

# Campaign and Political Finance Manual



Revised January 2021

# Using the Campaign and Political Finance (CPF) Manual

This manual provides guidelines and helpful tips for compliance with the law. It is also a useful guide for conducting research. You may wish to begin at the end – with the Appendix – and read Article XXVIII of the Colorado Constitution, the FCPA (Fair Campaign Practices Act) statutes, and the Rules Concerning Campaign and Political Finance.

This manual may also refer to the Colorado Constitution as the Constitution or Article XXVIII (also known as Amendment 27) and Title 1 Article 45 of the Colorado Revised Statutes (C.R.S.) simply as C.R.S. “Rule” refers to the Rules Concerning Campaign and Political Finance. TRACER refers to the Secretary of State’s online campaign finance filing system, accessible at <http://tracer.sos.colorado.gov>

**REMEMBER:** You must read Article XXVIII of the Colorado Constitution; Colorado Revised Statutes (C.R.S.) Title 1, Article 45 and the accompanying Rules Concerning Campaign and Political Finance to fully understand Colorado Campaign and Political Finance procedures and requirements.

## NOTICE

*The Secretary of State’s Office created this manual for reference and training purposes only. The manual is not a substitute for legal advice and actual knowledge of the campaign finance laws and regulations.*

## A NOTE ABOUT HOME RULE

State campaign finance law may not apply to home rule counties and municipalities (those that have adopted their own charter and local ordinances) in certain circumstances. Candidates and committees in a home rule county or those participating in municipal elections should consult the county or municipal clerk’s office for information about applicable campaign finance laws. Statutory counties and municipalities follow state campaign finance laws.

## Contacting Campaign Finance Support

Phone: (303) 894-2200 & (dial 3 then 1)  
E-mail: [cpfhelp@sos.state.co.us](mailto:cpfhelp@sos.state.co.us)  
Fax: (303) 869-4861  
Address: 1700 Broadway Suite 550  
Denver, CO 80290  
Web: [www.sos.state.co.us](http://www.sos.state.co.us)  
TRACER: <http://tracer.sos.colorado.gov>

# Quick Reference of Changes to this Version

From the April 2020 version, the changes to the CPF Manual include:

## CHANGES TO THE MANUAL

This version includes an update to the Rules Concerning Campaign and Political Finance which were permanently effective on September 30, 2020.

### Recent Court Decisions Affecting Campaign Finance

#### **Holland v. Williams 1:16-cv-00138-RM-MLC**

- Court held that Section 9(2)(a) of Article XXVIII of the Colorado Constitution is facially unconstitutional under the First and Fourteenth Amendments of the U.S. Constitution.

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# PART ONE:

## CANDIDATES AND CANDIDATE COMMITTEES

### BECOMING A CANDIDATE

An individual becomes a candidate when they publicly announce their intent to run for office and thereafter receives a contribution or makes an expenditure in support of their candidacy.

A public announcement includes but is not limited to making a statement a reasonable person would expect to become public signifying an interest in a public office by means of a speech, advertisement, or other communication reported to or appearing in public media or any place that is accessible to the public. A public announcement also includes a stated intention to explore the possibility of seeking an office and/or the registration of a candidate committee.

#### Documents and Where to File

You must file a candidate affidavit with the appropriate filing office within 10 days of becoming a candidate for public office. Candidates required to file affidavits with the Secretary of State must file the affidavit electronically using the online campaign finance reporting system, TRACER. **The affidavit is an attestation that the candidate has familiarized themselves with campaign finance laws and regulations, so be sure to read the laws before submitting the affidavit.**

State candidates (except for Judges and Regional Transportation District (RTD) candidates) must file a Personal Financial Disclosure statement (PFD) within 10 days of filing a candidate affidavit. Incumbents must file a new PFD or an update to an existing PFD on or before January 10 of each year, and within 10 days of filing a candidate affidavit if seeking re-election or election to a new office. Failure to file within 10 days will result in a penalty. Additionally, Section 24-6-202, C.R.S. requires incumbents and newly elected state candidates, excluding RTD directors, to file an annual PFD or update no later than January 10<sup>th</sup> of each year.

Candidates running for **state office**—including Attorney General, CU Regent, District Attorney, Governor, Lt. Governor, Secretary of State, State Board of Education, State House of Representatives, State Senate, and Treasurer for the State of Colorado— must file their candidate affidavit and PFD with the Secretary of State.

State candidates choosing to accept voluntary spending limits (VSL) must file their acceptance with their candidate affidavit.

Candidates running for a **county office** including Assessor, Commissioner, Coroner, County Clerk and Recorder, County Treasurer, Sheriff, Surveyor, as well as candidates running for school board, must also file their candidate affidavit with the Secretary of State, but no PFD is required. Colorado law does not provide county or municipal candidates with the option of accepting VSL.

Candidates in **special district elections** file a self-nomination and acceptance form with the special district Designated Election Official (DEO) in lieu of a candidate affidavit. No PFD is required. The Secretary of State is the appropriate filing officer for all other campaign finance filings for special district candidates.

Candidates in **municipal elections** file with the municipal clerk of the applicable municipality.

Please refer to our website at [www.sos.state.co.us](http://www.sos.state.co.us) for the qualifications required of candidates for each statewide office, or contact your county clerk or your municipal clerk for qualifications required of candidates seeking office in those jurisdictions.

*Note:* Law enforcement officers and those seeking election to a law enforcement offices should use a business address or P.O. Box and other non sensitive contact methods when registering their committees. The Secretary of State's Office recommends NOT using your personal email, phone, or residential address.



## CANDIDATES WITHOUT COMMITTEES (STANDALONE CANDIDATES)

Standalone candidates are candidates without a candidate committee. You do not need to register a candidate committee if you will not solicit or accept contributions during your candidacy or if you will only spend your own money. You must register a committee if you accept money or other types of contributions from any other person/entity.

Standalone candidates must report all expenditures to the appropriate filing office (Secretary of State or the municipal clerk, depending on the office sought).

Standalone candidates must itemize all expenditures of \$20 or more (either one-time expenditures or expenditures greater than \$20 in aggregate during a reporting period). Itemized expenditures must list the name and address of the payee and the purpose of the expense.

The law does not require standalone candidates who do not make expenditures to file disclosure reports, but candidates may file a zero report if they choose.

Standalone candidates are no longer considered candidates upon losing the election. These individuals do not need to take affirmative action to end their candidacy and do not need to file ongoing disclosure reports. Candidates wishing to exit the race prior to the election must submit a written withdrawal and must file disclosure reports for any reporting periods in which they made expenditures until submitting such a withdrawal or until the election occurs.

## CANDIDATE COMMITTEES

A candidate committee accepts contributions and makes expenditures under the authority of a candidate. A candidate committee includes the candidate. The law does not require the committee to have additional members. A candidate can only have one active candidate committee.

When considering running for office, you, your registered agent, fundraisers, and campaign manager

should become familiar with the requirements of Article XXVIII of the Colorado Constitution, Title 1, Article 45, C.R.S., and the Rules Concerning Campaign and Political Finance.

### Registering your Committee

The Colorado Constitution states that a person becomes a candidate when they:

- ◆ publicly announce an intent to run for office; and
- ◆ receive a contribution or makes an expenditure in support of their candidacy

The Secretary of State recommends registering a candidate committee with the appropriate filing office before accepting contributions or making expenditures.

All committees that register with the Secretary of State must do so electronically. To register a candidate committee, go to TRACER (<http://tracer.sos.colorado.gov>) and click the “register a committee” button. You will need a committee name (including the name of the candidate, such as “Jane Doe for House District 1”), physical, mailing, and e-mail addresses, a description of your committee’s purpose, your party affiliation for partisan elections, the details of the office sought, and financial information including the name of the bank where the committee has or will have an account. You also need to designate a registered agent who will act as the committee’s representative. The candidate can serve as the registered agent or may designate another natural person to serve as registered agent.

*Note:* A governor candidate and lieutenant governor candidate must run together and may only have one committee. The law does not permit separate candidate committees.

*Note:* Law enforcement officers and those seeking election to a law enforcement offices should use a business address or P.O. Box and other non sensitive contact methods when registering their committees. The Secretary of State’s Office recommends NOT using your personal email, phone, or residential address.

**Registered Agents**

All committees must have a registered agent. The registered agent is like a treasurer –they keep track of all contributions and expenditures and file the committee’s reports. The registered agent has important duties and access to all of the committee’s financial information. The Secretary of State communicates primarily with the registered agent via e-mail. The candidate may serve as the registered agent for their candidate committee, or may appoint someone else to serve. Committees must list the natural person serving as the registered agent on the committee registration form.

In addition to the candidate or the registered agent, the committee may also assign a natural person to serve as a designated filing agent responsible for the timely filing of contribution and expenditure reports.

The committee can replace the registered agent after a formal resignation, after which the committee must file an amended registration. To resign, a registered agent must file a resignation letter with the appropriate filing officer. A new registered agent must assume the role before Secretary of State records reflect a resignation. Please see Rule 9.2 for more information. If the candidate committee fails to appoint a new registered agent within ten days of the resignation of the former registered agent, the candidate becomes the new agent.

**Amending your Committee Registration**

Committees must report any changes to their committee registration information—including address, phone, e-mail, registered agent, or purpose—within ten days of the change. Committees may file amendments using TRACER, or by completing and submitting a paper Committee Registration Amendment form. Municipal candidates should contact the municipal clerk for more information.

**Terminating your Committee**

For campaign finance purposes, candidates remain candidates for office as long as they have an open

candidate committee and therefore must continue filing all assigned disclosure reports. Candidates may terminate their committee by filing a termination report that reflects a zero balance.

The appropriate filing office will impose penalties of \$50 per day, including weekends and holidays, for reports filed after the due date, even if your committee has no activity during the reporting period.

Committees with loans or outstanding debt, including late filing penalties, may not terminate until the committee pays the loan or debt and the committee has reached a zero balance.

Inactive candidates are candidates that do not seek access to the ballot in an upcoming election but want to maintain an active candidate committee. Term limited officeholders who choose to maintain an active candidate committee and solicit contributions must indicate to the appropriate filing officer their intention to be designated as an inactive candidate. This can be done by filing a candidate affidavit but also indicating to the appropriate officer that the candidate is term limited and therefore not seeking access to the ballot in an upcoming election. If, at any time, an inactive candidate decides to run for a different office, the candidate must file a candidate affidavit for the office sought and rollover committee funds to a new candidate committee.

**Relevant laws and rules for Candidate and Candidate Committees**

Definitions	Art. XXVIII, Sec. 2
Registration and amendments	1-45-108(3), C.R.S.; Rule 2.2, Rule 8.1, Rule 12.1
Disclosure requirements	1-45-108-109, 1-45-110, 24-6-202, C.R.S.; Rule 10
Deposits and records	Art. XXVIII Sec. 3(9); Rule 10
Filing dates	1-45-108(2), C.R.S.; Rule 17
Contribution limits	Art. XXVIII, Sec. 3; 1-45-103.7, C.R.S.; Rule 10.17
Unexpended campaign funds	Art. XXVIII, Sec. 2(15); 1-45-106, C.R.S.; Rule 2.2.4
Terminating	Rule 2.2.5, Rule 12.3

Inactive candidate committees	1-45-106 (1)(a)(III), C.R.S.
Sanctions	Art. XXVIII, Sec. 10

## COORDINATION

Once a person becomes a candidate, they are prohibited from coordinating with independent expenditure committees. Furthermore if, during the six month period before becoming a candidate for public office, a person actively solicits funds for an independent expenditure committee with the intent of benefiting their future candidacy, any expenditures made by that independent expenditure committee in that candidate’s race are presumed to be coordinated with that candidate and therefore constitute a contribution to the candidate from the independent expenditure committee and an expenditure by the candidate committee. In addition, the Independent Committee is prohibited from making expenditures in that candidate’s race.

A person actively solicits funds if they:

- ◆ Help to organize, direct, or plan a fundraising event for an independent expenditure committee.
- ◆ Encourage or suggest a donation to the independent expenditure committee.
- ◆ Know or reasonably should have known that the independent expenditure committee will support their future candidacy.

### Relevant laws and rules for Coordination

Coordination	1-45-103.7(11)(a), C.R.S.; Rule 21
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## CONTRIBUTIONS AND EXPENDITURES

A candidate committee must report all contributions received and all expenditures made to the appropriate filing officer (the Secretary of State for all candidates

except those in municipal elections). Standalone candidates must report all expenditures. Candidates and committees filing reports with the Secretary of State must file reports electronically.

Candidate committees for special district elections must file reports once the committee has accepted contributions or made expenditures in aggregate of \$200 for the election cycle.

Filing dates and reporting periods vary depending on the office sought. You can view campaign finance filing calendars on the Secretary of State’s website at [www.sos.state.co.us](http://www.sos.state.co.us) The calendars are created using the schedule outlined in Section 1-45-108(2), C.R.S. The Secretary of State imposes penalties of \$50 per day for late filings, including weekends and holidays.

### Contributions and Contribution Limits for Candidates and Candidate Committees

The Secretary of State’s Office recommends registering a committee prior to accepting contributions. Candidate committees must report all contributions received to the appropriate filing officer.

Depending on the contribution amount, Colorado law requires committees to report certain additional information as follows:

- ◆ Committees must disclose contributions of less than \$20 on their report, although itemization is not required.
- ◆ Committees must report and itemize contributions of \$20 or more, (either one time contributions or contributions greater than \$20 in aggregate during a reporting period) including non-monetary (in-kind) contributions. Itemization means listing each contribution individually with the name and address of the contributor.
- ◆ Committees receiving contributions of \$100 or more, (from natural persons), including non-monetary contributions, must also include the

occupation and employer of the contributor on the report.

