



Notice of Temporary and Permanent Adoption

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

August 15, 2012

I. Adopted Rule Amendments

As authorized by the Colorado Constitution¹, Colorado campaign finance law², and the State Administrative Procedure Act³, the Colorado Secretary of State gives notice that the following amendments to rules concerning campaign and political finance⁴ are adopted on a temporary and permanent basis.

The following rules were considered at the July 31, 2012 rulemaking hearing in accordance with the State Administrative Procedure Act⁵. (Additions to the current rules are reflected in SMALL CAPS and deletions from current rules are shown in ~~stricken type~~. *Annotations* may be included):

Amendments to Rule 4.3:

- 4.3 An issue committee ~~shall~~ MUST file on a frequent filing schedule once it has spent money to support or oppose ballot issues or ballot questions, or potential ballot issues or ballot questions on an upcoming ballot. See Rule ~~4.9.3~~ 17.2.3.

Amendments to Rule 5.1.2:

- 5.1.2 ~~The~~ THESE requirements of ~~paragraph (a)~~ do not apply to bumper stickers, pins, buttons, pens, and similar small items upon which the disclaimer cannot be reasonably printed.

Amendments to Rule 6:

- 6.1 The appropriate filing officer for a state or county political party is the Secretary of State. Therefore, state and county political parties are subject to the requirements of section 1-45-109(1)(c), C.R.S., and must file reports with the Secretary of State. [Article XXVIII Section 2(1); section 1-45-109(1)(c), C.R.S.]

¹ Article XXVIII, Section 9(1)(b) of the Colorado Constitution.

² Article 45 of Title 1, C.R.S. (2011).

³ Section 24-4-103(3)(a), C.R.S. (2011).

⁴ 8 CCR 1505-6.

⁵ Section 24-4-103(3)(a), C.R.S. (2011).

6.1.1 Repealed.

6.2 Transfers of money within a party

6.2.1 A party may transfer money from one level of the organization to another without limit.

6.2.2 Transfers of money within a party ~~shall~~ MUST be disclosed as “other income” in accordance with Rule 10.12.

6.3 Home rule jurisdictions

6.3.1 ~~Rule 6.1 does not apply to a~~ A political party in a home rule jurisdiction that ~~reports~~ MAINTAINS A SEPARATE ACCOUNT in accordance with Rule 14.4 MAY NOT INCLUDE CONTRIBUTIONS TO, OR EXPENDITURES, FROM THAT SEPARATE ACCOUNT IN REPORTS FILED WITH THE SECRETARY OF STATE.

6.3.2 If a political party receives contributions into a separate account in accordance with Rule 14.4, the party may not transfer funds from that account to other county parties or to a state party.

Amendments to Rule 16.6:

16.6 A special district candidate is not required to file disclosure reports if:

16.6.1 The special district candidate affidavit, the filed self-nomination and acceptance form or letter, or the affidavit of intent to be a write-in candidate contains a statement substantially stating, “I will not, in my campaign for this office, receive contributions or make expenditures exceeding \$20-\$200 in the aggregate DURING THE ELECTION CYCLE, however, if I do so, I will thereafter file all disclosure reports required under the fair campaign practices act;” and

16.6.2 The candidate does not accept contributions or make expenditures exceeding \$20-\$200 in the aggregate DURING THE ELECTION CYCLE.

[Article XXVIII, Section 2(2) and section 1-45-108(1), C.R.S.]

Amendments to Rule 17.2.4:

17.2.4 An issue committee ~~shall~~ MUST notify the Secretary of State within ten days after deciding that it will support or oppose ballot issues or ballot questions, or potential ballot issues or ballot questions on an upcoming ballot.

(a) ~~AN~~ ONCE AN issue committee ~~who has notified~~ NOTIFIES the Secretary of State of its active status under this Rule, the Secretary will place the committee on a frequent filing calendar.

(b) Once an issue committee has declared its committee filing status as frequent or infrequent in a particular year, the committee ~~shall~~ MUST follow the appropriate

filing schedule for the remainder of that ~~calendar year~~ ELECTION CYCLE, except that an inactive committee may change its status to active at any time.

II. Basis, Purpose, and Specific Statutory Authority

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


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

A statement of the Secretary of State's findings to justify the immediate adoption of these new and amended rules on a temporary basis follows this notice and is incorporated by reference.⁶

IV. Effective Date of Adopted Rules

These new and amended rules are immediately effective on a temporary basis and will become permanently effective twenty days after publication in the Colorado Register.⁷

Dated this 15th day of August, 2012,



Suzanne Staiert
Deputy Secretary of State

For

Scott Gessler
Colorado Secretary of State

⁶ Section 24-4-103(6), C.R.S. (2011).

