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.



Resources

- <u>Campaign Finance</u> page on Secretary of State's (SOS) website
- <u>TRACER</u> (Transparency in Contribution and Expenditure Reporting) website
- Colorado Campaign and Political Finance Manual available on TRACER and the SOS website (and includes the laws and rules)
 - Article XXVIII of the Colorado Constitution,
 - Title 1, Article 45 of the Colorado Revised Statute (a.k.a. the Fair Campaign Practices Act), and
 - Rules Concerning Campaign and Political Finance
- Training Opportunities <u>Click here to visit the training page</u>
 - Online eLearnings (CPF 101)
 - TRACER Webinars (<u>Learn how to use TRACER</u>)
 - <u>Lawn Chair Chats</u> Informal discussions, via Zoom, to discuss Colorado's Campaign Finance laws/rules and TRACER (functions and demonstrations).
- Campaign Finance Support Help Desk
 - Phone: 303-894-2200 (Dial 3, then 1)
 - Email: CPFhelp@coloradosos.gov



Topics for Discussion

- Standalone candidate v. candidate committee
- Disclosure Reports & filing schedules
- Contributions, Expenditures
- Disclaimers / Paid for by Statements
- Penalties, Waivers, & Complaints
- Closing / Terminating a committee
- TRACER





You Become a Candidate When

- You publicly announce an intention to seek election to public office
 And then
- Receive a contribution or make an expenditure on behalf of the candidacy

Within 10 calendar days of becoming a candidate you must file a Candidate Affidavit

Public Announcement Definition (CPF Rule 1.20)

- Registering a candidate committee, or
- Announcing an intention to seek public office through:
 - A speech, advertisement, or other communication reported or appearing in public media, or
 - A statement made in any place accessible to the public, or
 - A statement made in a manner that a reasonable person would expect to become public.

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Standalone Candidate vs. Candidate Committee

Standalone Candidate

- A candidate who is <u>self-funding</u> their candidacy; not accepting contributions of any kind from anyone.
- Files disclosure reports to show their expenditures for the campaign.
- Only required to file reports for periods where expenditures take place.

Candidate Committee

- A candidate who is <u>accepting</u> <u>contributions</u> to help fund their campaign.
- Files disclosure reports to show their contributions and expenditures.
- Must register prior to accepting any type of contribution.
- Once registered all reporting (contributions/expenditures) is done under the committee.
- Required to file all reports regardless of the level of activity.



Disclosure Report Due Dates

Legislation passed in 2018 (HB18-1047) increased the frequency of disclosure reports for school board candidates/committees. A frequent schedule is required during years when the candidate's office is on the ballot. During years when the candidate's office is not on the ballot, reports are due quarterly.

2023 Report Due Dates		
May 1, 2023 (Mon.)	September 18, 2023 (Mon.)	
June 1, 2023 (Thur.)	October 3, 2023 (Tue.)	25-
July 3, 2023 (Mon.)	October 16, 2023 (Mon.)	
August 1, 2023 (Tue.)	October 30, 2023 (Mon.)	
September 5, 2023 (Tue.)	December 12, 2023 (Tue.)	

Other Important Dates:

• September 8, 2023 – Starts the 60-day period before the Election for Biennial School Electioneering Communication and concludes on November 6, 2023

Reports are filed electronically using TRACER and are timely if filed **before midnight** on the due date.

 October 8, 2023 – Starts the 30-day period before the Election for 24 Hour Major Contributor reports and concludes on November 6, 2023



Supplemental Information / Reports

Biennial School Electioneering Communication

Communications referring to one or more candidates for school board and are broadcasted, printed, mailed, delivered, or otherwise distributed within 60 days before the election.

The communication may or may not use express advocacy.

When an expenditure is entered and flagged by a filer as meeting the criteria, TRACER prompts filer to provide additional details which includes the name(s) of the candidate(s) mentioned in the communication and the date(s) and method of the communication.

24 Hour Notice of Major Contributor Report

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

Note: This includes contributions or loans a candidate gives to their own candidate committee.

TRACER creates a report once a qualifying contribution has been entered/saved. These reports are due within 24 hours of the recorded received date.

Note: If an incorrect contribution date is entered, call the help desk for assistance in correcting. Updating a date on a major contribution entry may create multiple major contributor reports.



