

# Revised Draft of Proposed Rules

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

Revised July 20, 2016

### Disclaimer:

The proposed draft rules have changed. This draft supersedes the Preliminary Draft that was issued with the Notice of Proposed Rulemaking on June 15, 2016. These revised proposed rules will be considered at the July 26, 2016 rulemaking hearing.

In accordance with the State Administrative Procedure Act, this revised copy of the proposed rules is made available to the public and posted on the Department of State’s website.<sup>1</sup>

Please note the following formatting key:

| Font effect                  | Meaning                                 |
|------------------------------|---|
| Sentence case                | Retained/modified current rule language |
| SMALL CAPS                   | New language                            |
| <del>Strikethrough</del>     | Deletions                               |
| Shading                      | Revisions to previous draft             |
| <i>Italic blue font text</i> | Annotations                             |

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1 *Amendments to 8 CCR 1505-6 follow:*

2 *Amendments to Rule 1.1 (insert quotation marks):*

3 1.1 “Ballot measure” means ballot issue or ballot question.

4 *Amendments to Rule 1.3:*

5 1.3 “Committee” as used generally in these rules includes candidate committee, political  
6 committee, small donor committee, issue committee, SMALL-SCALE ISSUE COMMITTEE,  
7 independent expenditure committee, political party, and political organization.

8 *Amendments to Rule 1.7:*

9 1.7 “Frequent filing schedule” means:

10 1.7.1 For state candidates and committees, the filing schedule outlined in sections 1-45-  
11 108 (2)(a)(I)(B), (2)(a)(I)(C), (2)(a)(I)(D), and (2)(a)(I)(E), C.R.S.; ~~and~~

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<sup>1</sup> Section 24-4-103(4)(a), C.R.S. (2015). “[A]ny proposed rule or revised proposed rule by an agency which is to be considered at the public hearing...shall be made available to any person at least five days prior to said hearing.”

1 1.7.2 For a county, municipal, and special district candidate or committee, the filing  
2 schedule outlined in section 1-45-108 (2)(a)(II), C.R.S.; AND

3 1.7.3 FOR POLITICAL COMMITTEES, SMALL DONOR COMMITTEES, INDEPENDENT  
4 EXPENDITURE COMMITTEES, AND POLITICAL ORGANIZATIONS PARTICIPATING IN A  
5 REGULAR BIENNIAL SCHOOL ELECTION, THE FILING SCHEDULE OUTLINED IN  
6 SECTIONS 1-45-108(2)(A)(I)(C), (2)(A)(I)(D), AND (2)(A)(I)(E), C.R.S.

7 *Amendments to Rule 1.8.2 (capitalization correction):*

8 1.8.2 For A-A county, municipal, or special district candidate or committee, the annual  
9 filing schedule outlined in section 1-45-108(2)(a)(II), C.R.S.

10 *Amendments to Rule 2.2.4(b) concerning managing unexpended campaign contribution for a*  
11 *candidate committee:*

12 (b) Candidates seeking re-election to the same office

13 (1) A candidate committee may retain contributions to use in a  
14 subsequent election cycle for the same public office, in an amount  
15 not to exceed the limit in Colo. Const. Article XXVIII, Section  
16 3(3) (as adjusted by Rule 10.16).

17 ~~(2) A candidate committee may not list unexpended campaign~~  
18 ~~contributions retained for use in a subsequent election cycle~~  
19 ~~expressly on disclosure reports as “contributions from a political~~  
20 ~~party” or as contributions from any specific political party. [Colo.~~  
21 ~~Const. Article XXVIII, Section 3(3)(e)]~~

22 ~~(3)~~(2) If a candidate committee retains contributions to use in a  
23 subsequent election cycle for the same office, the amount retained  
24 counts toward the limit on contributions from a political party. A  
25 candidate committee must return contributions it receives in excess  
26 of the political party limit within ~~30~~TEN days.

27 *New Rule 2.4.4 concerning personal financial disclosures:*

28 2.4.4 PERSONAL FINANCIAL DISCLOSURES MAY BE SUBMITTED BY FAX OR EMAIL AND ARE  
29 CONSIDERED TIMELY IF RECEIVED BY 11:59 P.M. MT ON THE DATE DUE.

