



## NOTICE OF ADOPTION

Pursuant to Section 9(1)(b) of Article XXVIII of the Colorado Constitution, sections 1-1-107(2)(a), 1-45-108(2)(c), and 1-45-111.5(1), C.R.S. (2005) and the rulemaking provisions of the State Administrative Procedure Act, section 24-4-103, C.R.S. (2005), I, Ginette Dennis, Colorado Secretary of State, do hereby give **NOTICE** of the temporary and permanent adoption this 2nd day of August, 2006 of amendments to the Rules Concerning Campaign and Political Finance of the Colorado Secretary of State, 8 CCR 1505-6, as follows (~~striketrough~~ text represents deletions from the current rules and text in SMALL CAPS represent additions to the rules):

Rule 1.3 is amended as follows:

1.3 "Contribution".

- a. "CONTRIBUTION" does not include an endorsement of a candidate or an issue by any person.
- B. THE EXCEPTION STATED IN SECTION 2(5)(B) OF THE STATE CONSTITUTION THAT "'CONTRIBUTION' DOES NOT INCLUDE SERVICES PROVIDED WITHOUT COMPENSATION BY INDIVIDUALS VOLUNTEERING THEIR TIME", APPLIES ONLY TO SERVICES PROVIDED SOLELY ON THE BASIS OF TIME (SUCH AS LEGAL ADVICE, BOOKKEEPING, COMPUTER CONSULTING AND PROGRAMMING, WEB MASTERING, ETC.). THE EXCEPTION MAY INCLUDE TIME-BASED SERVICES VOLUNTEERED BY AN INDIVIDUAL AS A MEMBER OF ANY FIRM, ASSOCIATION, OR OTHER BUSINESS ENTITY, INCLUDING A CORPORATION, IF SUCH INDIVIDUAL RECEIVES NO DIRECT OR INDIRECT COMPENSATION FOR THE TIME VOLUNTEERED. IF A TANGIBLE PRODUCT IS PRODUCED AS A RESULT OF SUCH SERVICES, "CONTRIBUTION" INCLUDES THE REASONABLE VALUE OF THE MATERIALS INVOLVED, UNLESS SUCH VALUE IS NEGLIGIBLE.

New Rule 1.9 is adopted as follows:

1.9 "POLITICAL COMMITTEE" DOES NOT INCLUDE A MARRIED COUPLE.

Succeeding subsections of Rule 1 are renumbered accordingly.

New Rule 1.14 is adopted as follows:

1.14 A "MEMBER", AS USED IN ARTICLE XXVIII, SECTIONS 2(5)(B), 2(8)(B)(IV), AND 2(14)(A) ONLY, IS A PERSON WHO:

- A. PAYS MEMBERSHIP DUES; AND
- B. AT LEAST ANNUALLY GIVES THE MEMBERSHIP ORGANIZATION SPECIFIC WRITTEN PERMISSION TO TRANSFER DUES TO A POLITICAL COMMITTEE OR SMALL DONOR COMMITTEE.

Rules 2.1, 2.3, 2.6, and 2.7 are amended as follows:

- 2.1 When a committee registration form is received by the ~~secretary of state's office~~ APPROPRIATE FILING OFFICER, an identification number will be assigned and a letter of acknowledgement will be sent BY THE APPROPRIATE FILING OFFICER to the registered agent on file informing him/her of the identification number. [1-45-108(3) through (6)]
- 2.3 A registered agent resigning from a political committee, issue committee, small donor committee, or political party shall file a letter of resignation with the ~~secretary of state~~ APPROPRIATE FILING OFFICER and the committee or party via certified mail. The letter of resignation to the ~~secretary of state~~ APPROPRIATE FILING OFFICER shall include the certified mail receipt number sent to the committee or party AND THE CONTACT INFORMATION FOR THE COMMITTEE OR PARTY. In accordance with Rule 3.1, the committee or party shall file an amended committee registration form within five days of such change. [1-45-108(3)(b)]
- 2.6 Issue committees shall not contribute to political parties, political committees or candidate committees. An issue committee shall not contribute to, OR ACCEPT CONTRIBUTIONS FROM, other issue committees that do not support or oppose issues supported or opposed by the issue committee making the contribution. [Article XXVIII, Section 2(10)(b)]
- 2.7 Political committees shall not contribute to issue committees. In addition, political committees shall not contribute to, OR ACCEPT CONTRIBUTIONS FROM, other political committees that do not support or oppose candidates supported or opposed by the political committee making the contribution. [Article XXVIII, Section 2(12)(a)]

Rule 3.1 is amended as follows:

- 3.1 Whenever any of the information disclosed on the committee registration form changes, the change must be reported within five days by filing an amended committee registration form with the ~~secretary of state~~ APPROPRIATE FILING OFFICER. When filing an amendment to the committee registration form, a new form should be completed that includes any updated information. The form must be signed by the registered agent, and, if for a candidate committee, the candidate must also sign the form. [1-45-108(3)]

Rule 4.3 is amended as follows:

4.3 Contributions – when counted.

- a. A contribution is considered made or received as of the date that it is accepted by the committee or party. In the case of a contribution by check OR CREDIT CARD, the date accepted is the date that the ~~check~~ contribution is deposited into the committee's or party's account.
- b. However, for purposes of section 1-45-105.5, concerning contributions by lobbyists to certain state officers and candidates when legislation is under consideration, a contribution is considered made or promised when possession of the check is transferred to any person not under the control of the issuer.

Rule 4.13 is amended as follows:

- 4.13 Article XXVIII, Section 6(2), concerning THE PROHIBITION AGAINST funding by corporations and labor organizations for electioneering communications, shall not apply to any corporation that:
- a. Was formed for the purpose of promoting political ideas and cannot engage in business activities;
  - b. Has no shareholders with a claim on its assets or other income; and
  - c. Was not established by, and does not accept contributions from business corporations or labor organizations.

Rule 4.14 is amended as follows:

- 4.14 A candidate who does not accept contributions but who expends money for campaign purposes SHALL NOT BE REQUIRED TO FORM A CANDIDATE COMMITTEE, BUT shall file disclosure reports FOR THE REPORTING PERIODS DURING WHICH EXPENDITURES ARE MADE, in accordance with sections 1-45-108 and 1-45-109.

Rule 4.15 is amended as follows:

- 4.15 Membership dues transferred to small donor committees
- a. Membership organizations transferring a portion of a member's dues to a small donor committee shall provide the small donor committee with the member's name, address, amount of dues transferred, and the date of the dues transfer.
  - b. A small donor committee shall keep records of all contributions received in the form of membership dues transferred by a membership organization to the small donor committee. Such records shall include each contributing member's name, address, and amount of the dues transferred. [C.R.S. 1-45-108(1)(a)(I)]

- c. A small donor committee shall itemize and report the name and address of each person who has contributed \$20 or more in a reporting period, including but not limited to contributions received in the form of membership dues transferred by a membership organization to the small donor committee. [ARTICLE XXVIII, SECTION 2(14)(A); C.R.S. 1-45-108(1)(a)]
- D. ON EACH DISCLOSURE REPORT, THE CANDIDATE OR REGISTERED AGENT OF A CANDIDATE COMMITTEE, POLITICAL PARTY COMMITTEE, POLITICAL COMMITTEE, SMALL DONOR COMMITTEE, OR ISSUE COMMITTEE SHALL CERTIFY AND DECLARE, UNDER PENALTY OF PERJURY, THAT TO THE BEST OF HIS OR HER KNOWLEDGE OR BELIEF ALL CONTRIBUTIONS RECEIVED IN A REPORTING PERIOD, INCLUDING CONTRIBUTIONS RECEIVED IN THE FORM OF MEMBERSHIP DUES TRANSFERRED BY A MEMBERSHIP ORGANIZATION, ARE FROM PERMISSIBLE SOURCES. [ARTICLE XVIII, SECTION 3.]

New Rule 5.5 is adopted as follows:

- 5.5 REPORTS FILED MANUALLY. ALL DISCLOSURE REPORTS FILED MANUALLY WITH THE SECRETARY OF STATE PURSUANT TO SECTION 1-45-108 C.R.S., SHALL BE FILED USING THE PROVIDED FORM, OR IF THE REPORT IS FILED IN ANOTHER PERMITTED FORMAT, IT SHALL BE TYPE WRITTEN OR COMPUTER GENERATED AND THE FONT SIZE SHALL BE NO LESS THAN 12 POINT.

Succeeding subsections of Rule 5 are renumbered accordingly.

Rules 5.5, 5.9, and 5.10 are amended as follows:

- 5.56 Reports filed electronically.
  - a. ~~UNTIL JANUARY 1, 2007, REPORTS~~ Reports filed electronically are due two days after the due date for reports filed manually, after taking into account any extension of the due date of a manually filed report because the filing deadline falls on a Saturday, Sunday, or legal holiday. If the filing deadline for a report filed electronically falls on a Saturday, Sunday, or legal holiday, the deadline is not extended to the next business day. Reports filed electronically before midnight shall be considered filed on that day. THIS PARAGRAPH A. IS REPEALED EFFECTIVE JANUARY 1, 2007.
  - B. ON AND AFTER JANUARY 1, 2007, REPORTS FILED ELECTRONICALLY ARE DUE ON THE SAME DATE AS MANUALLY FILED REPORTS AND ARE DUE NO LATER THAN CLOSE OF BUSINESS PURSUANT TO C.R.S. 1-45-109(2).
  - bc. If the electronic filing system is unavailable for filing for a total of more than one hour after 4:00 p.m. on the due date for ~~electronically filed reports~~ FILING A REPORT, the secretary of state may extend the due date for an additional day FOR ELECTRONICALLY FILED REPORTS. [1-45-108(2.3), 1-45-109(6)]