Contributors may make contributions using cash, crypto currencies, check, money order, credit card, EFT, etc., but cash, coin, or crypto currency contributions cannot exceed \$100.

Non-monetary donations of goods, equipment, supplies or services constitute contributions requiring disclosure and count against contribution limits.

Contributions include anything of value given directly or indirectly to a candidate “for the purpose of promoting the candidate’s nomination, retention, recall, or election.”

Contributions from natural persons made by check are considered to have come from the person who signed the check. The date the committee deposits the check into its account is the date of receipt. Please see page 34 of this manual for information on contributions from joint account holders. If a committee receives a contribution five or more business days before the end of a reporting period, the committee must deposit the check or return it to the contributor by the close of that reporting period.

Candidate committees must report contributions of \$1,000 or more received within 30 days of the primary election, general election, or regular biennial school election within 24 hours of receipt as a Major Contribution. This is a supplemental report and is due separately from regular reports except that reports are not required in years where a candidate’s office does not appear on the ballot.

Volunteer services by an individual do not constitute contributions. This includes volunteers who donate time to the campaign at no charge. Keep in mind that donated services that are not time-based may be subject to disclosure and contribution limits. See Rule 1.4.1

No person may act as a conduit for a contribution to a candidate committee and the law prohibits anonymous contributions of \$20 or more.

## Prohibited Contributions

Colorado law prohibits candidates and candidate committees from accepting contributions from:

- ◆ Corporations (profit or non-profit)
  - ◆ Foreign citizens, corporations, or governments
  - ◆ Another candidate committee (local, state, or federal)
  - ◆ Lobbyists, principals of lobbyists, or political committees who retain a lobbyist, when the General Assembly is in regular session (applies to members of or the candidates for the General Assembly or Executive Office)
  - ◆ Anonymous contributions of \$20 or more
  - ◆ Limited Liability Companies (LLCs), *if* any of the LLC members are a:
    - Corporation or labor organization
    - Natural person who is not a U.S. Citizen
    - Foreign government
    - Professional or volunteer lobbyists, or a principal of a lobbyist prohibited from contributing by 1-45-105.5(1), C.R.S.
- Note: See definition of LLC in 1-45-103.7(8), C.R.S.
- ◆ LLCs that the IRS treats as corporations, and from LLCs with publicly traded shares

Colorado law prohibits a person from making a contribution with the expectation that the recipient will reimburse all or a part of the contribution.

**Colorado law permits LLC contributions subject to the following requirements:**

- ◆ **LLC contributions are attributed to the members of that LLC and if the members are natural persons, the amount contributed as a member of the LLC counts towards aggregate contribution limits for that person.**
- ◆ The LLC must provide the candidate or committee with a written statement affirming the permissibility of the contribution. (The Secretary

of State’s office has a sample form on its website, or the LLC may create their own.)

- ◆ Please review Section 1-45-103.7(8), C.R.S. for the definition of Limited Liability Company for campaign finance purposes.
- ◆ The affirmation must include:
  - Name & address of all LLC members.
  - Information on how to attribute the contribution among the LLC members. The attributed amount must reflect the capital the member has invested in the company at the time of the contribution (percentage of ownership).
  - Occupation and employer information for a member must also be provided for contributions of \$100 or more attributed to that LLC member.
- ◆ The committee must:
  - Retain affirmation statements for 1 year after the end of the election cycle.
  - Itemize LLC contributions regardless of amount.
  - List both the individual LLC member’s name as the contributor as well as the name of the LLC.

**Limits**

**Candidates** may accept contributions for both the primary and general election. Contribution limits apply once for the primary election and again for the general election.

*Note:* A candidate committee may accept and spend contributions for the primary and general election at any time during the election cycle regardless of whether or not the election is contested.

**Contribution Limit Amounts for Candidates**

From persons and political committees

Limits apply separately to both the primary and general election, if applicable. For example, a candidate for governor may accept \$625 for the primary AND \$625 for the general election from one individual.

Governor/ Lt. Governor, Secretary of State, Attorney General, State Treasurer .....	\$625
State Senate, State House of Representatives, State Board of Education, CU Regent, District Attorney .....	\$200
County Candidates .....	\$1,250

From small donor committees

Limits apply separately to both the primary and the general election, if applicable.

Governor/ Lt. Governor, Secretary of State, Attorney General, State Treasurer .....	\$6,750
State Senate, State House of Representatives, State Board of Education, CU Regent, District Attorney .....	\$2,675
County Candidates .....	\$12,500

From political parties

Contribution limits apply using the election cycle for a specific office. The election cycle starts the 31<sup>st</sup> day after the general election for a particular office and ends the 30<sup>th</sup> day after the next general election for that office.

Governor/Lt. Governor (one committee) .....	\$679,025
Secretary of State, Attorney General, State Treasurer .....	\$135,775
State Senate .....	\$24,425
State House of Representatives, State Board of Education, CU Regent, District Attorney .....	\$17,625
County Candidates .....	\$22,125

*Note:* The Secretary of State adjusts contribution limits every four years and the current limits reflect inflationary adjustments made on March 29, 2019.

Candidates in home rule municipalities and counties may be subject to different contribution limits, or none at all. Contact your county or municipal clerk to determine what limits may apply.

**Voluntary Spending Limits (VSL)**

Most state candidates can choose to accept VSL (but may only do so at the time the candidate files their candidate affidavit). Accepting VSL limits the total

amount a candidate or candidate committee may spend during the entire election cycle.

Under VSL, contributions by a candidate to their own campaign constitute contributions from the political party and therefore must remain within the political party contribution limit. Combined contributions from the candidate and the political party cannot exceed the limit for the political party.

A candidate who has accepted VSL may accept double the listed contribution limits if another candidate enters the race, does not accept the voluntary spending limits, **and** raises more than 10% of the VSL limit.

VSL acceptance is irrevocable except that a candidate who has accepted the limits may withdraw acceptance within 10 days of a new candidate entering the same political race if the new candidate does not accept the spending limits. This option is available each time a new candidate enters the race and does not accept VSL.

The following voluntary spending limits apply:

Governor/Lt Governor .....	\$3,395,275
Attorney General, Secretary of State, State Treasurer .....	\$679,025
State Senate .....	\$122,200
CU Regent, District Attorney, State Board of Education, State House of Representatives.....	\$88,225

*Note:* The Secretary of State adjusts Voluntary Spending limits every four years and the current limits reflect inflationary adjustments made on March 29, 2019. VSL does not apply for RTD candidates.

**Major Contribution Report**

Candidate Committees must file a Major Contribution report in TRACER within 24 hours of receiving any contribution of \$1,000 or more within 30 days of the primary election, general election, or regular biennial school election. This includes loans from the candidate to their own committee. Colorado law requires the filing of a Major Contribution report **in addition to** reporting such contributions on the regularly scheduled

disclosure reports. Candidates not on the ballot are exempt from this reporting requirement in off-election years.

**Loans**

Candidates may accept both personal loans from themselves and loans from financial institutions. Loans from financial institutions are permissible if the loan bears the usual and customary interest rate.

Contribution limits do not apply to loans from a financial institution. The candidate must report the loan and show loan payments. Loans from a financial institution cannot be forgiven.

Candidates may forgive loans made by the candidate to their own committee and contribution limits do not apply. For candidates who have accepted VSL, loans count toward contribution limits. **Candidates may not receive loans from any other individuals or entities.**

**Legal provisions related to contributions**

Definitions	Art. XXVIII, Sec. 2(5)
Registration required	1-45-108(3), C.R.S.
Limits	Art. XXVIII, Sec. 3; 1-45-103.7 C.R.S., Rule 10.17
Conduits prohibited	Art. XXVIII Sec. 3(7)
Reimbursement prohibited	Art. XXVIII Sec. 3(11)
Major Contributors	1-45-108(2.5), C.R.S.
LLCs	1-45-103.7, C.R.S.
Voluntary spending limits	Art. XXVIII, Sec. 4
Loans	Art. XXVIII, Sec. 3(8); Rule 10.13
Sanctions	Art. XXVIII, Sec. 10

**Expenditures by Candidates and Candidate Committees**

Simply stated, expenditures refer to the money an individual or committee spends. Money spent on anything for the purpose of expressly advocating the election or defeat of a candidate is considered an expenditure.



An expenditure occurs when it is made, when funds are obligated, or when a contract is established, whichever occurs first.

Expenditures controlled by or coordinated with a candidate or a candidate’s agent represent both contributions by the person making the expenditure, and expenditures by the candidate committee.

No committee or candidate may spend more than \$100 in cash or coin on any single expenditure.

Committees must itemize all expenditures of \$20 or more (either one-time expenditures or expenditures greater than \$20 in aggregate during a reporting period). Itemized expenditures must list the name and address of the payee and the purpose of the expense.

Candidate committees may not contribute to another candidate committee.

Committees that do not reimburse third-party expenditures (those made on behalf of the committee by someone other than the candidate, agent, or other person affiliated with the committee) should report them as non-monetary (in-kind) contributions.

Committees should report mileage as an expenditure using the Internal Revenue Service (IRS) rate.

Candidate committees may not use contributions for personal purposes not reasonably related to the election of the candidate except that a candidate committee may make expenditures to reimburse the candidate for reasonable and necessary child or dependent care expenses the candidate incurs in connection with their campaign during the election cycle.

**Reimbursements**

Committees should report reimbursements by the campaign to candidates, staff, and volunteers as expenditures.

Candidate committees may reimburse the candidate for expenditures the candidate made on behalf of the committee at any time. The disclosure report should list this as a reimbursement and should explain the purpose of the original expenditure. For example, if the payee is

the candidate’s bank or the candidate themselves because it is a reimbursement for credit card or out-of-pocket expenses, the purpose should include what the candidate purchased and from whom. Simply stating “credit card payment” or “reimbursement” as the purpose is insufficient.

You must disclose each reimbursement of \$20 or more separately.

**Bank Accounts**

Candidate committees must deposit all contributions they receive in a financial institution in a separate account with a title that includes the name of the committee.

Committees may open an account at any financial institution they choose. Regulations concerning account requirements may vary depending on the financial institution. Please consult your bank or the IRS.

**Legal provisions related to expenditures**

Definitions	Art. XXVIII, Sec. 2(8, 9)
Cash/coin expenditures	Art. XXVIII, Sec. 3(10)
Itemized expenditures	1-45-108(1)(a)(I), C.R.S.; Rule 10.3
Independent expenditures	Art. XXVIII, Sec. 5; 1-45-108(2.5), C.R.S.
Sanctions	Art. XXVIII, Sec. 10
Reimbursement of Expenditures	Rule 10.12

**GIFT AND HONORARIA REPORTING**

Every incumbent public office holder and every candidate elected to public office must file a report of gifts and honoraria they receive.

For the purposes of gift and honoraria reporting, “public office” includes:

- Governor
- Lieutenant Governor
- Secretary of State

- Attorney General
- State Treasurer
- Members of the Colorado General Assembly
- Members of the State Board of Education
- Regents of the University of Colorado
- Supreme Court and Appellate Court judges
- District Attorneys
- County, Municipal, School District, (and Special District if compensation is greater than \$2,400) officers

Most public office holders and candidates will file their Gift and Honoraria reports with the Secretary of State. Municipal and joint City/County officers file Gift and Honoraria reports with the appropriate Municipal Clerk.

Gift and Honoraria reports cover quarterly reporting periods and are due on the following dates subject to holiday adjustments:

- January 15
- April 15
- July 15
- October 15

Incumbents and candidates filing their Gift and Honoraria reports with the Secretary of State’s Office must file their reports electronically using the TRACER system.

*Note:* Incumbents who leave office between October 15 and January 15 must still file the January 15 report.

The filing of Gift and Honoraria reports is not required during periods in which incumbents and candidates elected to public office do not receive items listed in the following section.

## Disclosure Requirements

Incumbents and candidates elected to public office must report, with some exceptions, the following items received in connection with their public service:

- Payments for speeches, appearances, and publications
- Payments or reimbursements for travel and lodging expenses for attendance at conventions, fact-finding missions and other meetings
- Gifts of meals to political party fundraising events

Additionally, candidates elected to office but who have not yet been sworn in must also report the following:

- Money over \$65
- Gifts with a value over \$65
- Loans of real or personal property over \$65
- Event tickets over \$65

*Note:* Amendment 41 of the Colorado Constitution prohibits elected officials from receiving certain gifts and other items of value including those listed above.

For more detailed information on what items must be disclosed, please review the relevant laws governing gift and honoraria reporting. Additionally, a guide titled Guidance on Reporting Gifts and Honoraria is located on the Secretary of State’s website in the Campaign Finance section under Help and Resources.

Further information and opinions about gifts is also located on the Colorado Independent Ethics Commission website:

<https://www.colorado.gov/iec>

## Legal provisions related to Gifts and Honoraria

Reporting	24-6-203, C.R.S.
Prohibitions	Art. XXIX, Sec. 3



## REPORTING AND TRACER

### Your filing office

For state offices including Attorney General, CU Regent, Governor, Regional Transportation District, Secretary of State, State Board of Education, State House of Representatives, State Senate, and Treasurer for the State of Colorado, the filing office is the Secretary of State.

County offices—including Assessor, Commissioner, Coroner, County Clerk and Recorder, County Treasurer, Sheriff, and Surveyor, as well as candidates in special district or school board elections—also file campaign finance documents and reports with the Secretary of State. However, keep in mind that documents to access the ballot are filed with the county or municipal clerk, as applicable.