30 *Amendments to Rule 3.1 concerning political committees and small donor committees:*

31 3.1 A political committee or small donor committee may not make contributions to an issue  
32 committee OR SMALL-SCALE ISSUE COMMITTEE, except to the extent that a contribution is  
33 for the purchase of items such as event tickets, merchandise, or services. [Colo. Const.  
34 Article XXVIII, Section 2(12)(a)]

35 *Amendments to Rule 4 concerning issue committees:*

1 ~~4.1 An issue committee must provide the committee's fund balance on the date of committee~~  
2 ~~registration as a "beginning balance" on the committee's initial Report of Contributions~~  
3 ~~and Expenditures.~~

4 4.2-4.1 An issue committee may support or oppose more than one ballot measure if the  
5 committee registration form states each measure, describes each measure, and states  
6 whether the committee supports or opposes the measure.

7 [Colo. Const. Article XXVIII, Section 2(10)(a)(I) and (2)(10)(a)(II)]

8 4.3-4.2 If an issue committee supports or opposes a ballot measure on an upcoming ballot, the  
9 issue committee must file on a frequent filing schedule. See Rule 17.2.3.

10 4.4-4.3 Termination. An issue committee may file a termination report at any time if the  
11 following conditions are met:

12 4.4-1-4.3.1 The committee no longer has a major purpose of supporting or opposing a  
13 ballot measure and no longer intends to accept or make contributions or  
14 expenditures to support or oppose a ballot issue or ballot question; and

15 4.4-2-4.3.2 The committee's TRACER account reflects no cash on hand and no  
16 outstanding debts, obligations, or penalties.

17 4.4 SMALL-SCALE ISSUE COMMITTEES

18 4.4.1 A SMALL-SCALE ISSUE COMMITTEE MAY SUPPORT OR OPPOSE MORE THAN ONE  
19 BALLOT MEASURE IF THE COMMITTEE REGISTRATION FORM STATES EACH MEASURE,  
20 DESCRIBES EACH MEASURE, AND STATES WHETHER THE COMMITTEE SUPPORTS OR  
21 OPPOSES THE MEASURE.

22 [COLO. CONST. ARTICLE XXVIII, SECTION 2(10)(A)(I) AND (2)(10)(A)(II)]

23 4.4.2 THE NOTIFICATION REQUIRED BY SECTION 1-45-108(1.5)(C)(III), C.R.S. MUST BE  
24 SUBMITTED ON THE FORM PROVIDED BY THE SECRETARY OF STATE.

25 4.4.3 THE DISCLOSURE REPORT REQUIRED BY SECTION 1-45-108(1.5)(C)(I), C.R.S., MUST  
26 BE FILED WITH THE APPROPRIATE OFFICER WITHIN FIVE CALENDAR DAYS AFTER  
27 NOTIFICATION TO THE APPROPRIATE OFFICER THAT THE SMALL-SCALE ISSUE  
28 COMMITTEE QUALIFIES AS AN ISSUE COMMITTEE UNDER SECTION 1-45-  
29 108(1.5)(C)(III), C.R.S.

30 4.4.4 UPON CONVERSION OF A SMALL-SCALE ISSUE COMMITTEE TO AN ISSUE COMMITTEE,  
31 THE ISSUE COMMITTEE'S FIRST REPORT OF CONTRIBUTIONS AND EXPENDITURES  
32 MUST REFLECT THE SMALL-SCALE ISSUE COMMITTEE'S FUNDS ON HAND AS A  
33 BEGINNING BALANCE.

1 4.4.5 A SMALL-SCALE ISSUE COMMITTEE MAY TERMINATE BY FILING AN AFFIRMATION  
2 INDICATING THE COMMITTEE HAS NO OUTSTANDING DEBTS OR OBLIGATIONS AND  
3 WISHES TO TERMINATE.

4 4.4.6 A SMALL-SCALE ISSUE COMMITTEE REQUIRED TO REGISTER UNDER SECTION 1-45-  
5 108(1.5), C.R.S. MAY REGISTER AND REPORT AS AN ISSUE COMMITTEE AT ANY  
6 TIME.

7 *Amendments to Rule 8.1.3 concerning committee registration:*

8 8.1.3 An issue committee OR SMALL-SCALE ISSUE COMMITTEE must identify the ballot  
9 measure it will support or oppose, if known. If particular ballot measures are not  
10 known, the issue committee OR SMALL-SCALE ISSUE COMMITTEE must identify the  
11 policy position it will support or oppose.