5.910 For purposes of section 1-45-108(2)(d), which exempts a candidate committee for a former STATE officeholder or person not elected to STATE office from reporting if there is no change in the balance of funds maintained by such committee and if certain other conditions are met, a change in the balance of funds resulting solely from the accrual of interest or dividends to the account and/or the automatic deduction of periodic service fees does not subject such candidate committee to the reporting requirements of section 1-45-108, except that such candidate committee shall file an annual report for each calendar year. STATE CANDIDATE COMMITTEES SHALL FILE SUCH REPORT NOT LATER THAN JANUARY 15TH OF THE FOLLOWING YEAR, AND COUNTY CANDIDATE COMMITTEES SHALL FILE SUCH REPORT IN ACCORDANCE WITH SECTION 1-45-108(2)(A)(II). Candidate committees that choose this option must notify, in writing, the appropriate filing officer of their intent. [1-45-108(2)(c) and (2)(d)]

5.101 If a required report is not filed by 11:59 PM on the due date for electronic filing, then the daily penalty imposed pursuant to Article XXVIII, Section 10(2)(a) shall begin on the day following the due date for reports filed manually. THIS RULE IS REPEALED EFFECTIVE JANUARY 1, 2007.

Rule 6.3 is amended as follows:

6.3 A written complaint filed with the secretary of state pursuant to Article XXVIII, Section 9(2) (a) shall include the following: the name, address, and signature of the complainant (IF THE COMPLAINANT IS REPRESENTED BY COUNSEL, SUCH COUNSEL'S NAME, ADDRESS, AND SIGNATURE SHALL BE INCLUDED ALONG WITH THE NAME, ADDRESS, AND SIGNATURE OF THE COMPLAINANT); the name and address of each respondent alleged to have committed a violation; and the particulars of the violation. A complaint may be submitted by fax or electronic mail if a signed original is received by the secretary of state no later than five calendar days thereafter. If the complaint is complete, the secretary of state shall promptly transmit the complaint to the Division of Administrative Hearings in the Department of Personnel and Administration for the consideration by an administrative law judge, which will notify the respondents of the filing of the complaint and which will issue all other appropriate notices to the parties. [Article XXVIII, Section 9(2)(a)]

Rules 8.1 and 8.2 are amended as follows:

8.1 The special district designated election official or, as applicable, the presiding officer or the secretary of the board of directors, under section 32-1-804.3(5), C.R.S., shall provide to the county clerk and recorder of the county in which the district court having jurisdiction over the special district pursuant to section 32-1-303, C.R.S., is located, ~~Either~~ EITHER a list of the board of director candidates, or the self-nomination and acceptance forms and letters, and affidavits of intent to be a write-in candidate, within ten days of their filing with the designated election official, presiding officer, or secretary as applicable.

- 8.2 If a candidate for a special district office fails to file a candidate affidavit, or the filed self-nomination and acceptance form or letter, or the affidavit of intent to be a write-in candidate does not contain the statement required by section 1-45-110(1), C.R.S., the county clerk and recorder shall mail the special district a copy of the notification to the candidate regarding pending disqualification sent pursuant to section ~~1-45-111(3)~~ 1-45-110(3).

Former Rule 10 is readopted as follows:

**10. RECALL ELECTIONS FOR STATE OFFICE**

- 10.1 THE ELECTION CYCLE FOR A RECALL ELECTION SHALL BE FROM THE DATE THE RECALL PETITION IS APPROVED FOR CIRCULATION BY THE APPROPRIATE OFFICER THROUGH THIRTY DAYS FOLLOWING DATE OF THE RECALL ELECTION.
- 10.2 THE REPORTING PERIOD FOR COMMITTEES PARTICIPATING IN THE RECALL ELECTION SHALL CLOSE FIVE CALENDAR DAYS PRIOR TO THE DATE THAT THE REPORT IS DUE.
- 10.3 THE INCUMBENT IN A RECALL ELECTION IS NOT A CANDIDATE FOR THE SUCCESSOR ELECTION ACCORDING TO C.R.S. 1-12-117; THEREFORE, THE INCUMBENT MAY OPEN AN ISSUE COMMITTEE TO OPPOSE THE RECALL.
- 10.4 THE AGGREGATE CONTRIBUTION LIMITS SPECIFIED FOR A GENERAL ELECTION IN SECTION 3 OF ARTICLE XXVIII SHALL APPLY TO THE RECALL ELECTION WITH RESPECT TO EACH SUCCESSOR CANDIDATE.

