



Help Shape Colorado's Campaign and Political Finance Rules

Topic: Rules Concerning Campaign and Political Finance

August 10, 2017

What is this about?

Secretary Williams is considering amendments to the Colorado Rules Concerning Campaign and Political Finance (8 CCR 1505-6). The amendments are intended to achieve the uniform and proper administration and enforcement of Colorado campaign and political finance laws.¹ We invite you to share your thoughts and recommendations as we develop a preliminary draft of the proposed rules.

Please review the attached working draft. The following highlights the primary goals of the proposed rulemaking:

- Ensure proper administration of legislation (HB 17-1155) recently passed by the Colorado General Assembly;
- Establish uniformity in the administration of current law;
- Eliminate obsolete provisions; and
- Simplify the language of existing rules.

Why does the Secretary need my help?

The Secretary values your feedback and we would very much like to hear your thoughts. We need your help to identify necessary revisions or additional guidance in order to propose a constructive and comprehensive draft rule for consideration during the rulemaking proceedings. Overall, we invite your opinions and recommendations to help shape Colorado's Campaign and Political Finance Rules.

How do I submit my comments and what is the deadline?

You may email your comments to SOS.Rulemaking@sos.state.co.us. To ensure consideration of your comments before we issue the proposed draft, please submit your comments by 5:00 p.m. on August 17, 2017.

Will my comments become part of the official record for the anticipated rulemaking?

Yes, we will incorporate your comments into the official record when we commence with formal rulemaking. Our office will identify your comments as information received in anticipation of

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

rulemaking to support the development of the proposed draft rule. Please note that you will have an additional opportunity to provide testimony and/or written comments regarding the proposed rule during the rulemaking proceeding.

To promote transparency and to help generate discussion, our office will post a copy of your comments on the Secretary of State's website. We appreciate privacy concerns and will redact personal contact information that may appear in your comments prior to posting (including your home address, personal email address, and telephone number). To view the comments that we receive, please visit: www.sos.state.co.us/pubs/rule_making/CPFRuleComments.html.

Working Draft of Proposed Rules

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

August 10, 2017

Disclaimer:

The following is a working draft concerning the Campaign and Political Finance Rules. The Secretary values your input and is seeking feedback about the proposed revisions before a formal notice of rulemaking.

Please send your feedback by 5:00 PM on August 17, 2017. Please reference the specific page and line number in your comments. We will consider all comments submitted by this date for inclusion in the official rulemaking draft.

Please note the following formatting key:

Font effect	Meaning
Sentence case	Retained/modified current rule language
SMALL CAPS	New language
Strikethrough	Deletions
<i>Italic blue font text</i>	Annotations

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

2 *Amendments to Rule 1 concerning definitions:*

3 *[No amendments to current Rules 1.1 through 1.5]*

4 ~~1.6~~ — ~~“Expenditures made, and obligations entered into” as used in section 1-45-108(1)(a)(I), C.R.S.,~~
5 ~~means all committee related disbursements, including any agreement or acknowledgement of a~~
6 ~~liability to pay a certain amount.~~

7 ~~1.7-1.6~~ “Frequent filing schedule” means:

8 ~~1.7-1.6.1~~ For state candidates and committees, the filing schedule outlined in sections 1-
9 45-108 (2)(a)(I)(B), (2)(a)(I)(C), (2)(a)(I)(D), and (2)(a)(I)(E), C.R.S.;

10 ~~1.7-2-1.6.2~~ For a county, municipal, and special district candidate or committee, the filing
11 schedule outlined in section 1-45-108 (2)(a)(II), C.R.S.; and

12 ~~1.7-3-1.6.3~~ For political committees, small donor committees, independent expenditure
13 committees, and political organizations participating in a regular biennial school election,

1 the filing schedule outlined in sections 1-45-108(2)(a)(I)(C), (2)(a)(I)(D), and
2 (2)(a)(I)(E), C.R.S.

3 1.7 “INDEPENDENT EXPENDITURE COMMITTEE” HAS THE SAME MEANING AS SET FORTH IN SECTION
4 1-45-103(11.5), C.R.S. AN INDEPENDENT EXPENDITURE COMMITTEE DIFFERS FROM A POLITICAL
5 COMMITTEE IN THAT AN INDEPENDENT EXPENDITURE COMMITTEE DOES NOT COORDINATE WITH
6 A CANDIDATE, CANDIDATE COMMITTEE, OR POLITICAL PARTY.