12 *Amendments to Rule 9.2 concerning resignation of the registered agent:*

13 9.2.1 A committee may assign a new registered agent by filing an amended committee  
14 registration. FOR A CANDIDATE COMMITTEE, UPON RESIGNATION OF THE  
15 REGISTERED AGENT THE CANDIDATE BECOMES THE REGISTERED AGENT UNTIL A  
16 NEW AGENT IS ASSIGNED. FOR ALL OTHER COMMITTEES, THE A registered agent's  
17 name remains on file until the committee assigns a new registered agent.

18 *New Rule 9.3 concerning registered agent:*

19 9.3 IN THE CASE OF A CANDIDATE WHO IS THE REGISTERED AGENT FOR A CANDIDATE  
20 COMMITTEE, IF THE SECRETARY OF STATE RECEIVES VERIFIABLE INFORMATION IN WRITING  
21 THAT THE CANDIDATE IS DECEASED, THE SECRETARY OF STATE MAY IMMEDIATELY  
22 TERMINATE THE CANDIDATE COMMITTEE IN TRACER.

23 *Amendments to Rules 10.2 and 10.3 concerning managing contributions and expenditures:*

24 10.2 Except for independent expenditure committees AND SMALL-SCALE ISSUE COMMITTEES,  
25 committees must report contributions as follows:

26 *[Subsequent rules remain; unaltered]*

27 10.3 Except for independent expenditure committees AND SMALL-SCALE ISSUE COMMITTEES,  
28 committees must report expenditures as follows:

29 *[Subsequent rules remain; unaltered]*

30 *Amendments to Rule 10.7.2 concerning contributions by anonymous contributor:*

31 10.7.2 Anonymous contributions are contributions where the identity of the contributor  
32 OR OTHER REQUIRED REPORTING INFORMATION is unknown.

33 *Amendments to Rule 10.14.2 concerning other income:*

1 10.14.2 A committee must disclose all interest or dividends earned on its bank  
2 account, earned income from a commercially reasonable transaction, or transfers  
3 of money within a political party as other income on the committee's reports. This  
4 "THESE other income" is RECEIPTS ARE not subject to contribution limits.

5 *Amendments to Rule 10.17 regarding major contributor reports:*

6 10.17 Major Contributor Reports.

7 10.17.1 Municipal committees required to file major contributor reports under  
8 section 1-45-108(2.5), C.R.S. must file with the municipal clerk.

9 10.17.2 SMALL-SCALE ISSUE COMMITTEES ARE NOT REQUIRED TO FILE MAJOR  
10 CONTRIBUTOR REPORTS UNDER SECTION 1-45-108(2.5), C.R.S.

11 *Amendments to Rules 11.2 through 11.4 concerning electioneering communications:*

12 11.2 Any person who expends \$1,000 or more per calendar year on electioneering  
13 communication OR REGULAR BIENNIAL SCHOOL ELECTIONEERING COMMUNICATION must  
14 include the method of communication on the electioneering report.

15 11.3 Persons making electioneering communications OR REGULAR BIENNIAL SCHOOL  
16 ELECTIONEERING COMMUNICATIONS must maintain all financial records for 180 days after  
17 the general election OR REGULAR BIENNIAL SCHOOL ELECTION, AS APPLICABLE. If a  
18 complaint is filed against the person making electioneering communications OR REGULAR  
19 BIENNIAL SCHOOL ELECTIONEERING COMMUNICATIONS, the person must maintain financial  
20 records until final disposition of the complaint and any resulting litigation.

21 11.4 Electioneering communication reports must include the name of the candidate(s)  
22 unambiguously referred to in the electioneering communication ~~in the electioneering~~  
23 ~~report~~ OR REGULAR BIENNIAL SCHOOL ELECTIONEERING COMMUNICATION. [Colo. Const.  
24 Article XXVIII, Section 2(7)(a)(I)]

25 *Amendments to Rules 15.1 through 15.4 concerning recall elections:*

26 15.1 The recall election cycle begins on the date the recall petition is approved for circulation  
27 by the designated election official and ends on the last day of the final reporting period  
28 following the date of the recall election as defined in Rule 15.2.2.

29 15.1.1 If a recall petition is determined to be insufficient, the recall election cycle ends  
30 30-25 days after the time for protest and final disposition of any protest or appeal  
31 of such determination.

32 15.1.2 If a recall election is canceled for any other reason, the recall election cycle ends  
33 30-25 days after the deadline for filing the recall election petition, or 30-25 days  
34 after the event that caused the designated election official to cancel the election,  
35 whichever is later.

