practices



Contributions and Donations & Expenditures and Spending





TRACER Home



Where filings, such as registrations, candidate affidavits, & disclosure reports are done online.

https://tracer.sos.colorado.gov



Data entry options

 Manual entry directly into the TRACER website (suggested)

OR

- Importing data using:
 - Excel Spreadsheet format
 - XMI format
- If considering an import option contact the support team to:
 - Discuss the pros & cons of use based on the committee's activity level & technical skill
 - Obtain specification documents & templates
- A test file must be submitted, 2 to 4 weeks before first use, for testing and approval by staff.



Filing Frequency & Schedules



<u>Frequent Filers – Even Calendar Years</u>

- Political Parties
- Political & Small-Donor Committees
- Independent Expenditure Committees
- 527 Political Organizations
- Federal PACs





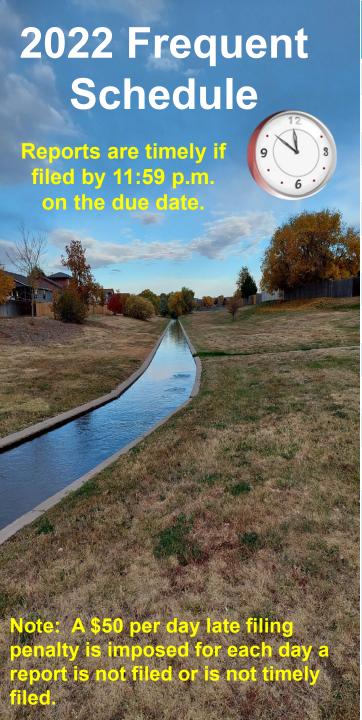
<u>Infrequent Filers – Odd Calendar Years</u>

- Political Parties
- Political & Small-Donor Committees
- Independent Expenditure Committees
- 527 Political Organizations
- Federal PACs

Even Years	Odd Years
State / Statewide Jurisdiction – up to 12 times	State / Statewide Jurisdiction – Qtrly 4 times
County Jurisdiction - 6 times	County Jurisdiction – Annually (1 time)

Notes:

- If these committees participate in the Biennial School Election (held in November of the odd calendar year), then the committees must notify CPF staff and switch to the frequent Biennial School Election Schedule.
- Committees associated with special district elections will have a frequent schedule in odd calendar years.



State / Statewide Frequent Schedule

Frequent Schedule

May 2, 2022 Ju

May 16, 2022

May 31, 2022

June 13, 2022

June 27, 2022

August 1, 2022

September 6, 2022

September 19, 2022

October 17, 2022

October 4, 2022

October 31, 2022

December 13, 2022*

June 7, 2022

County

June 24, 2022

July 28, 2022

October 18, 2022 November 4, 2022

December 13, 2022*

Election Days in 2022:May 2, 2022 – Special District

- June 28, 2022 Primary Election
- November 8, 2022 General Election
- * Date changed from December 8, 2022, to

December 13, 2022, due to new legislation.

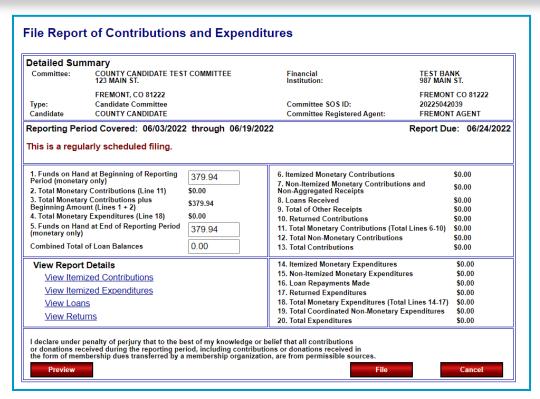
Notes:

- **24-Hour Major Contributor reports**, for political parties, starts 30 days before the Primary and General Election. (1-45-108(2.5), C.R.S.)
- **48-Hour Independent Expenditure reports**, for IECs, starts 30 days before the Primary and General Election. (1-45-107.5(4)(c), C.R.S.
- Electioneering Communication time period starts 30 days before the Primary Election and continues until the day before the General Election. This is part of your standard disclosure report.

For reporting periods and other important information, log into your TRACER account. Or visit the Filing Calendar page.



Disclosure Reports



Notes:

Committees are required to file disclosure reports for every reporting period, even if no activity has occurred, until a termination report is filed. This also applies to unsuccessful candidate committees.

Special district candidates and their candidate committees have thresholds for disclosure reporting, please review CPF Rules 4, 7, and 16 for more details.

Regularly Scheduled

 Have specific due dates (1-45-108(2), C.R.S.)