Candidates in municipal elections file with the applicable municipal clerk.

### Filing calendars: dates and deadlines

Municipal candidates and committees should check with their municipal clerk for filing calendars.

For candidates and committees that file with the Secretary of State:

- ◆ Campaign finance filing schedules and reporting periods vary depending on the office sought. The calendars are created using the schedule outlined in Section 1-45-108(2), C.R.S. Please consult the Secretary of State website, or your TRACER account, for information about which calendar applies to you.
- ◆ Candidates and candidate committees typically file on a “frequent” schedule during the election year and an “infrequent” schedule during non-election years. “Election year” means the year in which the office appears on the ballot.

### Amending reports

Whenever a committee becomes aware of an error in past reporting, the committee must amend the report as soon as possible by filing an Amended Report of Contributions and Expenditures in TRACER. Municipal candidates and committees file amended reports with their municipal clerk.

### TRACER

TRACER is the Secretary of State’s online campaign finance filing system. You can access TRACER at the following address:

<http://tracer.sos.colorado.gov>

You can use TRACER to electronically register your committee, enter contribution and expenditure information, and file campaign and political finance reports.

Under Campaign and Political Finance Rule 19, you must submit all filings to the Secretary of State electronically with the exception of personal financial disclosures. Candidates and committees may apply for an exemption to this rule based on hardship or other good cause.

The Secretary of State’s office provides three ways to file campaign finance information electronically. You can submit information via regular data entry directly into TRACER; via electronic data interchange (EDI) with pre-approved Excel spreadsheets; or via EDI with XML. All filers may use EDI but the technical requirements of EDI make it more practical for committees with a large number of contributions and expenditures. EDI enables the management of contributions and expenditures using specific spreadsheet templates or XML prior to report filing. Please contact Campaign Finance Support at [cpfhelp@sos.state.co.us](mailto:cpfhelp@sos.state.co.us) for more information on EDI filing.

You do not have to wait until the end of the reporting period to enter your transactions. You can work on the report and save your information throughout the reporting period. The public cannot view the information until you file the report.

If you do not currently have a user account in TRACER, you will need to register a committee online. When the Secretary of State's office accepts your registration, the system will generate emails providing you with a user ID and information on how to retrieve your temporary PIN/password. The temporary PIN expires after 7 days so be sure to log in as soon as you receive the emails. The Secretary of State generally issues the user ID and PIN/password emails within one business day of your registration.

**Keep your e-mail address current with the Secretary of State's office** because the office uses e-mail as the primary method to send reminders about filings, changes to campaign finance laws and regulations, any imposed penalties, and other important information. If you need to update your e-mail address, you may do so in the TRACER system, or you may contact Campaign Finance Support at (303) 894-2200 (dial 3 then 1) or e-mail [cpfhelp@sos.state.co.us](mailto:cpfhelp@sos.state.co.us)

#### After the election

**Candidate committees remain open until affirmatively closed by the candidate, registered agent, or designated filing agent. Failure to win the election does not automatically close your candidate committee.** The candidate or agent must file a termination report reflecting a zero balance to close the committee. A committee must pay all outstanding loans, debts and penalties before terminating, and the committee must file all required reports on time as long as the committee remains open.

Committees must keep financial records for 180 days following any general election in which the committee received contributions, and keep LLC affirmations for one year. Committees subject to a complaint must maintain records and make them available until after the matter is resolved.

Inactive candidate committees must terminate, and all funds must be disposed of appropriately, after nine years.

#### Unexpended campaign contributions

The law places some restrictions on what a candidate committee may do with funds on hand at the end of an election cycle.

Candidate Committees may use unexpended funds in the following ways:

- ◆ Contribute to a political party, up to the limit
- ◆ Contribute to a new committee established by the same candidate for a new office. Limits apply as to how much may be contributed to the new committee
- ◆ Donate to an IRS recognized charitable organization
- ◆ Return to contributors
- ◆ Retain for use in a later campaign by the same candidate

If elected to office, unexpended campaign funds may be used for voter registration, political issue education (the law prohibits contributions to issue committees), postsecondary educational scholarships, or to defray reasonable and necessary expenses related to duties as an elected official (this includes communicating with constituents).

If you wish to run for a different office, or run again for the same office if you are not term limited, you may transfer funds to a committee in a subsequent election cycle subject to the following restrictions:

- ◆ The candidate committee must designate what amount it retains for general campaign use in the next election cycle and what amount it retains for use as unexpended funds
- ◆ Funds retained by a candidate committee for general use in the next election cycle are designated as political party contributions and are thus subject to applicable contribution limits. Any remaining funds left over at the end of the election cycle that exceed the political party contribution limit, if applicable, must be designated as unexpended funds subject to the restrictions listed above
- ◆ You must open a new candidate committee if you run for a different office and terminate the old

candidate committee within 10 days of opening the new committee for the new office

- ◆ Candidates seeking election to state or local offices may not transfer funds from a federal candidate committee to a Colorado candidate committee.
- ◆ Committees may not use unexpended funds for personal purposes.

### Standalone Candidates

Standalone candidates must file disclosure reports for any reporting period during which they have made expenditures, up to and including the election. Standalone candidates not elected to office are not considered candidates once the election is over.

#### Relevant laws and rules

Unexpended campaign funds	1-45-106, C.R.S. Rule 2.2.4
Subsequent elections	Art. XXVIII Sec. 3(3)(e);

## PART TWO: NONCANDIDATE COMMITTEES

### Political Committees, Small Donor Committees, Political Parties, Issue Committees, Recall Committees, Independent Expenditure Committees, and Federal Groups (Federal PACs and 527s)

#### REGISTERING YOUR COMMITTEE

Colorado law associates different types of political activity with different types of committees. Prior to raising or spending money, read Article XXVIII of the Colorado Constitution, Title 1 Article 45 of the C.R.S., and the Rules Concerning Campaign and Political Finance to determine committee registration requirements.

The type of committee that you register depends on your activities. Under most circumstances, it is not possible to “choose” the type of committee that you want to register. If your activities meet the definition of a committee listed below, you must register as such with the appropriate office and follow the laws governing that type of committee.

Filing dates for municipal, county, and some special district committees differ from state committees. Please be certain you have the correct filing dates. The Secretary of State imposes penalties of \$50 per day for every day a required report is late, including weekends and holidays.

#### Types of Committees

##### Political Committees

Colorado law defines a political committee as any person, other than a natural person, or any group of two or more persons, including natural persons that have accepted or made contributions or expenditures in excess of \$200 to support or oppose the nomination

or election of one or more candidates. Refer to Colo. Const. Art. XXVIII, Section 2(12)(a).

Features of political committees:

- ♦ Political committees support or oppose candidates for public office in Colorado.
- ♦ Committees advocating for or against candidates—except those related exclusively to municipal candidates—register with the Secretary of State.
- ♦ Depending on the type of activity the committee engages in, a political committee may also need to register and file disclosure reports as an Independent Expenditure Committee (IEC). See the section on IEC’s for more information.

Foreign citizens, foreign governments, and foreign corporations may not register or maintain political committees.

Political committees may not accept more than \$625 per contributor per House of Representatives election cycle (every two years). The two year time period is not based on a calendar year. To determine the time period, please review Article XXVIII Section 2(6) of the Colorado constitution which defines “election cycle.”

Political committees may accept contributions from corporations and labor unions but cannot accept contributions from foreign citizens, foreign corporations, or foreign governments.

Colorado law treats all political committees that are organized, established, maintained and financed by the same labor organization, corporation, or other group of persons as a single political committee subject to contribution limits.

There is no requirement that a political committee segregate contributions received from corporations and labor organizations from those received from natural persons.

The transfer of dues to a political committee from a membership organization (including aggregated dues transfers) are considered pro-rata contributions to the committee from the individual members. The actual transfer itself is not considered a contribution from the membership organization to the political committee. If the pro-rata amount from each individual is \$20 or more (at one time or in aggregate during the reporting period), each individual member must be listed as a contributor.

**Reporting requirements**

A political committee must report all contributions received and expenditures made to the Secretary of State (except for municipal committees, who report to the municipal clerk). In addition, a political committee must file amendments or registration changes with the appropriate officer within 10 days of the change.

Disclosure reports must contain the name and address of the contributor for all contributions of \$20 or more (either one time contributions or contributions greater than \$20 in aggregate during a reporting period), and the contributor’s employer and occupation for those totaling \$100 or more if the contributor is a natural person. Contributions under \$20 may be combined and reported as one lump sum in a reporting period as “non-itemized” contributions if those individual contributions have not exceed \$20 in aggregate in the reporting period.

All contributions from limited liability companies (LLCs) must be itemized and attributed to the individual members of the LLC. The LLC must provide the committee with a written affirmation statement at the time of the contribution, affirming that the contribution is permitted by law. If the affirmation statement is not present at the time of the contribution, the recipient committee has 30 days to obtain the affirmation or return the contribution.

Only the registered agent or designated filing agent may electronically file committee reports.

**Terminating a political committee**

With the exception of municipal committees, you must submit a termination report in order to terminate a political committee. Municipal committees terminate with the applicable municipal clerk. The committee must have a zero balance, which means there are no funds on hand, and no outstanding debts, penalties, or other obligations. Committees may file a termination report at any time. As long as the committee remains open, it must file disclosure reports for every reporting period, even those during which the committee has no activity.

Statute does not address the use of unexpended funds for political committees.

**Legal provisions applicable to political committees**

Definition	Art. XXVIII, Sec. 2(12);
Registration and amendments	1-45-108(3), C.R.S.; Rule 8.1, Rule 12.1
Disclosure requirements	Art. XXVIII, Sec. 7; 1-45-103.7, 1-45-108, 1-45-109, C.R.S.; Rule 10
Filing dates	1-45-108(2)(a), C.R.S.; Rule 17
Contribution limits	Art. XXVIII, Sec. 3; 1-45-103.7, C.R.S.; Rule 10.17
Major contributions	1-45-108(2.5), C.R.S.
Sanctions	Art. XXVIII, Sec. 10

**Small Donor Committees**

Small Donor Committees (SDCs) are a form of political committee that may only accept contributions of \$50 or less per person, per calendar year from natural persons who are U.S. citizens.

Corporations and labor organizations may establish SDCs and their members may contribute. However, corporations and labor organizations themselves cannot contribute to SDCs and money contributed to

an SDC cannot be given back to a corporation or labor organization for general use.

SDCs established by substantially the same group of persons will be treated as a single committee subject to contribution limits.

Foreign citizens, foreign governments, and foreign corporations may not register or maintain SDCs.

Colorado law permits SDCs to make larger contributions to candidates and parties than political committees.

Dues transfers to an SDC from a membership organization (including aggregated dues transfers) are considered pro-rata contributions to the committee from individual members. The actual transfer itself is not considered a contribution from the membership organization. If the pro-rata amount from each individual is \$20 or more (at one time or in aggregate) in a reporting period, each individual member must be listed as a contributor.

### Reporting requirements

An SDC must report all contributions received and expenditures made to the Secretary of State (except for municipal committees, who report to the municipal clerk). In addition, an SDC must file any amendments or changes to the committee’s registration with the appropriate officer within 10 days of the change.

Disclosure reports must include the name and address of the contributor for all contributions of \$20 or more (either one time contributions or contributions greater than \$20 in aggregate during a reporting period).

The law prohibits contributions from corporations, unions, and LLCs because they are not “natural persons.”

Only the registered agent or designated filing agent may electronically file committee reports.

### Terminating a small donor committee

You must submit a termination report to terminate an SDC, with the exception of municipal committees. The

committee must have a zero balance, which means there are no funds on hand, and no outstanding debts, penalties, or other obligations. Committees may file a termination report at any time. As long as the committee remains open, it must file disclosure reports for every reporting period, even those during which the committee has no activity. Municipal committees terminate with the applicable municipal clerk.

Statute does not address the use of unexpended funds for SDCs.

### Legal provisions applicable to small donor committees

Definitions	Art. XXVIII, Sec. 2(14)
Registration and amendments	1-45-108(3), C.R.S.; Rule 8.1 and Rule 12.1
Disclosure requirements	1-45-108, 1-45-109, C.R.S.; Rule 10
Filing dates	1-45-108(2)(a), C.R.S.; Rule 17
Contribution limits	Art. XXVIII, Sec. 3; Rule 10.17
Sanctions	Art. XXVIII, Sec. 10

### Political Parties

Definition: Any group of registered electors who, by petition or assembly, nominate candidates for the official general election ballot. “Political party” includes affiliated party organizations at the state, county, and election district levels, and all such affiliates are considered a single entity for the purposes of Article XXVIII except with respect to disclosure requirements in section 1-45-108, C.R.S.

### Registration and reporting requirements

State and county political parties register with the Secretary of State.

Foreign citizens, foreign governments, and foreign corporations may not register or maintain a political party.

Only the registered agent or designated filing agent may electronically file the committee reports.



The political party must file any amendments or registration changes with the appropriate officer within 10 days of the change.

Reports must contain the name and address of the contributor for all contributions of \$20 or more (either one time contributions or contributions greater than \$20 in aggregate during a reporting period), and the contributor’s employer and occupation for all contributions of \$100 or more if the contributor is a natural person.

**Major Contribution Report**

Political parties must file a Major Contribution report in TRACER within 24 hours of receiving any contribution of \$1,000 or more within 30 days of the primary election, general election, or regular biennial school election. Colorado law requires the filing of a Major Contribution report **in addition to** reporting such contributions on the regularly scheduled disclosure reports.

**Contributions to political parties**

Political parties cannot accept contributions from foreign citizens, foreign corporations, foreign governments, corporations (profit and non-profit), or labor organizations.