1 15.1.3 If a recall election is canceled, ~~a committee that was~~ ALL COMMITTEES THAT WERE  
2 participating in the recall election EXCEPT SMALL-SCALE ISSUE COMMITTEES must  
3 file a report five days after the end of the recall election cycle. The ~~end of cycle~~  
4 ~~begins~~ REPORTING PERIOD BEGINS on the first day ~~of the month in which the~~  
5 ~~election cycle ends and~~ FOLLOWING THE LAST DAY OF THE REPORTING PERIOD FOR  
6 THE PREVIOUS REPORT. IF THERE WAS NO PREVIOUS REPORT, THE REPORTING  
7 PERIOD BEGINS ON THE DATE THE COMMITTEE REGISTERED. THE REPORTING PERIOD  
8 ends on the last day of the election cycle.

9 15.2 ~~Committees~~ EXCEPT FOR ISSUE COMMITTEES AND SMALL-SCALE ISSUE COMMITTEES,  
10 COMMITTEES participating in a recall election must file reports on the fifth day of every  
11 month until disclosure under section 1-45-108(2.7), C.R.S. AND RULE 15.5; begins.

12 15.2.1 The initial reporting period for committees formed for the purpose of the recall  
13 election begins on the date the committee registers with the appropriate filing  
14 office.

15 15.2.2 Subsequent reporting periods for a committee participating in the recall election  
16 begin on the first day of each month and end on the last day of that month, except  
17 that the final reporting period ends 25 days following the date the recall election  
18 was held.

19 15.2.3 All other committees ~~participating in the recall election~~ WHOSE ORIGINAL  
20 FORMATION WAS NOT FOR THE PURPOSE OF SUPPORTING OR OPPOSING A RECALL  
21 MEASURE must notify the appropriate officer within ten days after deciding ~~they~~  
22 ~~will~~ TO support or oppose ~~the~~ A recall or support or oppose a successor candidate.  
23 Once notified, the appropriate officer will place the committee on the recall filing  
24 calendar until the end of the recall election cycle.

25 15.3 The incumbent in a recall election is not a candidate for the successor election and may  
26 open an issue committee OR SMALL-SCALE ISSUE COMMITTEE to oppose the recall.

27 15.4 The aggregate contribution limits specified for a general election in Colo. Const. Article  
28 XXVIII, Section 3, AS ADJUSTED BY THESE RULES, apply to the recall election with  
29 respect to each successor candidate.

30 *Amendments to Rule 17.1 concerning filing calendars and reporting periods:*

31 17.1 A committee other than a political organization OR SMALL-SCALE ISSUE COMMITTEE must  
32 file a disclosure report for every reporting period, even if the committee has no activity to  
33 report during the reporting period.

34 *Amendments to Rule 17.2.2 concerning filing schedules:*

35 17.2.2 A political committee, small donor committee, political party, independent  
36 expenditure committee, or political organization files on:

1 (a) A frequent filing schedule during any year in which a general election  
2 occurs AND, IF PARTICIPATING IN A REGULAR BIENNIAL SCHOOL ELECTION,  
3 IN ANY YEAR IN WHICH A BIENNIAL SCHOOL ELECTION OCCURS.

4 (b) An infrequent filing schedule during any year in which no general election  
5 occurs, EXCEPT IF THE COMMITTEE IS PARTICIPATING IN A REGULAR  
6 BIENNIAL SCHOOL ELECTION.

7 *Rule 17.2.4 punctuation correction:*

8 17.2.4 An issue committee must notify the Secretary of State within ten days after  
9 deciding that it will support or oppose; a ballot measure on an upcoming ballot.

10 *Amendments to Rule 17.6:*

11 17.6 The following must file with the municipal clerk: A candidate in a municipal election, a  
12 candidate committee, a political committee supporting or opposing a municipal  
13 candidate, an issue committee OR SMALL-SCALE ISSUE COMMITTEE supporting or opposing  
14 a municipal ballot issue or ballot question, an independent expenditure committee  
15 supporting or opposing a municipal candidate, and a small donor committee making  
16 contributions to a municipal candidate. [Section 1-45-109(1)(b), C.R.S.]

17 *New Rule 18.1.1(c) concerning requests for waiver or reduction of campaign finance penalties:*

18 (C) PAYMENT OF THE PENALTY FOR WHICH A WAIVER HAS BEEN REQUESTED  
19 VOIDS THE REQUEST.