New Rule 11 is adopted as follows:


**11. FEES.**

- 11.1 EFFECTIVE APRIL 2, 2007, FOR ANY DISCLOSURE REPORT FILED MANUALLY WITH THE SECRETARY OF STATE PURSUANT TO SECTION 1-45-108 C.R.S., INCLUDING ANY AMENDMENT, CORRECTION, OR OTHER STATEMENT THAT MAY BE FILED ELECTRONICALLY, THE SECRETARY OF STATE SHALL CHARGE A FEE FOR DATA ENTRY AND SCANNING BASED ON THE NUMBER OF PAGES FILED. IN ACCORDANCE WITH SECTION 24-21-104, C.R.S., THE FEE SHALL BE BASED ON THE DIRECT AND INDIRECT COSTS INCURRED BY THE SECRETARY OF STATE FOR PROCESSING THE REPORT, WHICH SHALL NOT EXCEED ONE DOLLAR PER PAGE, AND THE REPORT SHALL NOT BE ACCEPTED FOR FILING UNTIL THE FEE HAS BEEN PAID. THE FEE SHALL NOT BE CHARGED FOR A DISCLOSURE REPORT FILED ELECTRONICALLY ~~PURSUANT TO SECTION 1-45-109 (6), C.R.S.~~ [24-21-104 (1) AND (3) (B); 24-21-111]

- 11.2 REPORTS OF NO CONTRIBUTIONS AND NO EXPENDITURES ("ZERO REPORTS") SHALL BE EXEMPT FROM ANY FEE ~~SET FORTH IN RULE 11.1~~ ESTABLISHED PURSUANT TO THIS RULE 11.

Such amendments are effective immediately. In accordance with section 24-4-103(6), C.R.S (2005), attached is a statement of the findings of the Secretary of State justifying the adoption of these amendments on an emergency basis.

Dated this 2nd Day of August, 2006

  
Ginette Dennis  
Colorado Secretary of State

**STATE OF COLORADO**

**Department of State**

1700 Broadway  
Suite 250  
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**Gigi Dennis**  
Secretary of State

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Deputy Secretary of State

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**Statement of Justification and Reasons for the Adoption of Emergency Rules**

**Amended Rules 1.3, 1.9, 1.14, 2.1, 2.3, 2.6, 2.7, 3.1, 4.3, 4.13, 4.14, 4.15, 5.5, 5.9, 5.10, 6.3, 8.1, 8.2, 10, and 11**

**Secretary of State's Rules Concerning Campaign and Political Finance**

**August 2, 2006**

Under Article XXVIII, Section 9(1)(b), Colorado Constitution, the Secretary of State has the power to “[p]romulgate such rules, in accordance with article 4 of title 24, C.R.S., or any successor section, as may be necessary to administer and enforce any provision of [Article XXVIII of the Colorado Constitution].” In addition, section 1-1-107(2)(a), C.R.S. (2005), authorizes the Secretary of State “[t]o promulgate, publish, and distribute . . . such rules as the secretary of state finds necessary for the proper administration and enforcement of the election laws . . .” and, section 1-45-111.5(1), C.R.S. (2005), authorizes the Secretary of State to “promulgate such rules . . . as may be necessary to administer and enforce any provision of [Article 45 of Title 1 of the Colorado Revised Statutes].”

The amendments to the Rules Concerning Campaign and Political Finance are immediately necessary for the uniform and proper administration and enforcement of the campaign and political finance laws of the State of Colorado. The Secretary of State finds that the adoption and enactment of these amendments is necessary specifically because various questions have arisen from interested parties. Further, the 2006 General Election cycle is well underway and committees, candidates and other interested parties are in need of guidance and clarification concerning campaign and political finance laws.

The Secretary of State finds that in order to ensure the uniform and proper administration and enforcement of the campaign and political finance laws, the adoption of these amendments to the Secretary of State Rules Concerning Campaign and Political Finance is necessary both to comply with law and to preserve the public welfare generally.

Therefore, in accordance with section 24-4-103(6), C.R.S. (2005), the Secretary of State finds that adoption of the amendments to existing Rules Concerning Campaign and Political Finance is “imperatively necessary to comply with a state or federal law or federal regulation or for the preservation of public health, safety, or welfare and compliance with the requirements of this section would be contrary to the public interest.”