Political parties cannot accept contributions intended for a specific candidate.

No political party may accept aggregate contributions from any person—other than a small donor committee—that exceed \$4,025 per calendar year at the state, county, district, and local levels combined, of which no more than \$3,350 may be contributed to the state party. State, county, district, and local branches of the party should ensure proper communication to avoid exceeding aggregate contribution limits.

No political party may accept aggregate contributions from any small donor committee that exceed \$20,325 per calendar year at the state, county, district, and local levels combined. The state level may receive no more than \$16,925 of that amount.

Purely social groups organized within a political party that do not participate in the formal nomination process are not considered part of the political party for campaign finance reporting purposes.

Contributions to political parties from limited liability companies (LLCs) are subject to additional restrictions and reporting requirements. Please see the section on candidate committees for more information on what is required for LLC contributions.

**Legal provisions applicable to political parties**

Definitions	Art. XXVIII, Sec. 2(13)
Registration and amendments	1-45-108(3), C.R.S.; Rule 8.1 and Rule 12.1
Disclosure requirements	Art. XXVIII, Sec. 7; 1-45-108, 1-45-109, C.R.S.; Rule 10
Filing dates	1-45-108(2)(a), C.R.S.; Rule 17
Contribution limits	Art. XXVIII, Sec. 3(3); 1-45-103.7, C.R.S.; Rule 10.17
Corporations and labor organizations	Art. XXVIII Sec. 3(4)(a); 1-45-103(7), 1-45-103.7, C.R.S.
Sanctions	Art. XXVIII, Sec. 10

**Issue Committees**

Colorado law defines an issue committee as any person, other than a natural person, or any group of two or more persons, including natural persons, that has:

- ◆ A major purpose of supporting or opposing any ballot issue or ballot question; and
- ◆ Accepted or made contributions or expenditures in excess of \$200 to support or oppose any ballot issue or ballot question OR;
- ◆ Printed two hundred or more petition sections.

An organization or group of people who support or oppose an issue should familiarize themselves with the laws concerning issue committees before the group engages in political activity to ensure

compliance with any campaign finance laws that may apply.

**You must register an issue committee if you:**

- ◆ Are a person, other than a natural person, or group of two or more individuals (natural persons);
- ◆ Have a major purpose of supporting or opposing a ballot issue or ballot question; and one of the following two criteria has been met:
- ◆ You have accepted or made contributions or expenditures in excess of \$200 to support or oppose that ballot issue or ballot question; OR
- ◆ You have printed 200 or more petition sections or 200 or more petition sections have been accepted in connection with the circulation of the petition. (1-40-113(1)(b), C.R.S.)

**Registration timeline and reporting requirements**

Each issue committee must register within 10 calendar days of accepting or making contributions or expenditures in excess of \$200 to support or oppose any ballot issue or ballot question.

Issue committees at the state, county, or special district level, or those active in multiple counties or special districts, register with and report to the Secretary of State. Municipal issue committees (those supporting or opposing ballot measures at the local municipal level only) register with the municipal clerk.

Foreign citizens, foreign governments, and foreign corporations may not register or maintain an issue committee.

An issue committee’s jurisdiction will determine when it must file disclosure reports. Filing dates for issue committees registered with a jurisdiction of statewide, county, special district, school district, etc. vary, so please consult the Secretary of State’s website or TRACER for the filing calendar applicable to your committee.

Only the registered agent or designated filing agent may electronically file the committee’s reports.

Issue committees must file any amendments or registration changes with the appropriate officer within 10 days of the change.

Contribution limits do not apply to issue committees, except that Colorado law prohibits contributions made with the expectation that the committee will reimburse all or part of the contribution.

Reports must contain both itemized and non-itemized contribution totals. Itemized contributions include the name and address of the contributor for all contributions of \$20 or more (either one-time contributions or contributions greater than \$20 in aggregate during a reporting period), and the contributor’s employer and occupation for all contributions of \$100 or more if the contributor is a natural person.

**Terminating an Issue Committee** An issue committee may terminate by filing a termination report, but only if the report indicates a zero balance which means there are no funds on hand and no outstanding debts, penalties, or other obligations.

Issue committees may return unexpended campaign funds to their contributors or donate them to a charitable organization recognized by the IRS.

**Major Contribution Report**

Issue committees must file a Major Contribution report in TRACER within 24 hours of receiving any contribution of \$1,000 or more within 30 days of the general election or biennial school election. Colorado law requires the filing of a Major Contribution report **in addition to** reporting such contributions on the regularly scheduled disclosure reports.

**Ballot Issues and Ballot Questions**

A ballot issue is “a state or local government matter arising under Section 20 of Article X of the state constitution, as defined in sections 1-41-104(4) and 1-41-103(4), respectively.”

A ballot question is “a state or local government matter involving a citizen petition or referred measure, other



than a ballot issue.” This includes the recall of a public office holder.

**Legal provisions applicable to issue committees**

Definitions	Art. XXVIII, Sec. 2(10); 1-45-103, C.R.S.
Registration and amendments	1-45-108(3), (3.3), and (6), C.R.S., 1-40-113(1)(b); Rules 8.1 and 12.1
Disclosure requirements	Art. XXVIII, Sec. 7; 1-45-108, 1-45-109, C.R.S.; Rule 4
Disclaimers	1-45-108.3, C.R.S.
Filing dates	1-45-108(2)(a), C.R.S.; Rule 17
Major contributions	1-45-108(2.5), C.R.S.
Unexpended funds	1-45-106(3), C.R.S.
Ballot issues and questions	1-1-104(2.3), 1-1-104(2.7), C.R.S.
Sanctions	Art. XXVIII, Sec. 10

**Small Scale Issue Committees**

Colorado law defines a small scale issue committee as an issue committee that does not accept contributions or make expenditures exceeding \$5,000 during an election cycle for the major purpose of supporting or opposing a ballot issue or ballot question.

**Registration timeline and reporting requirements**

Just like issue committees, small scale issue committees must still register with the appropriate jurisdiction after accepting or making contributions or expenditures in excess of \$200 to support or oppose any ballot issue or question. Small scale issue committee registration must be completed within 10 calendar days of the date in which the aggregate amount of the committee’s contributions or expenditures exceed \$200.

Small scale issue committees at the state, county, or special district level, or those active in multiple counties or special districts, register with and report to the Secretary of State. Municipal small scale issue

committees (those supporting or opposing ballot measures at the local municipal level only) register with the municipal clerk.

Foreign citizens, foreign governments, and foreign corporations may not register or maintain a small scale issue committee.

Once registered, a small scale issue committee is not required to file disclosure reports until the small scale issue committee accepts or makes contributions or expenditures exceeding \$5,000 during an election cycle.

Within 15 days of exceeding the \$5,000 threshold, a small scale issue committee must notify the appropriate filing officer that it has exceeded the limit. At this time, the appropriate filing officer will assign the committee an initial disclosure report which is due five days from the date the committee notified the appropriate filing officer that it exceeded the \$5,000 threshold. This initial report must disclose any contribution and expenditure activity the committee engaged in between \$0 and \$5,000. Unlike regular campaign finance disclosure reports, only the name, address, and amount of each contribution and expenditure is required on this initial disclosure report. Following the initial report, the small scale issue committee becomes an issue committee. The notification given to the appropriate filing officer for exceeding the \$5,000 threshold serves as authorization for the appropriate filing officer to convert the committee to an issue committee.

The issue committee will then report on a regular reporting schedule based on the committee’s jurisdiction and purpose.

If you believe the contribution and expenditure activity you will engage in will exceed \$5,000, you may wish to bypass registration as a small scale issue committee and register an issue committee. It is not necessary to first register a small scale issue committee and then convert to an issue committee. Once you have registered as an issue committee, you may not convert back to a small scale issue committee.

**Terminating a Small Scale Issue committee,** A small scale issue committee may terminate at any time by filing an affirmation with the appropriate filing officer that the committee has no outstanding debts, obligations, or penalties and wishes to terminate.

For more information regarding issue committee registration and reporting, see the Issue Committee section.

**Legal provisions applicable to small scale issue committees**

Definitions	1-45-103 (16.3), C.R.S.
Registration and amendments	1-45-108(1.5), C.R.S.; Rule 4.4
Disclosure requirements	1-45-108(1.5), C.R.S.; Rule 4.4
Ballot issues and questions	1-1-104(2.3), 1-1-104(2.7), C.R.S.
Sanctions	Art. XXVIII, Sec. 10

**Recall Committees**

A recall committee is an issue committee formed to support or oppose the recall of a public officer. *Note:* Committees authorized by a candidate are still candidate committees.

An incumbent subject to a recall who wishes to oppose the recall election must form an issue committee. Depending on the anticipated level of contribution or expenditure activity, an incumbent may also consider registering a small scale issue committee (see above). An incumbent may not use their candidate committee to oppose the recall. Any person seeking to fill the vacancy created by a successful recall (successor candidate) must form a candidate committee if accepting contributions.

Persons supporting or opposing successor candidates to fill the vacancy created by a successful recall must form a political committee.

A recall committee must register within 10 calendar days of accepting or making contributions or expenditures in excess of \$200 to support or oppose the recall. The same campaign finance requirements

that apply to issue committees and small scale issue committees apply to recall committees, including itemization, termination, etc.

The date of the election, or the date that the recall petition is deemed sufficient, determines the filing calendar for committees participating in a recall election. The appropriate filing office will prepare and issue the calendar.

**Legal provisions applicable to recall committees**

Registration and reporting	1-45-108(6), C.R.S.; Rule 15
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**Independent Expenditure Committees**

Colorado law defines an independent expenditure committees as one or more persons that makes an independent expenditures in excess of \$1,000, in aggregate, or that collects in excess of \$1,000 from one or more persons for the purpose of making an independent expenditure. The requirements applicable to independent expenditure committees apply to *all* persons, groups, businesses, and other entities that meet the definition of an independent expenditure committee.

Please see the section of this manual covering independent expenditures and electioneering communications (page 31) for more information.

**Legal provisions applicable to independent expenditure committees**

Definitions	1-45-103(11.5), C.R.S
Registration and disclosure requirements	1-45-107.5, C.R.S.

**Federal groups**

The political activity of two types of federal political organizations may subject them to Colorado campaign finance requirements: **Federal Political Action Committees (PACs) and 527 Political Organizations (527s)**. For definitions and more information about these groups, consult the Federal Elections

Commission (FEC) and the Internal Revenue Service (IRS). This manual only discusses these groups to the extent that they are subject to Colorado campaign finance law.

**Federal PACs**

Federal Political Action Committees (PAC) that accept contributions or make expenditures of more than \$200 to support or oppose the nomination or election of one or more Colorado candidates must register a Colorado political committee with the appropriate office and file disclosure reports accordingly.

If a Federal PAC determines it must register a Colorado political committee, the Federal PAC must:

- ◆ Identify contributions received by the Federal PAC used to support or oppose candidates in Colorado;
- ◆ Use only contributions received within the source and limitation requirements established in Colorado law;
- ◆ Itemize contributions of \$20 or more (either one time contributions or contributions greater than \$20 in aggregate during a reporting period) and list the occupation and employer for any person who has made a contribution of \$100 or more if the contributor is a natural person; and
- ◆ Itemize expenditures of \$20 or more

A Federal PAC that is required to register a Colorado political committee is only required to report those contributions and expenditures used to support or oppose candidates in Colorado. The Colorado political committee may receive only \$625 directly from the Federal PAC in each two-year election cycle. For information on political committees, see page 20.

A Federal PAC is not required to form a separate bank account for the Colorado political committee so long as the funds used for the Colorado political committee can be separately identified.

Federal PACs must also comply with any applicable federal laws and regulations. Please consult the FEC at [www.fec.gov](http://www.fec.gov) with questions related to federal law.

**Legal provisions related to Federal PACs**

Registration and amendments	1-45-108(3) C.R.S.; Rule 7.1 and Rule 8.1
Disclosure requirements	1-45-108, 1-45-109, C.R.S.; Rule 10
Filing dates	1-45-108(2)(a), C.R.S.; Rule 17
Terminating	Rule 12
Sanctions	Art. XXVIII, Sec. 10

**Political Organizations**

Political organizations, or “527s” as they are sometimes commonly referred to (named for the section of IRS code that governs them), must register with and report to the Secretary of State if:

- ◆ The organization is engaged in influencing or attempting to influence the selection, nomination, election, or appointment of any individual to any state or local public office in the state; and
- ◆ The organization is exempt (or intends to seek exemption) from taxation by the IRS [I.R.C. § 527 (1)(5)(B)(2010)].

Organizations that are required to register as a 527 political organization with the Secretary of State’s Office must report all contributions and expenditures over \$20 in a reporting period that are used to influence or attempt to influence the election or defeat of any individual to any Colorado state or local public office.

Contributions of \$20 or more (either one time contributions or contributions greater than \$20 in aggregate during a reporting period) must list the name and address of the contributor, and contributions of \$100 or more must include the contributor’s employer and occupation if the contributor is a natural person.

Major Contribution reports are not required for 527 political organizations.

Expenditures of \$20 or more (either one time expenditures or expenditures greater than \$20 in aggregate during a reporting period) must list the name and address of the payee (recipient) and the purpose or description of the expense.

527 political organizations must comply with all applicable IRS and any other federal regulations in addition to complying with Colorado law. Please consult the IRS at [www.irs.gov](http://www.irs.gov) with any questions pertaining to federal law or tax regulations.