7 *[No amendments to current Rules 1.8 through 1.12]*

8 1.13 “Person”, for the purpose of Colo. Const. Article XXVIII, Section 7, ~~“person”~~ means any natural
9 person.

10 *[No amendments to current Rules 1.14 through 1.18]*

11 1.19 “Registered agent” is a natural person or candidate designated to receive mailings, ~~and~~ to address
12 concerns and questions regarding a committee, AND IS RESPONSIBLE FOR TIMELY FILING
13 CAMPAIGN FINANCE REPORTS. [Sections 1-45-108(3)(b) and 1-45-109(4)(b), C.R.S.]

14 *[No amendments to current Rule 1.20. New Rule 1.21.]*

15 1.21 “SUPPORT OR OPPOSE”, FOR THE PURPOSE OF COLO. CONST. ARTICLE XXVIII, SECTION 2(12)(A),
16 MEANS THAT THE ENTITY WHO DONATED OR CONTRIBUTED DID SO IN COORDINATION WITH THE
17 CANDIDATE OR CANDIDATE COMMITTEE. IF NO SUCH COORDINATION EXISTS, THE ENTITY IS NOT
18 A POLITICAL COMMITTEE.

19 *New Rule 2.2.4(c)(3) concerning candidates and candidate committees, managing unexpended campaign*
20 *contributions:*

21 (c) Candidates seeking election to a different office

22 (1) A candidate committee may transfer funds to a candidate committee
23 established by the same candidate for a different public office, subject to
24 the political party contribution limit, only if the new office sought has
25 contribution limits that are equal to or greater than the current office, or
26 the new office sought has no contribution limits. [Colo. Const. Article
27 XXVIII, Section 3]

28 (2) A candidate committee transferring funds to a candidate committee for a
29 different office must terminate within ten days of registering the new
30 candidate committee.

31 (3) A CANDIDATE SEEKING ELECTION TO A STATE, COUNTY, OR LOCAL
32 OFFICE MAY NOT TRANSFER FUNDS FROM A FEDERAL CANDIDATE
33 COMMITTEE TO A COLORADO CANDIDATE COMMITTEE THAT IS SUBJECT
34 TO THE PROVISIONS OF THE FAIR CAMPAIGN PRACTICES ACT.
35

1 *New Rule 2.4.5 concerning personal financial disclosures:*

2 2.4.5 A PERSON WHO SITS ON A BOARD OR COMMITTEE NEED NOT DISCLOSE THE BOARD OR
3 COMMITTEE MEMBERSHIP ON A PERSONAL FINANCE DISCLOSURE IF THE PERSON DOES
4 NOT:

5 (A) RECEIVE COMPENSATION; OR

6 (B) INDIVIDUALLY CONTROL BOARD FUNDS.

7 *New Rule 2.5 concerning the special district election cycle:*

8 2.5 FOR SPECIAL DISTRICT CANDIDATES AND COMMITTEES, ELECTION CYCLE MEANS THE PERIOD OF
9 TIME BEGINNING THIRTY-ONE DAYS FOLLOWING THE SPECIAL DISTRICT ELECTION FOR THE
10 PARTICULAR OFFICE AND ENDING THIRTY DAYS FOLLOWING THE NEXT SPECIAL DISTRICT
11 ELECTION FOR THAT OFFICE.

12 *New Rule 3.3 concerning political committees and independent expenditure committees:*

13 3.3 TO QUALIFY AS A CONTRIBUTION OR EXPENDITURE MADE TO “SUPPORT OR OPPOSE” A
14 CANDIDATE, AS THOSE TERMS ARE USED IN THE DEFINITION OF “POLITICAL COMMITTEE” IN
15 SUBSECTION (12)(A) OF SECTION 2 OF ARTICLE XXVIII OF THE COLORADO CONSTITUTION, THE
16 CONTRIBUTION OR EXPENDITURE MUST BE COORDINATED WITH A CANDIDATE OR CANDIDATE
17 COMMITTEE. WHERE THERE IS NO SUCH COORDINATION AND THE AGGREGATE AMOUNT OF THE
18 EXPENDITURES IS IN EXCESS OF ONE THOUSAND DOLLARS, THE ENTITY IS AN INDEPENDENT
19 EXPENDITURE COMMITTEE RATHER THAN A POLITICAL COMMITTEE. IF THE PERSON OR GROUP
20 MEETS THE REGISTRATION REQUIREMENTS OF AN INDEPENDENT EXPENDITURE COMMITTEE, IT
21 MUST REGISTER AS AN INDEPENDENT EXPENDITURE COMMITTEE.