Amendment(s)

 May be done at any time for corrections or updates; highly recommended to contact CPF staff for assistance

Supplemental

 Time sensitive & large transaction notices

Termination report

- Closes the committee and must have a zero balance, and
- No outstanding debts or obligations including penalties, and
- No open and/or unresolved CPF Complaints



Contributions / Donations

Are:

- Payments, loans, pledges, gifts or advances of monies
- Payments made to a third party
- Fair market value of any gifts or loans of property (In-kind items)



Colo. Const., Article XXVIII, Section 2(5); 1-45-103(6) & (7.3), C.R.S.; CPF Rule 10.4

Types – counted when:

- Cash / Money Orders (or equivalent) – Date it's in possession of the recipient
- Checks At the earliest on the date received or at the latest the date deposited
- Credit Cards (e.g. PayPal) Date contributor/donor authorizes payment
- Non-monetary (in-kind) Date recipient has right to possess, takes possession, or uses item
- Lobbyist Leaves the possession of the lobbyist



Basic Disclosure Requirements

Contributions / Donations

- Must report all; including those under \$20 (non-itemized)
- \$20 or more (aggregate or at one time), within a reporting period, must be itemized. Itemized means listing:
 - Name & address of contributor/donor
 - Occupation & Employer, if from a natural person & the amount is \$100 or more (at one-time)
- Currency or coin contributions may not exceed \$100
- Monetary and non-monetary (inkind) contributions are combined for contribution limits, if applicable

- Checks received five business days prior to the end of the reporting period must be deposited or returned by the close of the reporting period – CPF Rule 10.4.1
- Anonymous contributions/donations of \$20 or more are prohibited (\$250 for IECs) – CPF Rule 10.8
 - Tip: To ensure that your contributors/donors do not exceed contribution limits, if applicable, you should obtain name and address for every contribution/donation
- Independent Expenditure
 Committee's itemize at \$250 or more

Contributions, Donations, or Transfers by Covered Organizations

A Covered Organization means a:

- Corporation
- Entity organized under Section 501(c) or 527 of the Internal Revenue code,
- A Labor Organization, or
- An Independent Expenditure Committee

A Covered Organization that makes an earmarked contribution, donation, or transfer of \$10,000 or more (at one-time or in the aggregate), during a calendar year, to anyone for the purpose of an Independent Expenditure or Electioneering Communication must provide the recipient of the contribution, donation, or transfer an Affirmation Statement.

The recipient of the affirmation statement is required to keep the statement for one (1) year after the election cycle ends.



Affirmation Statements by a Covered Organization

Affirmation Requirements				
For Profit	Non-Profit	IEC		
 Name of the Covered Organization & principal place of business Amount given Name and current residence or business address for each Beneficial Owner who owns more than five (5) % of the Covered Organization If a Beneficial Owner is another legal entity than that entity's Beneficial Owners are also listed on the affirmation. 	 Name of the Covered Organization & principal place of business Amount given A list of persons who transferred \$5,000 or more to the Covered Organization and who earmarked that transfer for the purpose of an Independent Expenditure or Electioneering Communication (within the preceding 12-month period) 	 Name of the Covered Organization & principal place of business Amount given 		



Affirmation Statements by a Covered Organization - Continued

All Covered Organization Affirmation Statements must have a certification statement by the chief executive officer or person who is the head of the Covered Organization that states the contribution, donation, or transfer is not made in cooperation, consultation, or in concert with or at the request or suggestion of a candidate, authorized committee, or agent of a candidate, political party, or agent of a political party.

Who is a Beneficial Owner?

• It means a corporation's officers, directors, and owners of more than five (5) percent of the corporation.

Redaction of a natural person's name from an Affirmation Statement

A Covered Organization may redact a natural person's name from the affirmation statement only if that person affirms under oath that they believe there is a reasonable probability that they will be subject to harm, threats, harassment or reprisals if their name is disclosed. The Covered Organization must retain the oath for one (1) year and is required to provide the oath to the SOS office in response to an investigation of a campaign finance violation.

Note: Affirmation Statements and Requests for Redaction forms are available on the <u>TRACER forms</u> page.



Contribution Scenarios

- Adam gives a \$25 cash contribution on January 16th and it's deposited on that same day.
 - Is the date the same if deposited on the 17th?
- Brad gives a \$75 contribution by check on Friday and it's deposited on the following Tuesday.
- Carol gives a laptop valued at \$1,000 on January 19th.
- Edward authorizes a \$100 credit card contribution via PayPal on January 26th and it's deposited into the committee's bank account on January 27th.

Received Date January 16th

Yes, because it was cash

Not later than Tuesday (but could be reported on the receipt date of Friday)

January 19th

January 26th



Contribution Entry – Scenario # 1

John Smith has made 3 cash contributions totaling \$15.00 in a single reporting period.