**Legal provisions related to 527s**

Registration and amendments	1-45-108.5, C.R.S.; Rule 7 and Rule 8.1
Disclosure requirements	1-45-108, 1-45-108.5, 1-45-109, C.R.S.; Rule 10
Filing dates	1-45-108(2)(a), C.R.S.; Rule 17
Sanctions	Art. XXVIII, Sec. 10

**Registered Agents**

All committees registered with the Colorado Secretary of State must have a registered agent. The registered agent must be a natural person and is responsible for maintaining all committee records and filing all reports on time. The Secretary of State will address all correspondence regarding the committee to the agent.

The committee may replace the registered agent at any time or upon formal resignation of the agent, but the committee must file an amended registration within 10 calendar days of the change. To resign, a registered agent must file a resignation letter with the appropriate filing officer. There must be a registered agent associated with each committee at all times.

**Legal provisions related to registered agents**

Definition	1-45-108(3)(b)
Registration and amendments	1-45-108(3), C.R.S.; Rule 2.2.1 and Rule 9
Disclosure requirements	1-45-108, C.R.S.; Rule 10

Filing dates	1-45-108(2)(a), C.R.S.; Rule 17
Deposits and record-keeping	Rule 10
Contribution limits	Art. XXVIII, Sec. 3
Sanctions	Art. XXVIII, Sec. 10

**How to register a committee**

All registration and reporting required by committees subject to campaign finance law, with the exception of municipal candidates, is done through TRACER, available at <http://tracer.sos.colorado.gov>. To register your committee, you will need the following:

- ◆ Know which type of committee you will register;
- ◆ A committee name and acronyms you will use (if using acronyms, you must provide the full name);
- ◆ A registered agent (required) and designated filing agent (optional);
- ◆ The physical and mailing addresses of the committee’s principal place of business;
- ◆ A valid e-mail address and phone number for the registered agent;
- ◆ A detailed description of your committee’s purpose (such as candidates, ballot measure numbers, or policy positions you will support or oppose); and
- ◆ Financial information, including the name of the bank where the committee has (or will have) an account.

Committees must file any amendments or changes to their registration in TRACER within 10 days of the change. Reportable changes include, but are not limited to, name and address changes, a change in the committee’s purpose, and changes to financial institution information. A committee may change its registered agent in TRACER at any time.

Registration requirements differ for independent expenditure committees. Please see page 31 of this manual.

## CONTRIBUTIONS AND EXPENDITURES

All committees registered with the Secretary of State must report contributions and expenditures (donations for independent expenditure committees).

Filing dates and reporting periods vary depending on the office sought and the candidates or issues supported. You can view campaign finance filing calendars on the Secretary of State website at [www.sos.state.co.us](http://www.sos.state.co.us). The Secretary of State imposes penalties of \$50 per day for late filings, including weekends and holidays.

### Contributions and donations to committees

Committees should attribute contributions from natural persons made by check to the person who signed the check. Please see page 34 of this manual for information on contributions from joint account holders. For contributions or donations made by check, the date the committee deposits the check into their account is the date of receipt.

With the exception of reimbursements to the candidate, Colorado law prohibits contributions made with the expectation that the committee will reimburse all or part of the contribution.

Depending on the contribution amount, Colorado law requires committees to report certain additional information as follows:

- ◆ Committees must disclose contributions of less than \$20 on their report although itemization is not required.
- ◆ Committees must report and itemize contributions of \$20 or more (either one time contributions or contributions greater than \$20 in aggregate during a reporting period), including non-monetary (in-kind) contributions. Itemization means listing each contribution individually with the name and address of the contributor.

- ◆ Committees receiving one-time contributions of \$100 or more from natural persons, including non-monetary contributions, must also include the occupation and employer of the contributor on the report.

Contributors may make contributions using cash, check, money order, credit card, EFT, etc., but cash, coin, or crypto currency contributions may not exceed \$100.

Non-monetary donations of goods, equipment, supplies or services constitute contributions, and require disclosure. Non-monetary contributions count against contribution limits.

### Major Contribution Report

Certain committees must file a Major Contribution report in TRACER within 24 hours of receiving any contribution of \$1,000 or more, within 30 days of the primary election, general election, or regular biennial school election. Colorado law requires the filing of a Major Contribution report **in addition to** reporting such contributions on the regularly scheduled disclosure reports.

### Expenditures by committees

An expenditure occurs when it is made, when it is obligated, or when a contract is established, whichever occurs first.

No committee (except an independent expenditure committee) may spend more than \$100 in cash or coin.

Committees must itemize all expenditures of \$20 or more (either one time expenditures or expenditures greater than \$20 in aggregate during a reporting period).

Third-party expenditures are reported as non-monetary (in-kind) contributions, as are some coordinated expenditures. This does not include reimbursements for expenditures made on behalf of the committee.

Committees must report reimbursements to committee staff and volunteers as expenditures.



Reimbursements can take place at any time during the election cycle. Committees must list reimbursements to service providers that initially paid for goods or services in addition to listing the person receiving the reimbursement.

Independent expenditure committees and donors to such committees are subject to additional disclosure requirements. Please see page 31.

### Bank Accounts

Committees must deposit all contributions they receive into a financial institution in a separate account with a title that includes the name of the committee.

The financial institution may be any bank that you choose, including those outside Colorado. Please consult your bank and IRS regulations concerning account requirements, which may vary depending on the institution.

Independent expenditure committees must have a dedicated bank account solely for their donations and expenditures.

### Legal provisions related to contributions and expenditures

Definitions	Art. XXVIII Sec. 2
Disclosure requirements	1-45-108, C.R.S.; Rule 10
Filing dates	1-45-108, C.R.S.; Rule 17
Contribution limits	Art. XXVIII Sec. 3; 1-45-103.7, C.R.S.; Rule 10
Bank accounts	Art. XXVIII Sec. 3(9) and 1-45-107.5(7), C.R.S.
Reimbursements	1-45-108(1)(e); Rule 10.11.1

## REPORTING AND TRACER

TRACER is the Secretary of State’s online campaign finance filing system and is available at <http://tracer.sos.colorado.gov>. Using TRACER, you can electronically register your committee, enter contribution and expenditure information, and file campaign and political finance reports.

Campaign and Political Finance Rule 19 requires committees to file all reports with the Secretary of State electronically (with the exception of personal financial disclosures). Candidates and committees may apply for an exemption to this rule based on hardship or other good cause.

The Secretary of State provides three ways to file electronically. Campaign finance information may be submitted via regular data entry directly into TRACER; via electronic data interchange (EDI) with pre-approved Excel spreadsheets; or via EDI with XML. All filers may use EDI, but the technical requirements of EDI make it more practical for committees with very large numbers of contributions and expenditures. EDI enables the management of contributions and expenditures using specific spreadsheet templates or XML prior to report filing. Please contact Campaign Finance Support at [cpfhelp@sos.state.co.us](mailto:cpfhelp@sos.state.co.us) for more information on EDI filing.

You do not have to wait until the end of the reporting period to enter your transactions. You can work on the report and save your information throughout the reporting period. The public cannot view the information until you file the report.

If you do not currently have a user account in TRACER, you will need to register a committee online using the Committee Registration feature. When the Secretary of State’s office accepts your registration, the system will generate emails providing you with a user ID and temporary PIN/password. The temporary PIN expires after 7 days so be sure to log in as soon as you receive the emails. The Secretary of State generally issues the user ID and PIN within one business day of your registration.

**Keep your e-mail address current with the Secretary of State’s office** because the office uses e-mail as the primary method to send reminders about filings, changes to campaign finance laws and regulations, imposed penalties, and other important information. If you need to update your e-mail address, you may do so in TRACER, or you may call Campaign Finance Support at (303) 894-2200 (dial 3 then 1) or e-mail [cpfhelp@sos.state.co.us](mailto:cpfhelp@sos.state.co.us)

# PART THREE:

## INDEPENDENT EXPENDITURES, ELECTIONEERING COMMUNICATIONS, FUNDRAISING, AND DISCLAIMER STATEMENTS

### INDEPENDENT EXPENDITURES AND INDEPENDENT EXPENDITURE COMMITTEES

Colorado law defines independent expenditures as expenditures made by individuals, businesses, and other entities—without the support of or coordination with a candidate, candidate committee, or candidate’s agent.

No foreign corporations may make independent expenditures in connection with an election in Colorado.

Expenditures made by a candidate committee in support of the candidacy, or those controlled by or coordinated with a candidate or their agent, do not constitute independent expenditures.

An **Independent Expenditure Committee** must register with the Secretary of State within two business days of the time when any natural person, group, business, or other entity makes independent expenditures totaling more than \$1,000, or accepts donations for independent expenditures in excess of \$1,000. The committee must establish a separate bank account to use exclusively for independent expenditures. Independent Expenditure committees differ from Political committees in that Independent Expenditure Committees do not coordinate activity with a candidate or political party.

Independent expenditure committees may accept unlimited donations, but may not contribute to candidate committees or coordinate expenditures with candidates. Committees organized to contribute to candidates and coordinate with candidates are political committees. (See page 20)

Independent expenditure committees report on the schedule outlined for political committees. Independent expenditure committees must itemize all expenditures of more than \$20 (either one time expenditures or expenditures greater than \$20 in aggregate during a reporting period) and all donations of more than \$250. Independent expenditure committees must also disclose the occupation and employer information for donors giving \$250 or more for the purpose of making an independent expenditure.

Independent expenditure committees must file a separate **48 Hour Notice of Independent Expenditure** in addition to the regular disclosure report within 48 hours of obligating funds for expenditures of more than \$1,000 made within 30 days of a primary or general election.

### Donations from Covered Organizations

In addition to other reporting requirements, any person who receives a contribution, donation, or transfer of \$10,000 or more from a covered organization that is earmarked for the purpose of making an independent expenditure or electioneering communication must report additional information to the appropriate filing officer in the form of a written affirmation provided by the covered organization.

A covered organization is any corporation, including entities established under section 501(c) or 527 of the Internal Revenue Code, labor organization or independent expenditure committee.

The information a covered organization must disclose in the written affirmation statement varies depending on the type of covered organization in question.

For-Profit Covered Organization

- ◆ Name of the covered organization
- ◆ Principal place of business
- ◆ Amount of the contribution, donation or transfer
- ◆ Name of the person who received the contribution, donation or transfer
- ◆ Name of all beneficial owners and their current residence or business address

Beneficial owners of a corporation include all officers, directors and owners of more than 5% of the corporation. If the beneficial owner exercises control over the entity through another legal entity, the affirmation must also list those entities and owners similar to how a filer must report a contribution from an LLC.

Non-Profit Covered Organization

- ◆ Name of the covered organization
- ◆ Principal place of business
- ◆ Amount of the contribution, donation or transfer
- ◆ Name of the person who received the contribution, donation or transfer
- ◆ Names of persons who transferred \$5,000 or more to the covered organization for the purpose of making an independent expenditure or electioneering communication during the 12 months prior to the date of the transfer.

Independent Expenditure Committee

- ◆ Name of the covered organization
- ◆ Principal place of business

- ◆ Amount of the contribution, donation or transfer

Additionally, each covered organization must include a statement in their affirmation from the chief executive officer or head of the covered organization certifying that the contribution, donation, or transfer was not made in cooperation with or at the request of a candidate or political party or their agents.

After reaching the \$10,000 threshold, Colorado law requires the covered organization to provide a new affirmation statement for each qualifying subsequent donation during that calendar year.

**ELECTIONEERING COMMUNICATIONS**

An Electioneering Communication is any communication broadcasted by television or radio, printed in a newspaper or on a billboard, directly mailed or delivered by hand to personal residences or otherwise distributed that:

- (I) Unambiguously refers to any candidate; and
- (II) Is broadcasted, printed, mailed, delivered, or distributed from 30 days before a primary election through the general election or 60 days before the biennial school election; and
- (III) Is broadcasted to, printed in a newspaper distributed to, mailed to, delivered by hand to, or otherwise distributed to an audience that includes members of the electorate for such public office.

Colorado law requires any person, including a candidate and/or candidate committee, spending \$1,000 or more per calendar year for an electioneering communication distributed from 30 days before the primary election through the general election or 60 days before the biennial school election, to report these expenditures.

Colorado law prohibits foreign citizens, foreign governments, and foreign corporations from making electioneering communications or regular biennial school electioneering communications.



Electioneering reports are due at the same time as committee reports for contributions and expenditures. Registered committees need not file a separate report if they identify contributions and expenditures as Electioneering Communication transactions at the time of entry into TRACER and provide additional required information such as the name of the candidate or candidates unambiguously referred to in the communication.

Reports must include all spending made on electioneering communications, and the name and address of contributors giving more than \$250 per year for electioneering.

Electioneering reports must include occupation and employer of “natural persons” contributing more than \$250 per year for electioneering communications.

Please note that many electioneering communications may also meet the definition of an independent expenditure, and are therefore subject to additional legal requirements pertaining to independent expenditures.

**Relevant legal provisions:**

Definition	Art. XXVIII, Sec. 2(7); Rule 11
Reporting	Art. XXVIII, Sec. 6, 1-45-108, C.R.S; Rule 11.5
Sanctions	Art. XXVIII, Sec. 10

**FUNDRAISING**

*Note:* The information contained in this section provides only examples of some types of activity related to fundraising. If you have further questions about fundraising activities, please contact Campaign Finance Support for guidance, or an attorney for legal advice.

**Fish Bowls and Pass the Hat Events**

Traditional fish bowls and pass-the-hat events are permissible provided the committee lists all

contributions received of \$20 or more during a reporting period on the contribution and expenditure report, including names and addresses of the contributors and employer and occupation for contributions totaling \$100 or more. If an individual contributor gives \$20 or more (either at one time or once an aggregate of \$20 or more is reached) during a reporting period, the contributor must be listed individually on the report, regardless of the amount of each contribution. It is helpful to provide envelopes printed with spaces to enter this information at your event.