Contributions

Prohibited Contributors / Contributions

- Corporations (profit & non-profit)
- Labor Organizations / Unions
- Foreign Citizens
- Foreign Governments
- Foreign Corporations
- Issue Committees
- Small-Scale Issue Committees
- Independent Expenditure
 Committees
- Other Candidate Committees
- Anonymous sources contributions where the identity of the contributor is unknown or not all the required information is provided

Limited Liability Company (LLC) Contributions

- LLC contributions are allowed if
 - All the LLC members are permissible contributors.
 - The LLC's shares are NOT publicly traded,
 - The LLC does not file their taxes like a corporation.
 - See the training manual for more details on LLC contributions and how to report them.
- LLC contributions must include an affirmation form that the LLC knows the contribution is permissible (see website for a sample <u>form</u>)
- Must be itemized on report regardless of the amount contributed

Contribution Limits - School District Director Candidate Committees

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

Contribution/Donation Limit
\$2,500
For the entire Election cycle
Note: There is no limit for how much a candidate may contribute/loan to their own candidate committee.
\$25,000
For the entire Election cycle
\$2,500
For the entire Election cycle

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



Disclosure Requirements

Contributions

- Must report all including those under \$20 (a.k.a Non-Itemized)
- \$20 or more (aggregated or one-time), within a reporting period, must be itemized with:
 - Contributor's name & address, and
 - Occupation & Employer, if from a natural person & the contribution is \$100 or more
- No cash or coin contributions over \$100
- Use Fair Market Value to report non-monetary (in-kind) contributions
- Anonymous contributions may not be kept and must be donated to an IRS recognized charity or sent to the State Treasurer's office within 30 days of receipt. (CPF Rule 10.8)
- Select "Candidate" as the contributor type when a candidate contributes/loans to their own committee

Expenditures

- Must report all including those under \$20
 (a.k.a Non-Itemized)
- \$20 or more (aggregated or one-time), within a reporting period, must be itemized
 - Itemized means listing:
 - Name & address to whom payment was made
 - Purpose of expenditure
- No cash or coin expenditures over \$100
- An expenditure is made when:
 - The actual spending occurs OR
 - A contractual agreement has been made and the amount is known - <u>Whichever</u> <u>comes first</u>
- 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. by candidates for reasonable and necessary child / dependent care expenses.



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.

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"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	Streaming 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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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. 1-45-108.3(1)



"Paid For By" Statements / Disclaimer Requirements

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 must be 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.











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 Secretary of State's office through your TRACER account or by email. The request is due no later than 30 days after the date the notification of penalty was sent.



Penalty may be reduced or waived if good cause is shown – See CPF Rule 18.1 for details.





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 Election Division's Complaint and Enforcement unit
 - Note: The Complaint and Enforcement unit is separate and apart from the Campaign Finance Compliance/Guidance team.
 Enforcement's contact information:
 CPFcomplaints@coloradosos.gov or 303-894-2200 ext. 6338.

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 Team to initiate an enforcement action(s).



Unexpended Funds / Termination

Candidate Committee

- Personal use prohibited
 - Candidates may be reimbursed for reasonable and necessary child / dependent care expenses incurred in connection with campaign activity during the election cycle.
- Permissible
 - Retain for use in a subsequent election (CPF Rule 2.2.4)
 - Reimburse candidate for their expenditures
 - Contribution to the political party, subject to contribution limits
 - Return to contributions (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

Termination Report

- May not have any outstanding debts / obligations (including late filing penalties) and / or complaints.
- If elected, must terminate candidate committee within one year of leaving office.*
- Losing an election does not automatically terminate an account in TRACER, the candidate or agent of the committee must affirmatively terminate by filing a termination report within one year of the election.*

Note: Records must be kept for 180 days after the election (LLC affirmation for 1 year). If a complaint is filed must maintain all records until it is settled.





QUESTIONS



Thank You







Additional Resources

State	Federal
State of Colorado http://www.colorado.gov/	Federal Election Commission (FEC) www.fec.gov
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 http://www.lexisnexis.com/hottopics/colorado	U.S. Office of Special Counsel – Hatch Act Overview https://osc.gov/Services/Pages/HatchAct



TRACER Review - HOME PAGE







Candidate Affidavit Searches

This search allows you to see all who have filed a candidate affidavit in TRACER.