The reporting period for this scenario is the 1st Quarter of the year (January 1st through March 31st).

Itemized or non-itemized. If itemized aggregate = \$5.00.

Itemized or non-itemized. If itemized aggregate = \$10.00.

Itemized or non-itemized. If itemized aggregate = \$15.00.

TRACER tracks a contributor's / donor's aggregate total <u>if</u> all transactions for that contributor / donor have been entered and itemized in chronological order. Aggregate totals can be overridden as necessary.

Note: EDI import users must track and input the aggregate totals into their import file.

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Contribution Entry - Scenario # 2

Jane Martin has made 2 contributions totaling \$115.00 in a single reporting period.

The reporting period for this scenario is the 1st Quarter of the year (January 1st through March 31st).

Feb. 5^{th} = \$15.00

Non-monetary (in-kind) contribution of office supplies, such as pencils, pens, envelopes, etc.

How is this reported?



Need not be itemized, because Jane's total contributions this reporting period have not yet exceeded \$19.99. If itemized, aggregate = \$15.00.

Mar. 3rd = \$100.00 Check contribution

How is this reported?



Must be itemized because Jane's total contributions this reporting period have exceeded \$19.99. Aggregate = \$115.00. Occupation & Employer is also required because this is a one-time contribution of \$100 or more.

TRACER tracks a contributor's / donor's aggregate total <u>if</u> all transactions for that contributor / donor have been entered and itemized in chronological order. Aggregate totals can be overridden as necessary.

Note: EDI import users must track and input the aggregate totals into their import file.

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Contribution Entry - Scenario # 3

Suzie Q has made 2 contributions totaling \$110.00 in a single reporting period.

The reporting period for this scenario is the 1st Quarter of the year (January 1st through March 31st).

Must be itemized. Because Suzie's total contributions this reporting period have exceeded \$19.99.

Aggregate = \$100.00. Occupation & Employer information is also required.

Must be itemized. Total contributions this reporting period have exceeded \$19.99. Aggregate = \$110.00.

TRACER tracks a contributor's / donor's aggregate total <u>if</u> all transactions for that contributor / donor have been entered and itemized in chronological order. Aggregate totals can be overridden as necessary.

Note: EDI import users must track and input the aggregate totals into their import file.



How to Report Silent Auction Contributions / Donations

George Garcia gives you a \$100 gift certificate to The Brown Palace Hotel and Spa for your silent auction event. Mary Adams purchases the gift certificate for \$200; how would you report this?

Option 1:

At the time you receive the gift certificate report a \$100 in-kind contribution from George.

Then

Report a monetary contribution of \$100 from Mary. The amount over and above the item's cost (fair market value). The other \$100 is reported as other receipts and does not count against Mary's contribution limit, if applicable.

Option 2:

Hold off reporting George's nonmonetary contribution until it sells at the auction.

The gift certificate's fair market value is determined by the purchase price, \$200. George's non-monetary contribution becomes a monetary contribution of \$200.

Mary has not made a contribution.

Note: See the Campaign Finance training manual for more information about silent auctions and fundraising.



Limited Liability Company (LLC) Contributions

LLC contributions to political committees, candidate committees, and political parties are prohibited if any of the members are a prohibited contributor type.

Also, prohibited to candidate committees and political parties if the LLC is taxed like a corporation or its shares are publicly traded.

LLC Duties	Recipient Committee Duties
Provide written <u>affirmation statement</u> when making contribution	Retain affirmation statement for 1 year after the end of the election cycle
 Affirmation statement must include: Name & address of all LLC members How to attribute the contribution among the LLC members Based on percentage of ownership at the time of the contribution If \$100 or more include occupation & employer 	Remember amounts attributed to LLC members count toward their contribution limit as an individual person (if limits applicable)
LLC contributions must abide by contribution limits (for both the LLC and the individual LLC members)	Itemize all LLC contributions regardless of the amount



Limited Liability Company (LLC) Contributions

- For Campaign Finance purposes Limited Liability Company (LLC) only means:
 - Domestic Limited Liability Company
 - Defined by 7-90-102(15), C.R.S.

And

- Foreign Limited Liability Company
 - Defined by 7-90-102(24), C.R.S.



LLC Contribution Scenario

In this scenario the contribution is made to either a candidate committee, political party, or political committee.