If the committee is required to provide the occupation and employer information for a contributor and fails to do so within 30 days, the contribution must be returned on the 31<sup>st</sup> day.

**Meet and Greet Events**

The law treats these events the same whether they are held in a rented space or someone’s private home. A committee or party must report anything of value it receives, even if it is food brought for attendees to eat while they mingle. Committees must report the food as a contribution at its fair market value.

**Cost of Admission to Fundraising Events**

Any amount paid for a ticket to a fundraising event in excess of the value of a meal or other amenities provided (which is typically stated) constitutes a contribution to the organization benefitting from the event. For example, if a ticket to an event is \$100 and the meal costs \$25, the ticket purchaser makes a contribution of \$75 to the entity hosting the event.

**Silent Auctions**

When reporting items donated for silent auctions, committees may choose to:

- ◆ Report the estimated fair market value of the item at the time it is received as a non-monetary in kind contribution and then report any bid over that amount as a contribution from the purchaser; or

- ◆ Wait to report receipt of the item until someone purchases it at an auction and then report the purchase price as the fair market value of the non-monetary, in kind contribution from the donor.

A donated item is not considered a “pledge” and therefore a committee does not have to report it until it is “purchased” at an auction.

Committees that receive an item in a different reporting period from when it is auctioned should estimate and report the fair market value in the reporting period in which the item is received.

Unless the committee decides to count any over-bid as a contribution from the purchaser, all contributions are counted against the person or organization that donated the item according to the fair market value which is set by the purchase price.

If the committee estimates the fair market value of an item and then someone purchases the item for a different amount, the committee should amend the contribution amount on any previous disclosure reports.

### Non-monetary (in-kind) Contributions of Goods or Services

The use of a space (room, building, etc.), telephones, office equipment, printed material, or any other goods or services by a committee or party is considered a contribution to the committee or party from the person who owns the space, office equipment, business providing the service, etc. Such a contribution is therefore subject to contribution limits and prohibitions. For example, law typically prohibits the contribution/donation of the use of a ballroom at a corporate-owned hotel (whether donated outright, or given for use at a reduced rate) as a corporate contribution with the possible exception if, and only if, the hotel provides free use to other entities in the usual course of its business.

### Contributions from a Couple or Joint Account Holders

A contribution cannot come from two people. Therefore, couples and joint account holders should each write their own separate checks, and note in the “memo” space which person the contribution is from. If committees receive a contribution or donation from a joint account and the contributors or donors are not specified, the committee may choose to either apportion the entire amount to the member of the joint account who signed the check, or apportion the contribution or donation between members of the joint account. If the committee apportions a contribution or donation between joint account holders, the committee must notify each member of the joint account of the apportionment. The apportionment must also comply with individual contribution limits.

### Online Contributions: PayPal and other Payment Intermediary Services

Committees may use PayPal or other payment intermediary services to accept campaign contributions. The amount the contributor agrees to contribute is the contribution amount. The committee should report any fees charged by the service provider for the transaction as expenditures.

### Fundraising During the Regular Session of the General Assembly

General Assembly (GA) members, executive office holders, and candidates for these offices may not accept contributions from lobbyists, principals of lobbyists, or political committees who retain a lobbyist while in regular session.

Additionally, Colorado law prohibits the governor and candidates for governor from accepting contributions from lobbyists and their principals during consideration of legislation pending signature (usually 30 days following the adjournment of the regular session of the General Assembly).

Contributions from lobbyists are considered received at the time the contribution leaves the possession of the lobbyist, as opposed to contributions from non-lobbyists, which are considered received at the time of deposit.

### Candidate Committees Sharing Expenses

Candidate committees may share expenses for the cost of brochures, offices, office equipment, etc. so long as each committee pays for its proportionate cost of the expense. If one committee pays for the entire cost initially and the other committee reimburses the paying committee within 30 days, then the purchase and reimbursement do not constitute contributions from one candidate committee to the other. Contributions from one candidate committee to another are prohibited.

## DISCLAIMER STATEMENTS

### Independent Expenditures

In addition to other reporting requirements, independent expenditure communications of more than \$1,000 must contain a disclaimer. Broadcast communications must include:

- ◆ A statement that “The communication has been paid for by (full name of the person paying for the communication)”; and
- ◆ A statement identifying a natural person who is the registered agent if the person who paid for the independent expenditure is not a natural person

The statement for broadcast communications must comply with Federal Communications Commission (FCC) requirements for size, duration, and placement.

A disclaimer for a non-broadcast independent expenditure communication must be clear, conspicuous, readable, and contain:

- ◆ The name of the person making/paying for the independent expenditure; and

- ◆ A specific statement that the advertisement or communication is not authorized by any candidate; and
- ◆ Printed text no less than 15 percent of the size of the largest font used in the communication (but no less than 8-point font).

These requirements do not apply to bumper stickers, pins, buttons, pens, and similar small items upon which the disclaimer cannot be reasonably printed.

Failure to file independent expenditure reports on or before the required due date will result in a penalty of \$50 per day until the report is filed, including weekends and holidays. Additionally, independent expenditure committees who fail to file three consecutive reports may be subject to \$500-\$1,000 per day in additional penalties.

### Ballot Issue/Question Communications

Any issue committee, small scale issue committee, or other person making an expenditure in excess of or spending more than \$1,000 per calendar year on a communication that is broadcast, mailed, placed on a website, media service, or online forum, or that is otherwise distributed, supporting or opposing a ballot issue or ballot question must include a disclaimer statement in the communication.

The disclaimer statement must include:

- ◆ A statement that “The communication has been paid for by (full name of the person paying for the communication)”; and
- ◆ A statement identifying a natural person who is the registered agent if the person who paid for the communication is not a natural person

### Electioneering Communications

Any issue committee, small scale issue committee, or other person making an expenditure in excess of or spending more than \$1,000 per calendar year on an electioneering communication that is broadcast,

mailed, placed on a website, media service, or online forum, or that is otherwise distributed, must include a disclaimer statement in the communication.

The disclaimer statement must include:

- ◆ A statement that “The communication has been paid for by (full name of the person paying for the communication)”; and
- ◆ A statement identifying a natural person who is the registered agent if the person who paid for the communication is not a natural person

The Federal Communications Commission (FCC) regulates political advertising for television and radio and may require a “Paid for by” statement. For more information, visit their website at [www.fcc.gov](http://www.fcc.gov). In some instances, a newspaper or other publication may require, at its own discretion, the inclusion of a “Paid for by” statement as a condition of publishing the communication.

The FCC regulates prerecorded telephone calls, or robocalls, that involve state candidates and issues. Such calls must state at the beginning of the message on whose behalf the call is made and regulations prohibit such calls from being made to certain numbers, including emergency numbers, guest/patient rooms at a hospital, etc. For more information please refer to the FCC at [www.fcc.gov](http://www.fcc.gov).

## Other Communications

Any issue committee, small scale issue committee, or other person making an expenditure in excess of or spending more than \$1,000 per calendar year on a communication that must be disclosed and that is broadcast, mailed, placed on a website, media service, or online forum, or that is otherwise distributed, must include a disclaimer statement in the communication.

The disclaimer statement must include:

- ◆ A statement that “The communication has been paid for by (full name of the person paying for the communication)”; and
- ◆ A statement identifying a natural person who is the registered agent if the person who paid for the communication is not a natural person

*Note:* This requirement includes communications that fall outside of the electioneering communication timeframe that would otherwise be reported as expenditures on required disclosure reports by registered committees.

## Relevant legal provisions

Definitions	Art. XXVIII, Sec. 2(9); 1-45-103, C.R.S.
Registration and Reporting	Art. XXVIII, Sec. 5; 1-45-107.5, C.R.S., 1-45-108.3 (1), C.R.S.

# PART FOUR:

## COMPLAINTS, PENALTIES, AND WAIVERS

### COMPLAINTS

Any person who believes a violation of campaign finance laws and regulations has occurred may file a complaint with the Secretary of State's office within 180 days of the alleged violation.

Persons wishing to file a complaint must do so in writing on the form provided by the Secretary of State.

#### COMPLAINTS MUST INCLUDE:

- ✧ Complaint Form
- ✧ Complainant's name, address, email address, telephone number, and signature
- ✧ Name and address of each respondent alleged to have committed a violation
- ✧ Sufficient facts to support a legal and factual basis for the complaint

Upon receipt of the complaint, the elections division will verify if the complainant has identified one or more violations of Colorado campaign finance law and whether there are sufficient facts to support a basis for the complaint.

During the initial review of the complaint, which takes place within 10 business days of the receipt of the complaint, the elections division will take one of the following actions:

- ◆ File a Motion to Dismiss the complaint if the complaint does not specifically identify one or more violations or assert facts sufficient to support the alleged violations; or
- ◆ Provide the respondent with the opportunity to cure any alleged violations in the complaint that are deemed curable; or
- ◆ Conduct an additional review to determine whether to file the complaint with a hearing

officer if the alleged violations require a factual finding or legal interpretation.

### Curing Violations

During the initial review of the complaint, the elections division will notify the respondent of any curable deficiencies alleged in the complaint. The respondent has 10 business days from the date of the cure notification to file any amendments necessary to cure the deficiencies specified in the notice.

The respondent must provide the elections division with notice of its intent to cure on the form provided by the Secretary of State along with a copy of any amendments.

The elections division will review any amendments filed by the respondent and determine if the amendments cure the alleged violations and if so, whether the respondent substantially complied or acted in good faith when filing disclosure information. If the elections division determines the respondent has cured all deficiencies identified in the complaint and that they acted in good faith, the elections division will file a Motion to Dismiss the complaint.

If the respondent fails to cure any alleged deficiency, the elections division will conduct an additional review and determine whether to file the complaint with a hearing officer.

### Investigations and Hearings

The elections division investigates each unresolved or uncured complaint. The elections division has 30 calendar days to conduct additional review of the complaint and determine whether to file a complaint with a hearing officer. If the elections division files a complaint with a hearing officer, it will send notice of the decision to the complainant and respondent.

At this point, the elections division is responsible for conducting such discovery that may be necessary to effectively prosecute the complaint. Complainants are

no longer party to the review except they may seek permission from the hearing officer to file written arguments or provide factual documentation as a friend-of-the-court.

A hearing officer conducts hearings following the Administrative Procedures Act (APA). Additionally, hearing officers must hold a hearing within 30 calendar days of the filing of the complaint with the hearing officer. The hearing officer may grant a time extension upon a showing of good cause.

After the hearing, the hearing officer will issue an initial determination in the case. The initial determination from the hearing officer is then reviewed by the Deputy Secretary of State who will then prepare a Final Agency Decision in the case. All Final Agency Decisions are subject to judicial review under the APA.

**Legal provisions for complaints**

Complaint procedure	Rule 23 1-45-111.7, C.R.S.
Sanctions	Art. XXVIII, Sec. 10

**PENALTIES**

**Late filing penalties**

Colorado law requires The Secretary of State and municipal clerks to impose penalties upon candidates or committees for failure to file disclosure reports or for disclosure reports filed past the due date. Colorado law requires the imposition of a penalty of \$50 per day, including weekends and holidays, for every day that a report remains outstanding beyond the due date.

The Secretary of State or the municipal clerk has the discretion to reduce or waive penalties upon a showing of good cause in accordance to Rule 18.1

**Legal provisions for penalties**

Late Penalties	Art. XXVIII, Sec. 10(2)(a)
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**WAIVERS AND WAIVER REQUESTS**

If a state or county candidate, committee, or party receives a penalty, that person or committee may submit a written request, addressed to the Secretary of State, or the appropriate filing officer, explaining why a waiver or reduction in the penalty is justified. **Waiver requests must show good cause as to why the campaign finance report was delinquent and why the Secretary of State’s Office should reconsider the assessed penalty.** Rule 18.1 outlines the standards of good cause and the Secretary of State’s office considers requests for waiver or reduction of campaign finance penalties using this rule.

Candidates and/or committees must submit waiver requests within 30 days of the date the Secretary of State’s Office mails the penalty notice. Candidates and/or committees may submit waiver requests electronically through TRACER (at the “overview” tab), or by mail to the Colorado Secretary of State’s Office, Attn: Campaign Finance, 1700 Broadway, Suite 550, Denver, CO 80290 or by email to [cpfhelp@sos.state.co.us](mailto:cpfhelp@sos.state.co.us)

The Secretary of State will notify the candidate, committee, or party in writing as to the determination of the waiver request within 60 days of submission. An invoice will accompany the letter if a penalty remains. Failure to respond within 60 days, however, does not constitute an approval of the request.

If a candidate, committee, or party does not agree with the determination made by the Secretary of State, they may request reconsideration by the Secretary of State or appeal the decision by filing a complaint with the Secretary of State’s office who will forward the appeal to the Office of Administrative Courts for review by an ALJ.

Municipal clerks have the discretion to grant penalty waivers for municipal candidates and committees. Municipal candidates and committees should direct such requests to the appropriate municipal clerk.

Please review Article XXVIII, Sec. 10 for more detailed information about the appeals process.

Legal provisions for waiver requests

Waiver or reduction	Art. XXVIII, Sec. 10(2)(b)
Waiver process	Rule 18.1



## PART FIVE:

# TRACER – the Online Campaign Finance Filing System

### Overview

TRACER stands for Transparency in Contribution and Expenditure Reporting. It is the Secretary of State’s online campaign finance filing system.