- Click Candidate Search
- 2. Election Year field Select 2023
- 3. Jurisdiction field: From the dropdown list choose the desired county
 (Tip: use the county where the Admin.
 Offices for the School District are located)
- Office field: Select School Board Director
- 5. Status field: Defaults to Active (may change to Select all Status if needed)
- 6. Click on the red Search button
- 7. Search Results are displayed (or an error message appears if no results are found)
- 8. Click on a candidate's name to see detailed information about them and their filings





Registered User Login Page

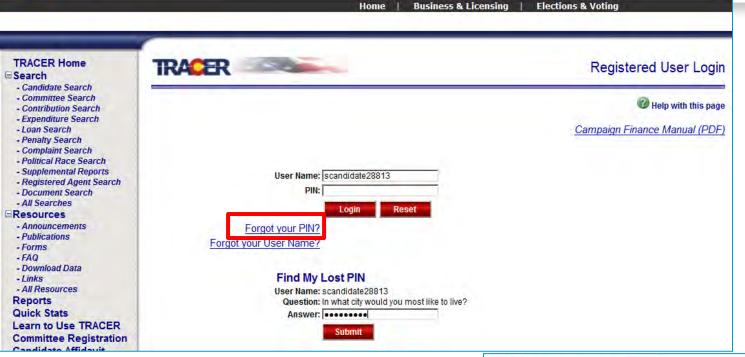


Login page after setting up username, PIN, and security question / answer.

TRACER will take you directly to your candidate workspace unless you have a committee, in which case you'll need to select the committee.



Registered User Login Page – Forgot Your PIN



- 1. Enter Username
- Enter PIN (password)
- 3. Click Login button

Forgot your Username or PIN? No problem.

After initially setting up your login information you may use one of the "Forgot" links. You will need to know the answer to the security question.

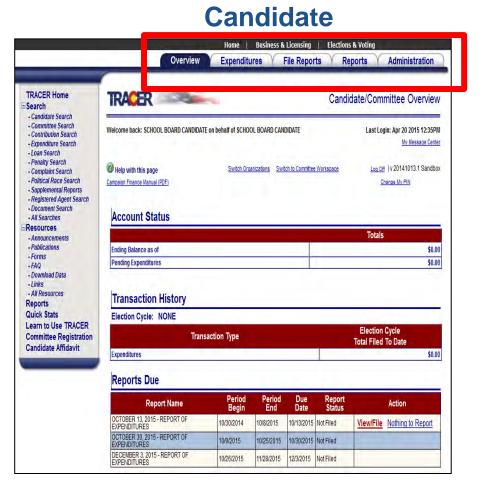
- Forgot your PIN? will show your PIN on screen
- Forgot your Username? will send you your username by email (to the email you used to register)



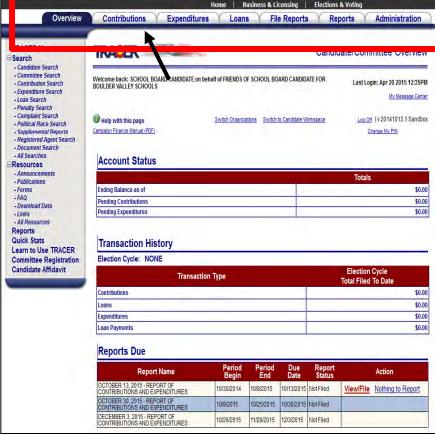


Candidate or Committee Workspace

The difference between a candidate's and a committee's workspace is the committees has a Contributions tab at the top. Enter all transactions, using the tabs at the top, **before** attempting to file a report. Once a committee is registered, reporting is done through the committee.



Committee

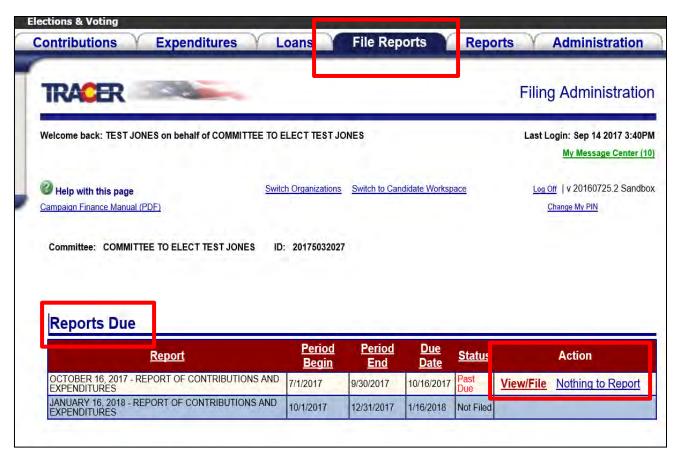




File Reports Tab

After entering all transactions go to the File Reports tab, scroll past the *Filing History* section and down to the *Reports Due* section, and locate the required report. This takes you to the File Reports page where you'll have an opportunity to review the report before filing.

Whether filing as a candidate or committee, use the "View/File" link to submit a report with activity or if you have no activity, use the "Nothing to Report" link.