- J & J Plumbing LLC has made 1 contribution totaling \$400.00 in a single reporting period (1st Quarter report)
- David and Danny Jones are the only 2 members of the LLC
- Both own 50% of the LLC
- David has never contributed before, and Danny previously gave a personal contribution of \$100 (during the 4th quarter)

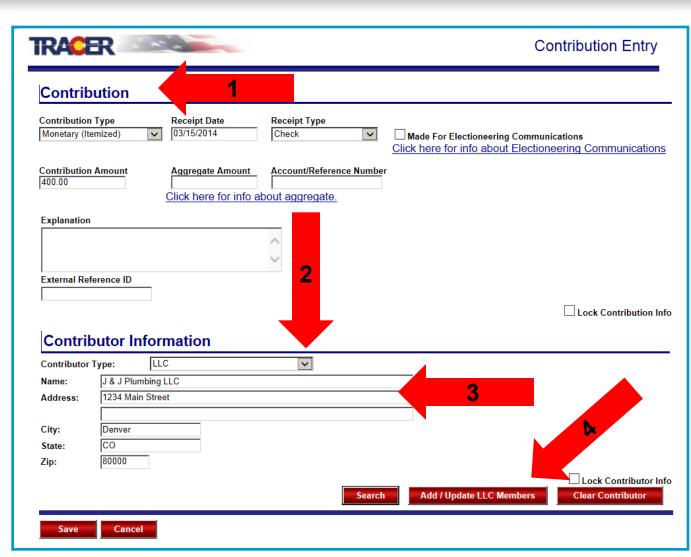
How is this reported?



How to Report an LLC Contribution

It must be reported as an LLC contribution and attributed to each of the members.

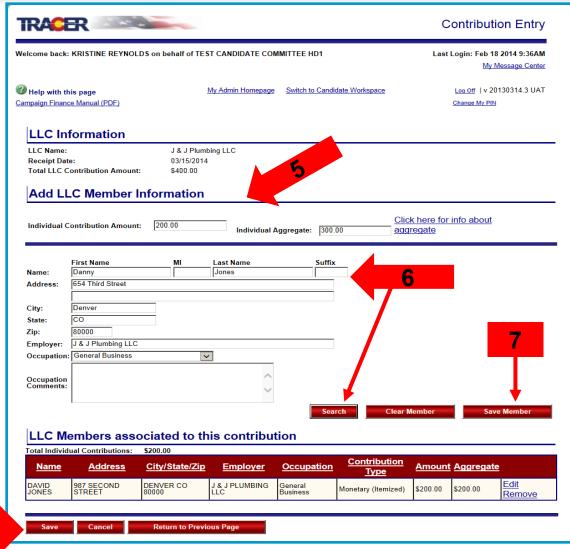
- 1. Enter contribution information
- 2. Select LLC for the Contributor Type
- 3. Enter LLC information or use the Search button if they've contributed before (click on name to select)
- 4. Click on the Add/Update LLC Members button





How to Report an LLC Contribution Continued

- 5. Enter amount of first LLC member's contribution
- 6. Enter name & address of member or use the *Search* button if they contributed previously (click on name to select)
- 7. Click the Save Member button member information will be saved & displayed. Repeat Steps 5 thru 7 to add more members.
- 8. Click the red *Save* button when all LLC members are added







QUESTIONS



Disclosure Requirements

Expenditures / Spending

- Must report all; including those under \$20 (non-itemized)
- \$20 or more (aggregate or at onetime), within a reporting period, must be itemized. Itemized means listing:
 - Name & address of payee (to whom payment was made)
 - Purpose of expenditure
- Independent Expenditure
 Committees itemize at \$250 or more
- Currency or coin expenditures may not exceed \$100



- Expenditures controlled by or coordinated with a candidate or the candidate's agent are deemed to be both contributions by the maker of the expenditures, and expenditures by the candidate's committee.
 - The candidate committee reports a non-monetary (in-kind) contribution from the maker of the expenditure and
 - A non-monetary (in-kind)
 expenditure to the person or
 entity receiving payment from
 the third-party



Expenditures / Spending

Can be the:

- Purchase, payment, distribution, loan, advance, deposit, or gift of money to influence, support, or oppose candidates or ballot issues or questions
- Funds should be used in accordance with the purpose of the committee. If a complaint is filed against you – can you provide a reasonable explanation for the expenditure?

Independent Expenditures

 These are made without the support of or with the coordination of a candidate, candidate committee or it's agent.

Made & counted when:

- The actual spending occurs OR
- A contractual agreement has been made and the amount is known

Whichever comes first



Note: The law does not provide a list of permissible or prohibited types of expenditures. Funds can't be used for personal purposes except as outline by 1-45-103.7(6.5), C.R.S. for a candidate's reasonable and necessary child / dependent care expenses.



What is the expenditure date?

Expenditure Scenarios

- You purchase office supplies totaling \$45 from Office Max on February 19th. What is the expenditure date?
- On March 5th you enter an agreement with 'Campaigns are us' to print \$1,000 worth of postcards for a mailing. You receive the invoice on March 30th. What is the expenditure date?
- Volunteers are working late on Election eve, and you call out for pizza. The cost is \$130. What is the expenditure date? For bonus points - can you use currency/coin for the entire amount?