The Secretary of State’s Office introduced TRACER in January 2010. Using TRACER, you may register your committee, enter contribution and expenditure information, and file required campaign and political finance reports electronically. This section summarizes how to perform basic tasks in TRACER. TRACER contains step by step help screens on each page to guide you through the system and short instructional videos (webinars) providing detailed instruction on using the various modules in TRACER.

### Committee Registration

New users of TRACER must register their committee online. To register a committee, go to the TRACER homepage at: <http://tracer.sos.colorado.gov> and click on the button labeled Committee Registration. You can also access the new committee registration page by clicking on the tab labeled Registration or the link in the left hand menu labeled Committee Registration. Enter the committee information as instructed and click Submit. Once the Secretary of State’s Office has reviewed and approved your registration, you will receive two e-mails; one containing your username and a second with information on how to retrieve a temporary PIN/password, which the system will prompt you to change after you log in for the first time. The temporary PIN/password expires after 7 days so be sure to log in as soon as you receive the emails otherwise, you will need to contact Campaign finance Support in order to have a new temporary PIN/password issued.

### Committee Workspace

Upon logging in, TRACER will direct you to the Candidate/Committee Overview page. This page contains detailed information pertaining to your committee, including account status, recent transaction history, and any reports due for your committee. From the Candidate/Committee Overview page, you can also access the different sections of TRACER by clicking on the appropriate tab across the top of the page, or clicking on the appropriate link on the left hand menu in order to enter, modify, or update contributions, expenditures and other required information for your committee.

### Contribution Entry

To access the Contribution Administration page, click on the Contribution tab on the top of the page. From the Contribution Administration page, to enter a new contribution, click the Add button which will take you to the Contribution Entry page where you can enter information for a contribution. Please note that you must enter information in all required fields.

You can also associate a contributor to each contribution in one of two ways on this page. You can enter information into the fields manually or, if you have already entered information for that contributor for a previous contribution, you can click the search button, locate the contributor, and have the system pre-populate the contributor information fields for you. You can also choose to “lock” this contributor information when entering multiple contributions from the same contributor.

You can enter contributions into the system throughout the reporting period, and you can modify previously entered contributions either by clicking on the Update link from the Contribution Administration page for recently entered contributions, or by clicking the Find button to modify older contributions. The system will store this information and it will only



become publicly viewable once you file a report. Standalone candidates, or candidates without committees, do not need to enter contributions but must report expenditures.

### Expenditure Entry

Filers enter expenditures the same way as contributions. To access the Expenditure Administration page, click on the Expenditure tab on the top of the page. From the Expenditure Administration page, to enter a new expenditure, click the Add button which takes you to the Expenditure Entry page where you can enter the information. Please note that you must enter information in all required fields.

You may enter Payee information into the system either by entering information into the fields manually, or by clicking the Search button to locate a previously entered payee. You can enter expenditures into the system throughout the reporting period. The system will store this information and it will only become publicly viewable once you file a report.

You can modify previously entered expenditures either by clicking on the Update link from the Expenditure Administration page for recently entered expenditures, or by clicking the Find button to modify older expenditures.

### Filing a Report

You can view and access the Reports Due section from the Candidate/Committee Overview page. This section lists the name of a required report, its due date, and the status of that report (Filed, Past Due, etc.). The reporting schedule assigned to your committee by the Secretary of State's office dictates report due dates. Please note, you can only file current or past due reports when logged into the system.

If you have no activity to disclose (contributions, expenditures, loans, repayments, etc.) then you may file a zero or no activity report by clicking on the Nothing to Report link. Note: you may not terminate your committee using this feature. Click "OK" to

confirm no activity for the report and then click "finished" to complete the process.

Before filing a report with activity you must input your transactions (contributions, expenditures, loans, repayments, etc.). To file a current or past due report, click on the View/File link next to that report which will take you to the File Report of Contributions and Expenditures page. The Detailed Summary section contains information about your committee. The Reporting Period Covered lists the dates of the reporting period, and also allows you to file an amended report or a termination report. Lines 1 through 20 contain financial information for entries included in this report. TRACER automatically includes contributions, expenditures, and loan entries you entered into the system during this reporting period and will calculate totals for you.

If you need to enter additional contributions or expenditures or modify existing entries, follow the instructions on the report page. To file the report, click the File button at which point you will receive a confirmation dialog box confirming that you wish to file the report. To complete the filing, click "OK." You can now view the filed report, print it or export it in a variety of desired formats for your personal records.

**Note: You must click "File," click "OK" when asked if you are sure, then "Finished" on the next page. Until you do so, your report has not been filed (it has only been saved) which may result in late filing penalties.**

### Major Contributor Reports and 48 Hour Notices of Independent Expenditure

If you enter a contribution or expenditure that triggers a Major Contributor Report (due within 24 hours of the contribution) or 48 Hour Notice of Independent Expenditure (due within 48 hours of the expenditure), TRACER will automatically generate these reports at the time of entry. You must file these reports separately from regularly scheduled contribution and expenditure disclosure reports. Delinquent entry of a triggering contribution or expenditure may result in late filing penalties of \$50 per day including weekends and holidays, so enter any Major Contributions or

Independent Expenditures that require a 24 or 48 Hour Notice in a timely fashion.

### Searching the Database

To search for information contained in the database, click the Search Database button from the main TRACER home screen or use the Search tab on the top of the TRACER homepage. From the Search the Campaign Finance Database page, you can choose what type of information you wish to search for. The Search function is also available using the Search link on the left hand menu.

TRACER allows users to search for various types of information including searching for candidate information, committee information, contributions and expenditures, and detailed financial information for specified political races. You can also search for penalties and complaints filed against committees registered with the Secretary of State's Office. Follow the instructions listed on the page or by using the "Help with this page" link to enter information in the various search fields to complete your search. Once the system displays the search results, you can choose to print the results grid or export the search results into a CSV or Excel file.

You can use the links on the left hand side of the page to conduct public searches of TRACER. If logged into TRACER as a candidate or committee, using the links on the left hand side (the public search links) will take you out of your workspace and into the public search and resource pages. Once you have completed your search you may click on the red button that says Return to Secure Site. This will take you back to your logged-in workspace.

### All electronic filing

Under Campaign and Political Finance Rule 19, all candidates, committees, and parties must submit all

filings with the Secretary of State electronically (with the exception of personal financial disclosures).

Additionally, candidates and public office holders must file all Candidate Affidavits and Gift and Honoraria reports electronically using the TRACER system.

Candidates, committees, and parties may apply for an exemption to this rule based on hardship or other good cause.

The Secretary of State's office provides three ways to file campaign finance information electronically. You may submit information via regular data entry directly into TRACER; via electronic data interchange (EDI) with pre-approved Excel spreadsheets; or via EDI with XML. All filers may use EDI, but the technical requirements of EDI make it more practical for committees with very large numbers of contributions and expenditures. EDI enables the management of contributions and expenditures using specific spreadsheet templates or XML prior to report filing. Please contact Campaign Finance Support at [cpfhelp@sos.state.co.us](mailto:cpfhelp@sos.state.co.us) for more information on EDI filing. Before using this method to import your transactions, you will need to submit a test file no less than 2 weeks before attempting to use this method to file a report for the first time to allow staff to review the file and resolve any errors or formatting issues with the filer.

**Keep your e-mail address current with the Secretary of State's office** because the office uses e-mail as the primary method to send reminders about filings, changes to campaign finance laws and regulations, imposed penalties, and other important information. If you need to update your e-mail address, you may do so in TRACER, or you may call Campaign Finance Support at (303) 894-2200 (dial 3 then 1) or e-mail [cpfhelp@sos.state.co.us](mailto:cpfhelp@sos.state.co.us)

# Appendix

## QUICK REFERENCE: ELECTION CYCLE / CONTRIBUTION LIMITS

Contribution limits may not necessarily be based on election cycles. If contribution limits apply to your committee please review all applicable laws thoroughly and carefully. The contribution limits below have been adjusted by CPF Rule 10.17 as required by Article XXVIII, Section 3(13) of the Colorado Constitution effective March 29, 2019 and remain current until the next adjustment in 2023, and apply to all committees (state, county, and municipalities that follow state law).

Committee Type	Contribution Cycle	Contribution Limits to Committees
<b>Candidate Committee</b>	<p>Election cycle starts 31 days following a general election for the particular office and ends 30 days following the next general election for that office.</p> <p>6 years – State Board of Education, CU Regent                      4 years – Governor/Lt. Gov, Sec. of State, Attorney General, State Treasurer, State Senate, District Attorney, RTD, County Executive Offices                      2 years – State House of Representative</p>	<p><i>State and county candidates:</i> Please review CPF Rule 10.17 and the Quick Reference guide for candidate committees in this manual.</p> <p><i>Municipal candidates:</i>                      Contribution limits may or may not apply to home rule municipal candidates. Check with the municipality to verify if Home Rule charters or ordinances apply.                      Municipal or county candidates may not accept corporate or labor union contributions unless a home rule charter or ordinance specifies otherwise.</p>
<b>Political Party</b>  (state, county, district and local level combined)	Per year (calendar year) - January 1 <sup>st</sup> through December 31 <sup>st</sup> .	\$4,025 per year from any person; no more than \$3,350 to the state party. \$20,325 per year from a Small Donor Committee; no more than \$16,925 to the state party.
<b>Political Committee</b>	Colorado House of Representatives Elections Cycle (2 years). This applies to state, county, and local political committees.	\$625.
<b>Small Donor Committee</b>	Per year (calendar year) - January 1 <sup>st</sup> through December 31 <sup>st</sup> . This applies to state, county and local small donor committees.	\$50 maximum by <u>natural persons who are U.S. citizens only</u> .
<b>Issue Committees and Small Scale Issue Committees</b>	Per year (calendar year) - January 1 <sup>st</sup> through December 31 <sup>st</sup> . Note: is may not apply to recall issue committees.	<p><i>State and county issue committees</i> do not have contribution limits.</p> <p><i>Municipal issue committees:</i>                      Please check with the designated election official to see if a Home Rule Charter or ordinance establishes contribution limits.</p>
<b>Independent Expenditure Committee</b>	Not applicable.	<p><i>State and county independent expenditure committees</i> do not have donation limits. All foreign source donations are prohibited.</p> <p><i>Municipal independent expenditure committees:</i>                      Please check with the designated election official to see if a Home Rule Charter or ordinance establishes donation limits.</p>

# QUICK REFERENCE OF CANDIDATE CONTRIBUTION LIMITS

## MAXIMUM CONTRIBUTION LIMITS FOR CANDIDATES PER ELECTION CYCLE

Contribution limits in this chart reflect adjustments made by Rule 10.17 as required by Art. XXVIII, Sec. 3(13) of the CO Constitution and remain current through 2023.

From ↓	To ⇒	Governor / Lt. Governor	Secretary of State	Attorney General	State Treasurer	State Senate	State House of Representatives	State Board of Education	CU Regent	District Attorney	Regional Transportation District	County Candidates
<b>Natural Person / Political Committee &amp; Business Entity</b> (Other than a corporation)	Primary*	Primary*	Primary*	Primary*	Primary*	Primary*	Primary*	Primary*	Primary*	Primary*	No Limit	Primary*
	\$625	\$625	\$625	\$625	\$625	\$200	\$200	\$200	\$200	\$200		General*
<b>Small Donor Committee</b>	General*	General*	General*	General*	General*	General*	General*	General*	General*	General*	No Limit	General*
	\$625	\$625	\$625	\$625	\$625	\$200	\$200	\$200	\$200	\$200		Primary*
<b>Political Party</b>	Primary*	Primary*	Primary*	Primary*	Primary*	Primary*	Primary*	Primary*	Primary*	Primary*	No Limit	Primary*
	\$6,750	\$6,750	\$6,750	\$6,750	\$6,750	\$2,675	\$2,675	\$2,675	\$2,675	\$2,675		General*
<b>Political Party</b>	General*	General*	General*	General*	General*	General*	General*	General*	General*	General*	No Limit	General*
	\$6,750	\$6,750	\$6,750	\$6,750	\$6,750	\$2,675	\$2,675	\$2,675	\$2,675	\$2,675		Primary*
<b>Candidate Committee</b> (to another Candidate committee)		Prohibited	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited
<b>Issue Committees and Small Scale</b>		Prohibited	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited
<b>Independent Expenditure Committee</b>		Prohibited	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited
<b>Corporations &amp; Labor Unions</b>		Prohibited	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited
<b>Federal PAC</b> (see Rule 7.1)	Primary*	Primary*	Primary*	Primary*	Primary*	Primary*	Primary*	Primary*	Primary*	Primary*	No Limit	Primary*
	\$625	\$625	\$625	\$625	\$625	\$200	\$200	\$200	\$200	\$200		General*
<b>527 Organization</b>	General*	General*	General*	General*	General*	General*	General*	General*	General*	General*	No Limit	General*
	\$625	\$625	\$625	\$625	\$625	\$200	\$200	\$200	\$200	\$200		Primary*
<p><b>527 Organization</b> Adhere to the same limit as a natural person. Consult Internal Revenue Service to ensure the contribution is permissible under Internal Revenue Service Regulations.</p>												

\* All candidates (contested or uncontested) may accept contributions for the primary and general election. Colorado law recognizes the Governor and Lt. Governor as one committee and the contribution and spending limits for governor apply to the joint committee.

Contribution limits double for a candidate who has accepted voluntary spending limits if his or her opponent has not accepted the voluntary spending limits and has raised more than 10 percent of the spending limit.

Contributions to a candidate committee by the candidate count as political party contributions when a candidate accepts voluntary spending limits. Any unexpended campaign contributions that carry forward to a subsequent election cycle also count as a political party contribution.