File Report Page

Home

Search oo Soarch

tion Search

ire Search

File

Overview Contributions

BOULDER VALLEY SCHOOLS

Candidate

Committee

Y Expenditures Y Loans

Welcome back: SCHOOL BOARD CANDIDATE on behalf of FRIENDS OF SCHOOL BOARD CANDIDATE FOR

File Reports

Reports Administration

Last Login: Apr 20 2015 12:35PM

My Message Center

File Report of Contributions and Expenditures



Message from Webpage

earch t Search Log Off | v 20141013.1 Sandbox Help with this page Switch Organizations Switch to Candidate Workspace Race Search Campaign Finance Manual (PDF) ental Reports ed Agent Search nt Search Before continuing, please indicate if you intend for this to be a Termination Report. It is required that the report have ements an ending monetary balance of zero (line 5). Is this a Termination Report? No ○ Yes d Data File Report of Contributions and Expenditures Use TRACER e Registration **Detailed Summary** Affidavit Committee: FRIENDS OF SCHOOL BOARD CANDIDATE FOR BOULDER VALLEY ABC TEST BANK 999 MT. ROAD Financial SCHOOLS 1234 MAIN ST. Institution BOULDER, CO 80000 BOULDER CO 80000 20155028814 **Candidate Committee** Committee SOS ID: Committee Registered Agent: SCHOOL BOARD CANDIDATE JANE DOE Report Due: 10/13/2015 Reporting Period Covered: 10/30/2014 through 10/08/2015 This is a regularly scheduled filing. 1. Funds on Hand at Beginning of Reporting 0.00 6. Itemized Monetary Contributions \$0.00 Period (monetary only 7. Non-Itemized Monetary Contributions \$0.00 2. Total Monetary Contributions (Line 11) 8. Loans Received \$0.00 netary Contributions plus Amount (Lines 1 + 2) \$0.00 9. Total of Other Receipts \$0.00 10. Returned Contributions \$0.00 netary Expenditures (Line 18) \$0.00 11. Total Monetary Contributions (Total Lines 6-10) \$0.00 Hand at End of Reporting Period 0.00 12. Total Non-Monetary Contributions \$0.00 itures \$0.00 13. Total Contributions 00.00 Total of Loan Balances Do you really want to FILE this report? penditures port Details 14. Itemized Monetary Expenditures \$0.00 15. Non-Itemized Monetary Expenditures \$0.00 temized Contributions 16. Loan Repayments Made \$0.00 emized Expenditures 17. Returned Expenditures \$0.00 Cancel es (Total L 18. Total Monetary Expenditures (Total Lines 14-17) \$0.00 19. Total Coordinated Non-Monetary Expenditures \$0.00 20. Total Expenditures \$0.00 19. Total Coordinated Non-Monetary Exp Cancel 20. Total Expenditures dge or belief that all contributions ntributions or donations received in anization, are from permissible sources.

Click on File to submit the report. TRACER may ask if you really want to file the report click OK to confirm the action.

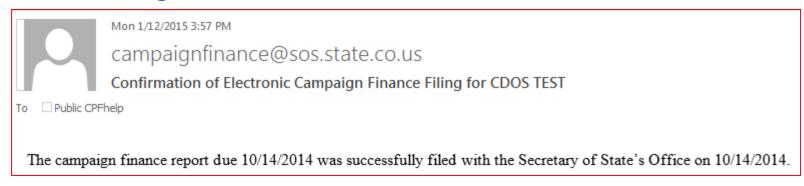


Filing Complete

 Click the red Finished button once you get the onscreen confirmation of filing.



You also get an email confirmation



 Don't be late – we don't want to impose late filing penalties – call or email us for help.



TRACER - Update Contact Information

notreal@SOS.STATE.CO.US

notreal@SOS.STATE.CO.US

This is the email address used to send personal password requests only.

Registered Agent Email

Password Security Email

Personal Password Security

KRIS AGENT: Additional Email 1:

Email for KRIS AGENT

Additional Email 2:

Go to the

Administration tab

to update your

contact information

including email

addresses.

TRACER sends
email notices when
a report is filed and
when an upcoming
report is due;
therefore, please
keep your email
address current.

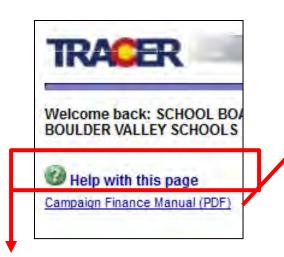


Cancel



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

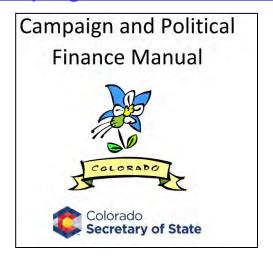
To access the Candidate/Committee Overview page:

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



<u>Learn to Use TRACER</u> webinars

Now in an MP4 file for better viewing