Disbursement Date

February 19th

March 5th. Although you didn't get the invoice and send payment until March 30th you entered into an agreement and knew the amount on March 5th so the expenditure date is March 5th. Remember you have to use the earliest date.

Election eve. Up to \$100 of the \$130 can be made in currency or coin but no more. Another form or payment would be required for the remaining \$30 if \$100 was paid in currency/coin.



Sign Placement

Sign Placement - check with:

- The city's / county's zoning or code enforcement office
- CDOT (Colorado Department of Transportation)
- HOA (Homeowner Association)

Vote for X candidate for Y Office

Paid for by X candidate committee; Registered Agent John Doe



Note: Colorado's Campaign Finance Laws/Rules do not address sign placement locations or time frames when signs may be put up and/or must be removed.



"Paid For By" Statements

THE SECRETARY OF STATE'S OFFICE SUGGESTS THAT <u>ALL</u> COMMUNICATIONS CONTAIN A DISCLAIMER / PAID FOR BY STATEMENT.

Disclaimer / "Paid for By" Statements are required for the following types of communications:

Broadcast & Non-Broadcast	Placed on a website
Mailed	Steaming media service
Printed	Online forum for a fee
Delivered	Otherwise distributed

Did you know about, or have you read through the Secretary of State's <u>Guidance on Disclaimer</u> <u>Statements</u> document?

No? Then then click here or visit the Campaign Finance page of the SOS website.

TV & Radio Ads / "Paid for By" Statements

Must comply with the Federal Communications Commission (FCC)
 Sponsorship Identification or "Sponsored by" regulations. Click <u>here</u> to visit the FCC website.

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"Paid For By" Statements Continued – When need

Electioneering Communications

 Spends \$1,000 or more, in the aggregate during a calendar year, on Electioneering Communications

Independent Expenditures

Spends in excess
 of \$1,000 on an
 Independent
 Expenditure
 Communication in
 the calendar year

Other Communications

Spend in excess of \$1,000 on a communication that must be disclosed under Article XXVIII of the Colorado Constitution or the Fair Campaign Practices Act -C.R.S. 1-45



"Paid For By" Statements / Disclaimer Requirements - Continued

Non-Broadcast Communications including Online Communications

- Must appear in a manner that is clear, conspicuous, and is clearly readable,
- A statement that "The communication has been paid for by (full name of the person paying for the communication)",
- Name of the natural person who is the registered agent if the person that paid for the communication is not a natural person,
- For an Independent Expenditure, a specific statement that the communication is not authorized by any candidate,
- Font is no less than 15 percent of the largest font used in the communication. If 15 percent is less than 8-point font, then the font may not be less than 8-point font.







"Paid For By" Statements / Disclaimer Requirements

Broadcast Communications including Online Video and Audio

- Must comply with the Federal Communications Commission (FCC) for size, duration and placement. Click <u>here</u> to visit the FCC website for their requirements.
- A statement that "The communication has been paid for by (full name of the person paying for the communication)"

















"Paid For By" Statements / Disclaimer Requirements Continued

Electronic or Online Communications

If impracticable to include a disclaimer on an electronic or online communication, the required disclaimer must be available by means of a direct link from the communication to a web page or application screen containing the disclaimer statement.

Direct link disclaimer requirements:

- Same as the Non-Broadcast communication requirements for size and content,
- The information on the direct link must be clearly and conspicuously displayed, and must be immediately apparent on the screen without receiving or viewing any additional material

"Paid For By" Statements / Disclaimer Requirements Continued

Campaign and Political Finance Rule 22

A disclaimer / paid for by statement does not apply to bumper stickers, pins, buttons, pens, and similar small items upon which the disclaimer cannot be reasonably printed













QUESTIONS



Supplemental Reports

TYPES OF ELECTIONEERING COMMUNICATIONS					
Electioneering Communication	Vs.	Regular Biennial School Electioneering Communication			
Communications referring to one or more candidates for <u>ANY</u> state or local public office (including a judge or justice).		Communications referring to one or more candidates ONLY in a Regular Biennial School Election.			
Communications are broadcasted, printed, mailed, delivered, or distributed starting 30 days before a Primary election and continues until the day before the General election. A Primary and General election are held in even-calendar years.		Communications are broadcasted, printed, mailed, delivered, or distributed within 60 days before the Regular Biennial School Election The Regular biennial School Election is held in November of odd-calendar years.			
Disclosure includes method of communication (e.g. billboard, TV, radio, etc.) and who it was about.		Disclosure includes method of communication (e.g. billboard, TV, radio, etc.) and who it was about.			
If done by a registered committee, this may be included as part of the regularly scheduled report.		If done by a registered committee, this may be included as part of the regularly scheduled report.			