⁷ Section 24-4-103(5), C.R.S. (2011).



Statement of Basis, Purpose, and Specific Statutory Authority

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

August 15, 2012

I. Basis and Purpose

This statement is about proposed amendments to the Colorado Secretary of State Rules Concerning Campaign and Political Finance.¹ The amendments are intended to achieve the uniform and proper administration and enforcement of Colorado campaign and political finance laws.² Specifically, amendments include the following:

- Amendments to Rule 4.3, 5.1.2, and 17.2.4 include technical and cross-reference corrections.
- Temporary Rule 6, adopted on May 23, 2012, is amended and permanently adopted.
- Rule 16.6 is amended to implement changes made by section 1 of House Bill 12-1269. Effective August 8, 2012, the threshold amount of campaign activity by a candidate committee in connection with a special district election that triggers disclosure requirements changes from \$20 to \$200. [Section 1-45-108(1)(c), C.R.S.]

II. Rulemaking Authority

The statutory and constitutional authority is as follows:

1. Article XXVIII, Section 3(13) of the Colorado Constitution, which states that the Secretary of State “shall calculate...an adjustment in each [contribution] limit and specify the limits in rules promulgated in accordance with article 4 of title 24, C.R.S.”
2. Article XXVIII, Section 8 of the Colorado Constitution, which requires the Secretary of State to “promulgate rules related to filing in accordance with article 4 of title 24, C.R.S.”
3. Article XXVIII, Section 9(1)(b) of the Colorado Constitution, which requires the Secretary of State 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 XVIII of the Colorado State Constitution].”

¹ 8 CCR 1505-6.

² Article XXVIII of the Colorado Constitution and Article 45, Title 1 of the Colorado Revised Statutes.

4. Section 1-1-107(2)(a), C.R.S., (2011), which 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.”
5. Section 1-45-107.5(5)(c), C.R.S., (2011), which requires the Secretary of State to “by rule, establish size and placement requirements for the disclaimer” required to be included on a nonbroadcast independent expenditure communication.
6. Section 1-45-109(5)(e), C.R.S., (2011), which states that the Secretary of State “may promulgate rules necessary for the implementation of [the mandate to create and maintain an electronic filing system].”
7. Section 1-45-109(6)(a), C.R.S., (2011), which states that “[t]he rules for use of the electronic filing system shall be promulgated by the secretary in accordance with article 4 of title 24, C.R.S.”
8. Section 1-45-111.5(1), C.R.S., (2011), which requires the Secretary of State to “promulgate 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.]”



Statement of Justification and Reasons for Adoption of Temporary Rules

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

August 15, 2012

Amended Rules: 4.3, 5.1.2, 6, 16.6, 17.2.4

In accordance with Colorado election law,¹ the Secretary of State finds that certain amendments to the existing election rules must be adopted and effective immediately to ensure the uniform and proper administration and enforcement of Colorado election laws during the 2012 election cycle. Temporary adoption is necessary both to comply with law and to preserve the public welfare generally.

A public Rulemaking hearing was conducted in accordance with the State Administrative Procedure Act² on July 31, 2012, to receive comment and testimony on the proposed rules. These rules implement recommendations made by the Secretary of State, Elections Division staff, and interested parties throughout the State of Colorado. Adoption of the rules on a temporary basis is necessary to provide clear guidance to interested parties, including, but not limited to: county clerks, candidates, political parties, political organizations, and committees, given the close proximity of the November 2012 General Election.

For these reasons, and in accordance with the State Administrative Procedure Act, the Secretary of State finds that adoption and immediate effect of the amendments to existing election rules is imperatively necessary to comply with state and federal law and to promote public interests.³

¹ Sections 1-1-107(1)(c), 1-1-107(2)(a), 1-1.5-104(1)(e), C.R.S. (2011). The Secretary of State has the power “[t]o promulgate, publish, and distribute...such rules as [the Secretary] finds necessary for the proper administration and enforcement of the election laws” and “...[the “Help America Vote Act of 2002”, 42 U.S.C. 15301-15545]....”

² Section 24-4-103(3)(a), C.R.S. (2011).

³ Section 24-4-103(3)(6), C.R.S. (2011).