



NOTICE OF ADOPTION

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

February 19, 2010

Pursuant to Article XXVIII, Section 9(1)(b) of the Colorado Constitution and section 1-45-111.5(1), C.R.S. (2009), and the rulemaking provisions of the State Administrative Procedure Act, section 24-4-103 C.R.S. (2009), I, Bernie Buescher, Colorado Secretary of State, do hereby adopt and give **NOTICE** of the permanent rule adoption this 19th day of February, 2010, of the Secretary of State Campaign and Political Finance Rules (8 CCR 1505-6) as follows (additions to the current rules are reflected in **SMALL CAPS** and deletions from current rules are shown in ~~stricken type~~):

Rule 4.2 is repealed as follows:

- 4.2 ~~When manually filing an amended report of contributions and expenditures, a new form shall be completed that includes the cover page of the report of contributions and expenditures, the detailed summary page, and any updated schedules listing only the amended information. [C.R.S. 1-45-109(4)(b)]~~ REPEALED.

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 contribution is deposited **BY THE COMMITTEE** into the ~~committee's or party's~~ ITS account. Any contribution in the form of a check received by a committee or 527 political organization at least five business days prior to the end of a reporting period must be deposited or returned to the contributor by the close of that reporting period.
 - b. However, for purposes of section 1-45-105.5, C.R.S., 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.

New Rule 4.25 is adopted as follows:

- 4.25 **REIMBURSEMENT OF EXPENDITURES – PAYMENTS BY CREDIT CARD OR PAYMENT INTERMEDIARY SERVICE.**

- A. WHEN REPORTING A REIMBURSEMENT TO A CANDIDATE OR TO ANY OTHER PERSON, THE COMMITTEE OR PARTY SHALL SEPARATELY DISCLOSE EACH SUCH EXPENDITURE OF \$20 OR MORE, INCLUDING THE PURPOSE, PAYEE, AND AMOUNT OF EACH EXPENDITURE AS OF THE DATE OF THE EXPENDITURE, REGARDLESS OF THE DATE OF REIMBURSEMENT.
- B. FOR THE PURPOSE OF REPORTING AN EXPENDITURE, SIMPLY DISCLOSING THAT A PAYMENT WAS MADE TO A CREDIT CARD COMPANY OR A PAYMENT INTERMEDIARY SERVICE SUCH AS PAYPAL IS NOT ADEQUATE. ALL EXPENDITURES \$20 OR MORE MADE BY CREDIT CARD OR PAYMENT INTERMEDIARY SERVICE MUST BE ITEMIZED, INCLUDING THE NAME AND ADDRESS OF THE PAYEE, AMOUNT, ORIGINAL DATE OF EXPENDITURE, AND PURPOSE OF THE EXPENDITURE.
- C. NOTHING IN THIS RULE SHALL BE CONSTRUED TO PERMIT CONTRIBUTIONS OR REIMBURSEMENTS OF CONTRIBUTIONS PROHIBITED BY ARTICLE XXVIII, SECTION 3(11).

[SECTION 1-45-108(1)(E), C.R.S.]

Rule 5.5 is repealed 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 and the font size shall be no less than 12 point.~~ REPEALED.

Rule 5.6 is amended as follows:

- 5.6 Reports filed electronically.
 - a. ~~Reports filed electronically are due on the same date as manually filed reports and are due no later than close of business pursuant to section 1-45-109(2), C.R.S.~~ FOR THE PURPOSE OF SECTION 1-45-109(2)(A), C.R.S., “Close of business” for the purpose of electronic filing shall mean 11:59 p.m.
 - e-B. 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 filing a report, the ~~secretary of state~~ SECRETARY OF STATE may extend the due date for an additional day for electronically filed reports. [SECTIONS 1-45-108(2.3), 1-45-109(6), C.R.S.]

Rule 5.10 is amended as follows:

5.10 REPORTS FOR FORMER OFFICEHOLDERS OR PERSONS NOT ELECTED TO OFFICE

- A. For purposes of section 1-45-108(2)(d), C.R.S., which exempts a candidate committee for a former officeholder or person not elected to 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, C.R.S., except that such candidate committee shall file an annual report for each calendar year. Candidate committees that choose this option must notify, in writing, the appropriate filing officer of their intent. [SECTIONS 1-45-108(2)(c) and (2)(d), C.R.S.]

- I. State candidate committees shall file such report not later than January 15th of the following year.
 - II. All other candidate committees shall file such report on the first day of the month in which the anniversary of the major election occurs, in accordance with section 1-45-108(2)(a)(II), C.R.S.
- B. THE REPORTING EXEMPTION SET FORTH IN SECTION 1-45-108(2)(D), C.R.S., APPLIES ONLY TO REPORTS FOR WHICH THE ENTIRE REPORTING PERIOD OCCURS AFTER THE ELECTION IN WHICH THE CANDIDATE'S NAME APPEARED ON THE BALLOT.