Note: Issue Committees and Small-Scale Issue Committees are excluded because Electioneering Communications only refer to candidates and not ballot measures.



Electioneering Communication Test

- 1. Was \$1,000 or more spent on Electioneering Communication during the calendar year?
- 2. Does the communication refer to a candidate or candidates?
- 3. Does the communication occur between one of the following time frames:
 - Even Year: Thirty (30) day before the primary election <u>until the day before the</u> <u>general election</u>

Or

- Odd Year: Sixty (60) days before a <u>regular biennial school</u> election?
 Note: Regular Biennial Electioneering Communication only mentions school board candidates.
- 4. Is the communication broadcast by television or radio, printed in a newspaper, magazine or other periodical, on a billboard, or otherwise distributed (such as mailing, hand delivery, etc.) to members of the electorate?

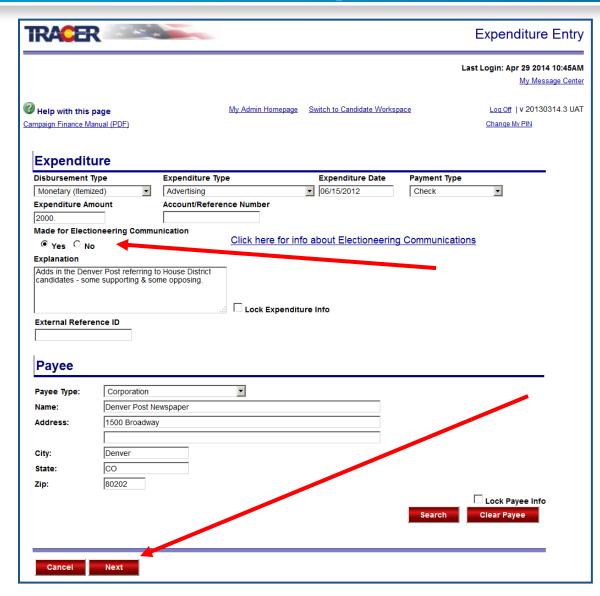
If you answered <u>YES to all of the above questions</u> then an electioneering communication report is likely required.

Registered candidates and/or committees may file this information with their regular scheduled reports.



- News articles, editorial endorsements, opinion or commentary writings or letters to the editor so long as the publication is not owned or controlled by a candidate or political party
- Editorial endorsements or opinions aired by a broadcast facility not owned or controlled by a candidate or political party
- Communication by a person made in the regular course and scope of their business
- Communication made by a membership organization solely to members of such organization (and their families)
- Communication referring to candidates only as part of a popular name of a bill or statute

Report an Electioneering Communication Expenditure in TRACER



On the first page of the Expenditure Entry pages complete all required fields and check the Yes radio button to mark the expenditure as electioneering communication.

Then click the red *Next* button, at the bottom of the page, to complete the data entry.

Report an Electioneering Communication Expenditure in TRACER

Complete by adding:

- Date(s) for the communication
- Select method of communication
- Search for the candidates mentioned; select them by clicking on their name when shown
- If not found, enter them manually to add them to the report
- Click on the red Save button
- Confirmation of expenditure will display

Dates of Communication:	06/	/20/2012 thru 06/25	/2012				
Method of Communication	: Ne	ewspaper	,				
•							
Candidates Asso	ociated	l to this Ex	penditure				
Candidate First Name:				lame:			
Candidate Party:	Se	elect a party	,	1	•		
Search	£			-			
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Search Results							
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:-4 - 5 0 11 d - 4 A -	!_44	4-46	-114				
Candidate Name	<u>Party</u>	<u>Office</u>	<u>District</u>	Jurisdi		Election Ye	_
				Jurisdio STATEWID		Election Ye	ar Remove
Candidate Name TESTCANDIDATE TEST	Party Democratic	Office Colorado House	District House District 01	STATEWID	E	2014	Remove
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Candidate Name TESTCANDIDATE TEST f a candidate cannot be lo Candidate First Name:	Party Democratic	Office Colorado House ugh searching, en	District House District 01	STATEWID on below and	d click "	2014 Add to Report"	Remove
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Supplemental Reports Continued

24-Hour Notice of Major Contributor

A Major Contribution is a one-time contribution of \$1,000 or more received within 30 days before a **Primary Election**, **General Election**, and **Regular Biennial School election**.