20 *Rules 18.2 and 18.3 are repealed and subsequent rules are renumbered accordingly:*

21 ~~18.2—Cure period for violations discovered by the appropriate officer~~

22 ~~18.2.1 If the appropriate officer, as defined in Colo. Const. Article XXVIII, Section 2(1),~~  
23 ~~discovers in the ordinary course of his or her duties in maintaining a campaign~~  
24 ~~finance filing system a possible violation of Colo. Const. Article XXVIII or~~  
25 ~~Article 45 of Title 1, C.R.S., and no complaint alleging such violation has been~~  
26 ~~filed under Colo. Const. Article XXVIII, Section 9(2)(a), then the appropriate~~  
27 ~~officer may:~~

28 ~~(a)—Provide the person believed to have committed the violation with written~~  
29 ~~notice of the facts or conduct that constitute the possible violation, and~~

30 ~~(b)—Allow 15 business days to correct the violation or to submit written~~  
31 ~~statements explaining the reasons that support a conclusion that a violation~~  
32 ~~was not committed.~~

33 ~~18.2.2 No cure period under this rule applies to late filings of campaign finance reports~~  
34 ~~subject to penalties under Colo. Const. Article XXVIII, Section 10(2)(a).~~

1 ~~18.3~~ If, within the time allotted under Rule 18.2, the person fails to correct the violation or to  
2 offer a satisfactory explanation, then the appropriate officer may file a complaint under  
3 Colo. Const. Article XXVIII, Section 9(2)(a).

4 ~~18.4~~ 18.2 Written complaints.

5 ~~18.4.1~~ 18.2.1 A written complaint filed under Colo. Const. Article XXVIII, Section  
6 9(2)(a) must include the Secretary of State's complaint cover sheet, and must  
7 include the following information:

8 (a) The name, address, and signature of the complainant (if the complainant is  
9 represented by counsel, include the counsel's name, address, and  
10 signature);

11 (b) The name and address of each person alleged to have committed a  
12 violation; and

13 (c) The particulars of the violation.

14 ~~18.4.2~~ 18.2.2 If an incomplete complaint is received, the date on which the originally  
15 filed complaint was received is considered the filed date for purposes of Colo.  
16 Const. Article XXVIII, Section 9(2)(a), if a complete copy is received within ten  
17 days of notification from the Secretary of State that the complaint was  
18 incomplete.

19 ~~18.4.3~~ 18.2.3 Any person may submit a complaint by fax or electronic mail if a signed  
20 original is received by the Secretary of State no later than five calendar days  
21 thereafter. If the complaint is complete, the Secretary of State will promptly  
22 transmit the complaint to the Office of Administrative Courts in the Department  
23 of Personnel and Administration for consideration by an Administrative Law  
24 Judge, which will notify the respondents of the filing of the complaint and which  
25 will issue all other appropriate notices to the parties. [Colo. Const. Article  
26 XXVIII, Section 9(2)(a)]

27 ~~18.5~~ 18.3 The Secretary of State may enforce the decision of the Administrative Law Judge.  
28 The Secretary of State will not enforce the decision of the Administrative Law Judge  
29 during the pendency of any appeal of the decision, unless or until the appeal is exhausted  
30 or the decision is upheld by the court of appeals. [Colo. Const. Article XXVIII, Section  
31 9(2)(a).]

32 *Amendments to Rule 20.1 concerning redaction of sensitive information:*

33 20.1 Any person who believes their safety or the safety of an immediate family member may  
34 be in jeopardy as a result of information disclosed on any campaign finance registration  
35 or report, PERSONAL FINANCIAL DISCLOSURE, OR GIFT AND HONORARIA REPORT filed with  
36 the Secretary of State ~~under Article 45 of Title 1, C.R.S.~~, may apply to the Secretary of  
37 State to redact sensitive personal information from the online versions of such report(s).



1 *Amendments to Rule 21.1.2(a) concerning coordination:*

2 21.1.2 An independent expenditure or electioneering communication is created,  
3 produced, or distributed:

4 (a) After one or more substantial discussion(s) between the candidate or  
5 political ~~committee~~ PARTY and the person making the expenditure or  
6 engaging in the spending,

7 (1) In which the person making the expenditure or engaging in the  
8 spending received non-public information about the candidate or  
9 political party's plans, projects, activities, or needs; and

10 (2) The information is material to the creation, production, or  
11 dissemination of an independent expenditure or electioneering  
12 communication; or