Rule 10.1 is amended as follows:

- 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~~ DESIGNATED ELECTION OFFICIAL through 30 ~~thirty~~ days following THE date of the recall election. IN THE EVENT THAT NO RECALL ELECTION IS HELD BECAUSE THE PETITION IS DETERMINED TO BE INSUFFICIENT, THE RECALL ELECTION CYCLE ENDS 30 DAYS AFTER THE FINAL DETERMINATION OF INSUFFICIENCY, INCLUDING PASSAGE OF THE TIME FOR PROTEST AND FINAL DISPOSITION OF ANY PROTEST OR APPEAL OF SUCH DETERMINATION. IN THE EVENT THAT NO RECALL ELECTION IS HELD FOR ANY OTHER REASON, THE RECALL ELECTION CYCLE ENDS 30 DAYS AFTER THE DEADLINE FOR FILING THE RECALL ELECTION PETITION.

Rule 10.5 is repealed as follows:

- 10.5 ~~Notwithstanding section 1-45-108(6), C.R.S., any issue committee whose purpose is to support or oppose the recall of any elected official shall register within ten calendar days of accepting or making contributions or expenditures in excess of two hundred dollars in accordance with section 1-45-108(3.3), C.R.S. Such committee shall otherwise follow the filing calendar established in section 1-45-108 (6), C.R.S. REPEALED.~~

Rule 11.4 is repealed as follows:

- 11.4 ~~For the purposes of this rule 11, "entry" is defined as any contribution, expenditure, returned contribution, returned expenditure, loan, loan repayment, or in connection with a political organization, spending. REPEALED.~~

Rule 14.2 is amended as follows:

- 14.2 For the purposes of section 5, ARTICLE ~~article~~ XXVIII, a candidate committee, political committee, small donor committee, political party, or 527 political organization that is registered with the Secretary of State ~~or a county clerk and recorder~~ that obligates funds exceeding \$1,000 for any single independent expenditure more than 30 days prior to a primary or general election shall notify the Secretary of State by disclosing such expenditure on the committee's or organization's regularly scheduled disclosure report for that reporting period.

These new and amended rules shall take effect twenty (20) days after publication in the Colorado Register in accordance with the State Administrative Procedures Act.

A written Statement of Basis, Purpose and Specific Statutory Authority is attached and hereby incorporated herein by reference.

Dated this 19th day of February, 2010,



William A. Hobbs
Deputy Secretary of State

For
Bernie Buescher
Colorado Secretary of State



Statement of Basis, Purpose and Specific Statutory Authority

Office of the Secretary of State Campaign and Political Finance Rules

February 19, 2010

1. Basis and Purpose

This statement pertains to the amendments to the Colorado Secretary of State "Rules Concerning Campaign and Political Finance." The amendments and revisions to these rules are necessary to achieve the uniform and proper administration and enforcement of the campaign and political finance laws of the State of Colorado, including Article XXVIII of the Colorado Constitution and Article 45, Title 1 of the Colorado Revised Statutes.

The revisions are also necessary to implement amendments to the campaign and political finance laws made during the 2009 regular session of the 67th General Assembly and to answer questions arising under Article XXVIII of the Colorado Constitution and Article 45 of Title 1, Colorado Revised Statutes.

The adoption of specific amendments to the Campaign and Political Finance Rules is necessary as follows:

- Rules 4.2, 5.5, and 11.4 are repealed and Rule 5.6 is amended to reflect the change to all-electronic filing.
- The adoption of Rule 4.25 clarifies the procedure for reporting reimbursements to a committee or party when a candidate or a third party has made expenditures on behalf of the committee or party. This is necessary to provide transparency in reporting by preventing committees from using a credit card or a candidate's own personal funds for expenditures, and then reporting only a reimbursement to the candidate or credit card company without disclosing the service provider of the original expenditure.
- The amendments to Rule 4.3 clarify the meaning of "deposit" for the purposes of reporting campaign contributions. The revision specifies that a deposit is considered made when the committee submits funds for deposit into its account, rather than when a financial institution releases funds to the committee's account.
- The amendments to Rule 5.10 clarify the applicability of the reporting exemption for former officeholders or those not elected to office.
- The amendments to Rule 10.1 clarify the election cycle for recall elections in which the recall election is not held.
- Rule 10.5 is repealed to eliminate apparent conflicts with section 1-45-108(6), C.R.S.

- The amendments to Rule 14.2 reflect the centralization of disclosure report filing implemented by House Bill 09-1357.

2. Rulemaking Authority

Amendments to the Colorado Secretary of State “Rules Concerning Campaign and Political Finance” are adopted pursuant to the following statutory and constitutional provisions:

1. Article XXVIII, Section 9(1)(b) of the Colorado Constitution, which requires the Secretary of State to:
“Promulgate such rules, in accordance with article 4 of title 24, C.R.S., or any successor section, as may be necessary to administer and enforce any provision of [Article XVIII of the Colorado State Constitution].”
2. Section 1-1-107(2)(a), C.R.S., (2009), which authorizes the Secretary of State:
“To promulgate, publish, and distribute . . . such rules as the secretary of state finds necessary for the proper administration and enforcement of the election laws”
3. Section 1-45-111.5(1), C.R.S., (2009), which requires the Secretary of State to:
“[P]romulgate such rules in accordance with article 4 of title 24, C.R.S., as may be necessary to enforce and administer any provision of [article 45 of title 1, C.R.S.]”