Applies to:

- Political Parties regardless if they are or are not participating in an election. Note: effective Aug. 9, 2022, parties will no longer be required to file MC reports in the off-election year (odd calendar years).
- Candidate Committees only during the year the candidate's office appears on the ballot. *Note:* this includes contributions / loans a candidate gives to their own committee.
- Issues committees excluded during the 30-day time period before a Primary Election

48-Hour Notice of Independent Expenditure

Required when an Independent Expenditure(s) is made within 30 days before a **Primary Election, General Election, and Regular Biennial School Election**.

Note: Applies only to Independent Expenditure
Committees

TRACER creates these reports once a qualifying contribution or expenditure is entered/saved. Major Contribution reports are due within 24-hours of the recorded received date and 48-Hour Independent Expenditure reports are due with 48 hours of the recorded expenditure date.

Note: Correcting or updating a date on a major contribution or independent expenditure may create multiple reports for the same transaction. Please call the help desk for assistance before making changes.



Major Contribution Scenarios Before the Primary Election

May 29, 2022, starts the 30-day major contributor time period before the primary election on June 28, 2022.

Scenario 1: Donor X gives you a \$1,250 contribution via check on May 26th and you deposit it on May 27th; are you required to file a major contributor report? If so, when is the report due?

Scenario 2: Donor Y gives you a \$1,050 contribution via check on May 31st and you deposit it on June 2nd; are you required to file a major contributor report? If so, when is the report due?

No major contributor report is due because the contribution was not received or deposited within 30 days of the Primary election. Yes, a major contributor report is due because 1) the contribution was \$1,000 or more and 2) the deposit was within 30 days of the Primary election.

The report is due within 24 hours of the receive date input into TRACER.



Major Contribution Scenarios Before the Primary Election

May 29, 2022, starts the 30-day major contributor time period before the primary election on June 28, 2022.

Scenario 3: A candidate gives their own candidate committee a contribution or loan of \$1,500 via check on May 27th and it's deposited on June 1st; is the committee required to file a major contributor report? If so, when is the report due?

Scenario 4: Donor Z gives you a \$900 contribution via check on June 2nd and you deposit it on June 3rd, are you required to file a major contributor report? If so, when is the report due?

A report may be due depending on the reported received date of the contribution. If the reported date is May 27th, then no report is due; if the reported date is the June 1st a report is due within 24 hours.

No major contributor report is due because the amount contributed is less than \$1,000.



Major Contribution Scenarios Before the General Election

October 9, 2022, starts the 30-day major contributor time period before the General election on November 8, 2022.

Scenario 5: You collect a total of \$1,000 at your October 12th fundraiser. The \$1,000 is made up of \$10 contributions from 100 contributors. You deposit it on October 14th.

Are you required to file a major contributor report? If so, when is the report due?

No report is due. Although \$1,000 was raised and deposited, no single contributor contributed \$1,000 or more.

These contributions may be reported as itemized or non-itemized depending on how much each individual contributors has given during the report period.

Scenario 6: Jack Be Nimble gives you a \$400 contribution on October 10th and another \$750 on October 18th; are you required to file a major contributor report? If so, when is the report or reports due?

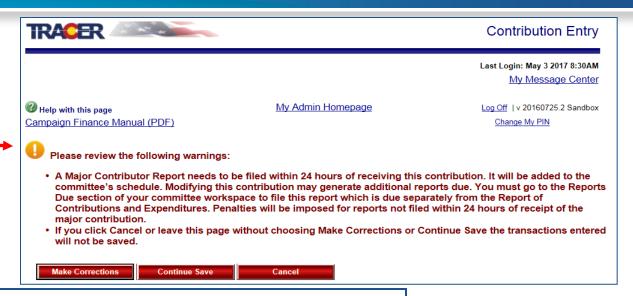
Although Jack contributed more than a \$1,000 within 30 days of the General election, no single contribution was equal to or greater than \$1,000; therefore, no major contributor report(s) is required.



Major Contribution Notice / Report in TRACER

When you save a major contribution, you'll get this message.

Click the *Continue*Save button to save the contribution.





To file the MC report, go to the *Reports Due* grid on the *Overview* or *File Reports* tabs.





QUESTIONS

Closing a Committee Unexpended Campaign Contributions

These are the funds left over after the election

Candidate Committee

- Personal use prohibited (except as allowed by 1-45-103.7(6.5), C.R.S.)
- Permissible
 - Retain for use in a subsequent election (limits may apply see CPF Rule 2.2.4)
 - Reimburse Candidate for their expenditures
 - Contribute to the political party, subject to contribution limits
 - Return to contributors (no more than what was contributed)
 - Donate to a charitable organization recognized by the IRS
 - Review 1-45-106 C.R.S. for additional options

Issue Committee / Small-Scale Issue Committee

- Return to contributors (no more than what was contributed)
- Donate to a charitable organization recognized by the IRS

Other committee types (e.g., Political Party, Political Committee, Small Donor Committee, IEC, Fed Pac, and 527)

- The law is silent on this subject
- Keep in mind the purpose of the committee when disbursing these funds (to terminate)



Penalties / Waiver Requests

Imposed Penalties

Penalties of \$50 per day, including weekends and holidays, are imposed every day a report is late.