22 *Amendments to Rule 4.4.3 concerning issue committees:*

23 4.4.3 The disclosure report required by section 1-45-108(1.5)(c)(~~ii~~)(I), C.R.S., must be filed
24 with the appropriate officer within five calendar days after notification to the appropriate
25 officer that the small-scale issue committee qualifies as an issue committee under section
26 1-45-108(1.5)(c)(III), C.R.S.

27 *New Rules 4.5 and 4.6 concerning issue committees and small-scale issue committees:*

28 4.5 A MATTER BECOMES A BALLOT MEASURE REQUIRING A COMMITTEE TO REGISTER AS AN ISSUE
29 COMMITTEE OR SMALL-SCALE ISSUE COMMITTEE UNDER SECTION 1-45-108(7)(A)(I), C.R.S.,
30 AFTER A TITLE HAS BEEN DESIGNATED AND FIXED AND ANY MOTION FOR REHEARING HAS BEEN
31 HEARD.

32 4.6 FOR ISSUE COMMITTEES AND SMALL-SCALE ISSUE COMMITTEES, THE ELECTION CYCLE IS A
33 CALENDAR YEAR, BEGINNING JANUARY 1 AND ENDING DECEMBER 31. THIS RULE DOES NOT
34 APPLY TO ISSUE COMMITTEES FORMED TO SUPPORT OR OPPOSE A RECALL.

35 *New Rule 10.1.3 concerning unexpended campaign contributions:*

36 10.1.3 UNEXPENDED CONTRIBUTIONS MAY NOT BE USED FOR PERSONAL PURPOSES.

1 *Amendments to Rule 10.2.3(b) regarding disclosure of occupation and employer:*

2 10.2.3 Disclosure of occupation and employer

3 (a) The requirement to disclose the occupation and employer of a contributor in
4 Colo. Const. Article XXVIII, Section 7 and section 1-45-108, C.R.S., applies to
5 any one-time contribution of \$100 or more, and not to aggregate contributions
6 totaling \$100 or more.

7 (b) ~~IF EXCEPT FOR A COMMITTEE EXERCISING ITS RIGHT TO CURE UNDER SECTION 1-~~
8 ~~45-109(4)(C), IF~~ a committee does not report occupation and employer
9 information for a contribution of \$100 or more, and the committee is unable to
10 gather the information within 30 days after receipt of the contribution, the
11 committee must return the contribution to the contributor no later than the 31st
12 day after receipt. [Colo. Const. Article XXVIII, Section 7]

13 *New Rule 10.4.6 concerning managing contributions:*

14 10.4.6 IF A CANDIDATE OR COMMITTEE ACCEPTS A CONTRIBUTION OR DONATION FROM A JOINT
15 ACCOUNT AND THE CONTRIBUTOR OR DONOR IS NOT SPECIFIED, THE CANDIDATE OR
16 COMMITTEE MAY DETERMINE HOW TO APPORTION THE CONTRIBUTION OR DONATION.

17 *Technical amendment to Rule 10.11.3:*

18 10.11.3 An ~~Immediate~~-IMMEDIATE reimbursement for committee expenses is not a contribution.

19 [Section 1-45-108(1)(e), C.R.S.]

20 *Amendments to Rule 12.4 concerning changing or closing a committee:*

21 12.4 Administrative committee terminations. The appropriate officer may terminate a standalone
22 candidate or committee if the standalone candidate or committee fails to file any required reports
23 for six consecutive reporting periods or 18 months, whichever is shorter, OR FILES “ZERO”
24 REPORTS OR REPORTS WITH NO ACTIVITY FOR THE SAME TIME PERIOD in accordance with the
25 procedures set out in the State Administrative Procedure Act. [Colo. Const. Article XXVIII,
26 Section 2(3), and section 24-4-105, C.R.S.]

27 *Formatting amendments to Rule 15.4:*

28 15.4 The aggregate contribution limits specified for a general election in Colo. Const. Article XXVIII,
29 Section 3, as adjusted by these Rules, apply to the recall election with respect to each successor
30 candidate.

31 *Amendments to Rule 18.2 regarding campaign finance complaints:*

32 18.2 Written complaints.

