



Notice of Temporary & Permanent Adoption

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

December 3, 2018

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 rules were considered at the November 14, 2018 rulemaking hearing in accordance with the State Administrative Procedure Act⁵.

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 and publication notes

[Current 8 CCR 1505-6 is amended as follows:]

Amendments to Rule 2.2.4 concerning candidate committees:

2.2.4 Managing unexpended campaign contributions

- (a) A candidate committee must report its unexpended balance as the ending balance ~~throughout~~ AT THE END OF the election cycle. A candidate committee must report its unexpended balance from the report filed 30 days after the major election as the beginning balance in the next election cycle. THE CANDIDATE COMMITTEE'S BEGINNING BALANCE MUST REFLECT WHAT AMOUNT IS RETAINED FOR USE IN A SUBSEQUENT ELECTION CYCLE AND WHAT AMOUNT IS RETAINED FOR USE AS UNEXPENDED FUNDS.

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

² Article 45 of Title 1, C.R.S. (2018).

³ Section 24-4-103(3)(a), C.R.S. (2018).

⁴ 8 CCR 1505-6.

⁵ Section 24-4-103(3)(a), C.R.S. (2018).

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

- (1) A candidate committee may retain contributions to use in a subsequent election cycle for the same public office, in an amount not to exceed the POLITICAL PARTY CONTRIBUTION limit in Colo. Const. Article XXVIII, Section 3(3) (as adjusted by Rule 10.16).
- (2) If a candidate committee retains contributions to use in a subsequent election cycle for the same office, the amount retained counts toward the limit on contributions from a political party. ~~A candidate committee must return contributions it receives in excess of the political party limit within ten days.~~
- (3) IF A CANDIDATE COMMITTEE RETAINS CONTRIBUTIONS FROM A PRIOR ELECTION CYCLE IN EXCESS OF THE POLITICAL PARTY CONTRIBUTION LIMIT, THE CANDIDATE COMMITTEE MAY NOT USE THOSE FUNDS FOR ANY SUBSEQUENT ELECTION CYCLE BUT MAY RETAIN THEM FOR USE IN ACCORDANCE WITH SECTION 1-45-106(1)(B), C.R.S., IF APPLICABLE. THE COMMITTEE MAY ALSO CONTRIBUTE THE FUNDS TO A POLITICAL PARTY, DONATE THE FUNDS TO A CHARITABLE ORGANIZATION RECOGNIZED BY THE INTERNAL REVENUE SERVICE, OR RETURN THE FUNDS TO CONTRIBUTORS.

(c) Candidates seeking election to a different office

- (1) A candidate committee may transfer funds to a candidate committee established by the same candidate for a different public office, subject to the political party contribution limit for the new office sought. [Colo. Const. Article XXVIII, Section 3]
- (2) Contributions from persons or committees made to the prior candidate committee do not apply toward the contribution limits for the new candidate committee.
- (3) A candidate committee transferring funds to a candidate committee for a different office must terminate within ten days of registering the new candidate committee.
- (4) A candidate seeking election to a state, county, or local office may not transfer funds from a federal candidate committee to a Colorado candidate committee that is subject to the provisions of the Fair Campaign Practices Act.
- (5) IF A CANDIDATE COMMITTEE TRANSFERS FUNDS IN EXCESS OF THE POLITICAL PARTY CONTRIBUTION LIMIT, THE CANDIDATE COMMITTEE MAY ONLY RETAIN THEM FOR USE IN ACCORDANCE WITH SECTION 1-45-106(1)(B), C.R.S. IF APPLICABLE. THE COMMITTEE MAY ALSO CONTRIBUTE THE FUNDS TO A POLITICAL PARTY, DONATE THE FUNDS TO A CHARITABLE ORGANIZATION RECOGNIZED BY THE INTERNAL REVENUE SERVICE, OR RETURN THE FUNDS TO CONTRIBUTORS.

(d) ~~Not~~ CANDIDATES NOT seeking re-election or election to a new office

- (1) A candidate committee that wishes to terminate and will not transfer funds to a new candidate committee may give remaining contributions to:
 - (A) A political party, in an amount not to exceed the limit in Colo. Const. Article XXVIII Section 3(3) (as adjusted by Rule 10.17);
 - (B) A charitable organization recognized by the I.R.S.;
 - (C) ~~the~~ THE original contributors; or
 - (D) If elected to office, the candidate may use the remaining contributions for voter registration, political issue education, postsecondary educational scholarships, communication with constituents, or for expenses directly related to the officeholder's official duties.

[Section 1-45-106(1)(a)(I) and (b), C.R.S.]

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. The rules will become permanently effective twenty days after publication in the Colorado Register.⁷

Dated this 3rd day of December, 2018,



Suzanne Staiert
Deputy Secretary of State

For

Wayne W. Williams
Colorado Secretary of State

⁶ Section 24-4-103(6), C.R.S. (2018).

⁷ Section 24-4-103(5), C.R.S. (2018).



Statement of Basis, Purpose, and Specific Statutory Authority

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

December 3, 2018

I. Basis and Purpose

This statement explains amendments to the Colorado Secretary of State rules concerning campaign and political finance.¹ The amendments are intended to ensure uniform and proper administration, implementation, and enforcement of Colorado campaign finance law² as follows:

- To provide clarity concerning the use of unexpended campaign funds at the conclusion of the election cycle.

Other changes to rules not specifically listed are non-substantive and necessary for consistency with Department rulemaking format and style. Cross-references in rules are also corrected or updated.

On October 4, 2018, the Secretary issued a request for public comment to help our office develop preliminary draft rules. The comments we received in anticipation of rulemaking are available online at: www.sos.state.co.us/pubs/rule_making/CPFRuleComments.html and are incorporated into the official rulemaking record.

II. Rulemaking Authority

- 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.”
- 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-CCR 6.

² Article 45 of Title 1, C.R.S. (2018).

- Section 1-1-107(2)(a), C.R.S., (2018), 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.”



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

December 3, 2018

Amendments to Rules 2.2.4
New Rules 2.2.4(b)(3), 2.2.4(c)(5)

In accordance with Colorado campaign and political finance laws,¹ the Secretary of State finds that certain amendments to the existing campaign and political finance rules must be adopted and effective immediately to ensure the uniform and proper administration and enforcement of Colorado campaign and political finance laws during the 2018 election cycle.

Amendments to Rule 2.2.4 clarify the use of unexpended campaign contributions at the conclusion of the election cycle, which ends on December 6. Temporary adoption is necessary both to comply with law and to preserve the public welfare generally. The Secretary simultaneously adopts the rule on a permanent basis under CCR #2018-00560.

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 campaign and political finance rules is imperatively necessary to comply with state and federal law and to promote public interests.²

¹ Article XXVIII, Section 9(1)(b), of the Colorado Constitution and section 1-45-111.5(1), C.R.S. (2018).

² Section 24-4-103(3)(6), C.R.S. (2018).