



April 21, 2011

The Honorable Scott Gessler, Secretary of State
Department of State
1700 Broadway
Denver, CO 80290

Re: Rules Concerning Campaign and Political Finance, 8 CCR 1505-6

Common Cause is a non partisan, non profit organization that is dedicated to restoring the core values of American democracy, reinventing an open, honest and accountable government that serves the public interest, and empowering ordinary people to make their voices heard in the political process.

Thank you for your thoughtful consideration of our comments at the April 19, 2011 rulemaking hearing. We appreciate the opportunity to provide further comment on some of the issues discussed.

First, in response to Director of Elections Judd Choate's query about whether or not Common Cause was endorsing the rules and the Secretary of State's authority to promulgate them. As stated in our initial comments, we believe that it is appropriate to provide a published structure that clearly delineates the process for evaluating waiver requests. However, we have concerns that the structure for waivers in Rule 15 A 2 may allow for waivers to be granted where there is not truly good cause, which would be a violation of Article XXVIII, §10(2)(c), and would be outside the Secretary's rulemaking authority. We renew our recommendation that the Secretary of State's office conduct a public review after the rules have been in place for an election cycle to ensure that this waiver structure is appropriate and complies with the Constitution.

We would also like to reiterate our concern about the language in Proposed Rules 15 A 2 (A) and 15 A 2 (C) that states that "penalty caps *may* be disregarded". While we appreciate that there may be unusual circumstances such as those posed by Secretary Gessler, the registered agent is nonetheless responsible for the committee, and when there is a willful disregard of the rules, the penalties should be assessed without an opportunity for fee waivers or penalty caps. We oppose the Secretary of State's office adopting a rule that states that willful disregard of Colorado's campaign finance laws could possibly constitute good cause.

Thank you for the opportunity to comment. Please contact us if you would like additional information.

Sincerely,

A handwritten signature in black ink, appearing to read "ENUNEZ", is written over a light blue horizontal line.

Elena Nunez
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