33 18.2.1 A written complaint filed under Colo. Const. Article XXVIII, Section 9(2)(a) must
34 include the Secretary of State’s complaint cover sheet, and must include the following
35 information:

- 1 (a) The name, address, EMAIL, and signature of the complainant (if the complainant
- 2 is represented by counsel, include the counsel's name, address, and signature);
- 3 (b) The name~~and~~, address AND EMAIL of each person alleged to have committed a
- 4 violation; and
- 5 (c) THE PROVISION OF COLO. CONST. ARTICLE XXVIII, THE FAIR CAMPAIGN
- 6 PRACTICES ACT, OR THESE RULES VIOLATED AND ~~The~~THE particulars of the
- 7 violation.

8 18.2.2 ~~If an incomplete complaint is received, the date on which the originally filed complaint~~
 9 ~~was received is considered the filed date for purposes of Colo. Const. Article XXVIII,~~
 10 ~~Section 9(2)(a), if a complete copy is received within ten days of notification from the~~
 11 ~~Secretary of State that the complaint was incomplete.~~

12 ~~18.2.3 Any person may submit a complaint by fax or electronic mail if a signed original is~~
 13 ~~received by the Secretary of State no later than five calendar days thereafter. THE~~
 14 ~~COMPLAINANT MUST DELIVER AN ORIGINAL, SIGNED COMPLAINT WITH THE REQUIRED~~
 15 ~~COVER SHEET AND ANY APPLICABLE EXHIBITS TO THE SECRETARY OF STATE'S OFFICE. If~~
 16 ~~the complaint is complete, the THE Secretary of State will promptly transmit the~~
 17 ~~complaint to the Office of Administrative Courts in the Department of Personnel and~~
 18 ~~Administration for consideration by an Administrative Law Judge WITHIN THREE~~
 19 ~~BUSINESS DAYS, which AND will notify the respondents BY EMAIL of the filing of the~~
 20 ~~complaint and which will issue all other appropriate notices to the parties. THE~~
 21 ~~SECRETARY OF STATE WILL NOT TRANSMIT ANY COMPLAINT THAT IS NOT COMPLETE.~~
 22 ~~[Colo. Const. Article XXVIII, Section 9(2)(a)]~~

23 18.2.3 IN DETERMINING WHETHER AN ENTITY SUBSTANTIALLY COMPLIED UNDER SECTION 1-45-
 24 109(4), C.R.S., THE APPROPRIATE OFFICER MUST CONSIDER:

- 25 (A) THE EXTENT OF THE RESPONDENT'S NONCOMPLIANCE;
- 26 (B) THE PURPOSE OF THE PROVISION VIOLATED AND WHETHER THAT PURPOSE WAS
- 27 SUBSTANTIALLY ACHIEVED DESPITE THE NONCOMPLIANCE;
- 28 (C) WHETHER THE RESPONDENT SOUGHT AND RECEIVED GUIDANCE FROM THE
- 29 SECRETARY OF STATE'S OFFICE REGARDING THE NONCOMPLIANCE; AND
- 30 (D) WHETHER IT CAN REASONABLY BE INFERRED THAT THE RESPONDENT MADE A
- 31 GOOD FAITH EFFORT TO COMPLY OR WHETHER THE NONCOMPLIANCE IS MORE
- 32 PROPERLY VIEWED AS THE PRODUCT OF AN INTENT TO MISLEAD THE
- 33 ELECTORATE.

34 18.2.4 IN DETERMINING WHETHER AN ENTITY REGISTERED OR DISCLOSED IN "GOOD FAITH" AS
 35 THAT TERM IS USED IN SECTION 1-45-109(4), C.R.S., THE APPROPRIATE OFFICER MUST
 36 DETERMINE WHETHER TEN PERCENT OR LESS OF THE ENTITY'S DISCLOSURES OR
 37 REPORTED DOLLAR AMOUNTS ARE IN COMPLIANCE. IF SO, THE ENTITY IS DEEMED TO
 38 HAVE ATTEMPTED TO COMPLY IN GOOD FAITH.

1 *New Rule 18.4 concerning collection of debt:*

2 18.4 IF THE SECRETARY OF STATE SENDS AN INVOICE TO THE STATE CONTROLLER FOR THE
3 COLLECTION OF A DEBT IN ACCORDANCE WITH COLO. CONST. ARTICLE XXVIII, SECTION 10 (2)
4 (D), THE STATE CONTROLLER MAY NOT ATTEMPT TO COLLECT OR COLLECT THE DEBT FROM A
5 NON-CANDIDATE REGISTERED AGENT OR DESIGNATED FILING AGENT OF A COMMITTEE.