Appealing Penalties

Written appeals may be submitted to the appropriate filing officer, no later than 30 days after the date the notification of penalty was mailed.

Most penalties are commonly imposed for delinquent or non filings of:

- Personal Financial Disclosures
- Disclosure Reports



Penalty may be reduced or waived if good cause is shown – See CPF Rule 18 for details.



But the

dog ate

my check

book



Campaign Finance Complaints

- Complaint Process is established by Colorado law 1-45-111.7 C.R.S.
- Anyone who believes a violation of Colorado
 CPF law has occurred can file a complaint
- Complaints cannot be filed anonymously
- Complaints are public information
- Complainants are not a party to the proceedings
- Complaints may be initiated by the Elections Division's Enforcement Unit

Campaign Finance Complaints Continued

CPF Complaints Must:

- Be filed on the Campaign and Political Finance Complaint form
- Identify a complainant and a respondent
- Be filed within 180 days of when you knew or should have known of the alleged violation
- Allege one or more violations of campaign finance regulations or law
- State sufficient facts to support a legal and factual basis for the complaint

Campaign Finance Complaints Continued

- Complaint process & outcomes:
 - Cure
 - Investigation
 - Dismissal
 - Administrative Hearing
- Administrative Hearings can result in a monetary penalty
- Complaint process is detailed in 1-45-111.7 C.R.S.

Note: Please review and address TRACER audit warnings when filing as they can be the basis for the Election Division's Campaign Finance Enforcement Unit to initiate enforcement action(s).



There's more? What else?

- Modify "Fish Bowls" & "Pass the Hat" events to avoid anonymous contributions/donations –
 anonymous contributions may not be kept must be given to an IRS recognized charity or
 forwarded to the State Treasurer's office (see CPF Rule 10.8).
- Use the Fair Market Value for non-monetary (in-kind) contributions.
- Records must be kept for 180 days after the election, unless a complaint is filed then
 records must be kept until the complaint is settled (LLC and Cover Organization affirmations
 must be kept for one year after the election).

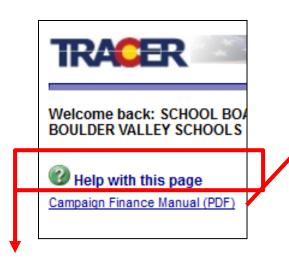


- Changes to registration, especially email, must be done within 10 days of the change; otherwise, important notices like changes to the law, report reminders, confirmation of filings, imposed penalties, etc., may not be timely received.
- It's the responsibility of the candidates and/or agents to know the disclosure schedule; don't rely solely on courtesy email reminders. Add reminders to your outlook, smartphone, write it on a calendar.



TRACER Resources

"Help with this page" link



Help page results

Viewing a Candidate or Committee

You can access the Candidate/Committee Overview page to view the account status, transaction his reports due, file a report that is due, add or modify a penalty or waiver, and request a waiver.

Tasks

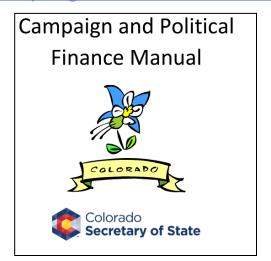
To access the Candidate/Committee Overview page:

1. Perform the steps for Searching for a Candidate or Committee

The Candidate/Committee Search Results page is displayed.

2. Click the link in the Candidate/Committee Name column of the data grid for the Candidate

Campaign Finance Manual



Learn to Use TRACER webinars





Additional Resources

State	Federal
State of Colorado http://www.colorado.gov/	Federal Election Commission (FEC) <u>www.fec.gov</u>
Colorado General Assembly www.leg.colorado.gov	Federal Communications Commission (FCC) https://www.fcc.gov/media/policy/political -programming
The Independent Ethics Commission www.colorado.gov/pacific/iec	Internal Revenue Service (IRS) www.irs.gov
LexisNexis by Colorado Legal Resources http://www.lexisnexis.com/hottopics/colorado	U.S. Office of Special Counsel – Hatch Act Overview https://osc.gov/Services/Pages/HatchAct .aspx



Thank You



Campaign Finance Guidance Support Team

E-mail:

CPFhelp@coloradosos.gov

Phone:

303-894-2200 (Dial 3, then 1)

TRACER website:

https://tracer.sos.colorado.gov

Campaign Finance Complaints / Enforcement Team

E-mail:

CPFcomplaints@coloradosos.gov

Phone:

303-894-2200 ext. 6338