## QUICK REFERENCE: STATE VOLUNTARY SPENDING LIMITS

Please note that Article XXVIII of the Colorado Constitution and Title 1, Article 45 of the Colorado Revised Statutes do not address voluntary spending limits for county or municipal candidates. If running for office in a home rule county or municipality, please contact your county clerk and recorder or municipal clerk to see if your county or municipality has its own spending limit guidelines or restrictions.

### VOLUNTARY SPENDING LIMITS

This chart reflects the voluntary spending limits as adjusted by CPF Rule 10.17 as required by Article XXVIII, Section 4(7) of the Colorado Constitution effective March 29, 2019, and remain current until the next adjustment in 2023.

OFFICE / CANDIDATE	VOLUNTARY SPENDING LIMITS
Governor / Lieutenant Governor	\$3,395,275
Secretary of State	\$679,025
Attorney General	\$679,025
State Treasurer	\$679,025
State Senate	\$122,200
State House of Representatives	\$88,225
State Board of Education	\$88,225
Regent of the University of Colorado	\$88,225
District Attorney	\$88,225
Regional Transportation District (RTD)	No Limit

Remember: Contribution limits double for a candidate who has accepted voluntary spending limits if his or her opponent has not accepted the voluntary spending limits **and** has raised more than 10 percent of the spending limit; however, **this does not double the candidate's spending limit.**

## QUICK REFERENCE OF COMMITTEE CONTRIBUTION LIMITS

This chart reflects contribution limits for all political committees, small donor committees, issue committees and political parties within the State of Colorado. Home Rule counties or municipalities may have their own contribution limits; therefore, you should contact the county clerk and recorder or municipal clerk. The limits in this chart reflect adjustments made by CPF Rule 10.17 as required by Article XXVII, Sec. 3(13) of the Colorado Constitution. In addition, please review Campaign and Political Finance Rules 3 and 4 relating to issue committee and political committee contributions.

Contributor	Committee Receiving Contribution				
	Political Committee (per State House of Representatives election cycle)	Small Donor Committee (per calendar year)	Political Party (per calendar year)	Issue Committees and Small Scale	Independent Expenditure Committee (donations)
Natural Person	\$625	\$50	\$4,025 (State, county, district, & local levels combined of which no more than \$3,350 may be given to the state party.)	No Limit	No Limit
Political Party	\$625	Prohibited	Transfers of money within a party are unlimited (CPF Rule 6.2)	No Limit	No Limit
Political Committee (PC)	\$625	Prohibited	\$4,025 (State, county, district, & local levels combined of which no more than \$3,350 may be given to the state party.)	Prohibited	No limit
Small Donor Committee (SDC)	\$625	Prohibited	\$20,325 (State, County, district, and local levels combined of which no more than \$16,925 may be given to the state party.)	Prohibited	No limit
Candidate Committee	\$625	Prohibited	\$4,025 (State, county, district, & local levels combined of which no more than \$3,350 may be given to the state party.)	Prohibited	No limit
Issue Committee and Small Scale	Prohibited	Prohibited	Prohibited	No Limit	No limit
Independent Expenditure Committee	Prohibited	Prohibited	Prohibited	No Limit	No limit
Business Entity (Other than a Corporation)	\$625	Prohibited	\$4,025 (State, county, district, & local levels combined of which no more than \$3,350 may be given to the state party.)	No Limit	No Limit
Corporations & Labor Unions	\$625	Prohibited	Prohibited	No Limit	No Limit
Federal PAC	\$625	Prohibited	\$4,025 (State, county, district, & local levels combined of which no more than \$3,350 may be given to the state party.)	No Limit	No Limit
Federal 527 Organization	\$625	Prohibited	\$4,025 (State, county, district, & local levels combined of which no more than \$3,350 may be given to the state party.)	No Limit	No Limit
Foreign Sources	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited

## GLOSSARY OF TERMS AND ACRONYMS

### **527**

The term “527” refers to a section of the Internal Revenue Code governing a type of tax-exempt political organization. 527s are typically federal organizations created to influence or attempt to influence the selection, nomination, election, or appointment of candidates.

### **Amendment 27**

Refers to Article XXVIII of the Colorado Constitution (as it appeared on the ballot), a voter-approved constitutional amendment providing campaign finance laws for the state of Colorado.

### **Article XXVIII**

A voter-approved amendment to the Colorado constitution providing campaign finance laws for the state of Colorado.

### **Candidate Affidavit**

Form filed with the appropriate filing office to certify one’s intent to run for public office.

### **Committee**

A person or group of persons that raises and spends money for the purpose of supporting or opposing candidates running for office, or supporting or opposing ballot measures.

### **Contribution**

A contribution represents money given to, or received by, a campaign committee.

### **Covered Organization**

A corporation, including an entity organized under section 501(c) or 527 of the Internal Revenue code, a labor organization, or an independent expenditure committee that contributes, donates or transfers to a person that is earmarked for the purpose of making and independent expenditure or electioneering communication.

### **CPF – Campaign and Political Finance**

Includes all the laws pertaining to, and methods of, financing political campaigns and related activities.

### **C.R.S. – Colorado Revised Statutes**

The laws enacted by the Colorado General Assembly.

### **Designated Filing Agent**

Any person appointed by a committee responsible for the timely filing of campaign finance reports.

### **DEO**

Designated Election Official.

### **Electioneering Communications**

Any communication broadcast or distributed to members of the electorate 30 days before the primary election through the day before the general election or within 60 days of the biennial school election.

### **Expenditure**

Money spent by a candidate, committee, other political entity, or individual in the case of Independent Expenditures.



**FCPA – Fair Campaign Practices Act**

Title 1, Article 45 of the Colorado Revised Statutes.

**Fair Market Value**

The normal or average price that a good or service would ordinarily command in the marketplace.

**FCC – Federal Communications Commission**

The federal agency that is responsible for oversight of broadcast communications, including, television, internet, and radio.

**FEC – Federal Elections Commission**

The federal agency that is responsible for oversight of federal elections and campaign and political finance

**Filing Office**

The office you or your committee is required to file campaign finance reports with. For all candidates and committees except those at the municipal and federal levels, the appropriate filing officer is the Colorado Secretary of State.

**GA – General Assembly**

The State Senate and State House of Representatives together comprise the General Assembly.

**Independent Expenditure**

A campaign finance expenditure not controlled or coordinated by any candidate, or candidate's agent.

**Independent Ethics Commission (IEC)**

1300 Broadway Suite 240 Denver, CO 80203 / 720-625-5697 [www.colorado.gov/iec](http://www.colorado.gov/iec)

**Independent Expenditure Committee (IEC)**

A person, business, group, or other entity that spends more than \$1,000 on independent expenditures.

**IRS – Internal Revenue Service**

Federal agency tasked with administration of the federal tax code.

**Issue Committee**

A person or group of persons that has a major purpose of supporting or opposing any ballot issue or ballot question and raises or spends money in excess of \$200, or prints 200 or more petition sections, to support or oppose ballot measures.

**Major Contribution Report**

Separate report required by law when a committee receives any contribution of \$1,000 or more that is received 30 days before a Primary, General Election, or Biennial School Election and names the contributor and his or her address, occupation, and employer.

**Municipality**

A subdivision of the state, most often a city or town.

**PAC – Political Action Committee**

A federal political organization regulated by the Federal Elections Commission. Colorado does not have PACs, only political committees.

**P.C. – Political Committee**

A person, or group of people, that raises and spends money (more than \$200) to support or oppose the nomination or election of one or more candidates.

**PFD – Personal Financial Disclosure**

Required document filed by public officials and those running for office under Colorado’s Sunshine Law.

**Payee**

Entity receiving a payment.

**Payor**

Entity making a payment.

**Person**

Is broadly defined and includes a natural person, partnership, committee, association, corporation, labor organization, political party, or other organizations and groups of persons.

**Political Organization**

See the definition of 527.

**Political Party**

A group of registered electors that nominates candidates for the general election ballot, whether by petition or by assembly.

**Recall Committee**

An issue committee established for the purpose of supporting or opposing the recall an elected official.

**Registered Agent**

The agent authorized to act on behalf of a committee. Only the agent, or the designated filing agent (and, in the cases of candidate committees, the candidate) may file committee reports and engage in other activities related to the control of a committee. The agent also represents the point of contact for penalties assessed against the committee and complaints lodged against the committee.

**Report of Contributions and Expenditures**

Report outlining all of the contributions received, and expenditures made by a committee or other entity governed by campaign and political finance laws. Independent expenditure committees file a similar report called a report of donations and expenditures. Standalone candidates file a report of expenditures also known as a statement of personal expenditures by a candidate.

**RTD – Regional Transportation District**

Regional authority that operates public transportation in the Denver metro area; A 15 member Board of Directors oversees RTD.

**Rules – Rules Concerning Campaign and Political Finance**

These are legally-binding regulations promulgated by the Colorado Secretary of State that govern campaign and political finance activities in Colorado.

**SD – Senate District OR Special District**

SD refers to both senate districts and special districts.

Senate District: Colorado has 35 Senate Districts, each represented by one State Senator in the Colorado Legislature.

Special District: A political subdivision of the state of Colorado; typically created to provide services to citizens (such as water and sanitation) that are not provided by the county or municipality. Special districts have their own elections for their governing boards.

**SDC – Small Donor Committee**

Political committee that accepts contributions of \$50 or less from natural persons only.

**SSIC - Small Scale Issue Committee**

A person or group of persons that has a major purpose of supporting or opposing any ballot issue or ballot questions and raises or spends money in excess of \$200 but less than \$5,000.

**SOS – Secretary of State**

An elected official that oversees a non-partisan state agency by the same name, (Secretary of State's Office), that administers many laws, including Colorado's business and commercial statutes pertaining to profit and nonprofit corporations, limited liability companies, partnerships, trade names, secured transactions under the Uniform Commercial Code and miscellaneous liens, Colorado Election Code, Voter Registration Law, Campaign Finance Laws, Lobbyist Regulation, Colorado Charitable Solicitations Act, Bingo and Raffles Laws, and Notaries Public Laws.

**TRACER – Transparency in Contribution and Expenditure Reporting**

The Colorado Secretary of State's online campaign and political finance filing system.

**VSL – Voluntary Spending Limits**

Campaign spending limits that a candidate running for state office may elect to abide by.

## IMPORTANT LINKS AND RESOURCES

### **Secretary of State's Office Home Page**

<https://www.sos.state.co.us/>

### **Campaign Finance Home Page**

<https://www.sos.state.co.us/pubs/elections/CampaignFinance/home.html>

### **Elections Division Home Page**

<https://www.sos.state.co.us/pubs/elections>

### **County Clerk's Office Directory**

<http://www.sos.state.co.us/pubs/elections/Resources/CountyElectionOffices.html>

### **TRACER Campaign Finance Disclosure Site**

<http://tracer.sos.colorado.gov>

### **Campaign Finance Filing Calendars**

<https://www.sos.state.co.us/pubs/elections/CampaignFinance/filingCalendar.html>

### **Campaign Finance Training Courses and Online Classes**

<https://www.sos.state.co.us/pubs/elections/CampaignFinance/training.html>

### **Colorado General Assembly Home Page**

<https://leg.colorado.gov>

### **Federal Elections Commission**

<https://www.fec.gov/>

### **Federal Communications Commission**

<https://www.fcc.gov/>

### **Internal Revenue Service**

<https://www.irs.gov/>

# Article XXVIII, Colorado Constitution; Title 1 Article 45, C.R.S.; and Rules Concerning Campaign and Political Finance

## COLORADO CONSTITUTION

### ARTICLE XXVIII

#### (Amendment 27)

#### Campaign and Political Finance

**Editor's note:** (1) Section 1(4) of article V of the state constitution provides that initiated and referred measures shall take effect from and after the official declaration of the vote thereon by the proclamation of the Governor. The Governor's proclamation on Amendment 27 implementing this article was issued on December 20, 2002; however, § 13 of this article provides that the effective date of this article is December 6, 2002. (See L. 2003, p. 3609.)

(2) (a) In 2008, Amendment 54 amended § 13 of this article creating an exception to the effective date stating that the provisions of this article amended or added by Amendment 54 concerning sole source government contracts are effective December 31, 2008; however, the Governor's proclamation date on Amendment 54 was January 8, 2009.

(b) In the case of **Dallman v. Ritter**, the Denver District Court declared Amendment 54, which amended certain provision of this article, unconstitutional and issued a preliminary injunction enjoining the enforcement of Amendment 54 (see **Dallman v. Ritter**, 225 P.3d 610 (Colo. 2010)). The Colorado Supreme Court affirmed the district court's ruling (see **Dallman v. Ritter**, 225 P.3d 610 (Colo. 2010)).

(3) In the case of **In re Interrogatories by Ritter**, the Supreme Court declared §§ 3(4) and 6(2) of this article unconstitutional in light of *Citizens United v. Federal Election Commission*, 558 U.S. \_\_\_, 130 S.Ct. 876, 175 L. Ed.2d 753 (2010).

**Cross references:** For the "Fair Campaign Practices Act", see article 45 of title 1.

**Law reviews:** For article, "The Colorado Constitution in the New Century", see 78 U. Colo. L. Rev. 1265 (2007).

**Section 1. Purpose and findings.** The people of the state of Colorado hereby find and declare that large campaign contributions to political candidates create the potential for corruption and the appearance of corruption; that large campaign contributions made to influence election outcomes allow wealthy individuals, corporations, and special interest groups to exercise a disproportionate level of influence over the political process; that the rising costs of campaigning for political office prevent qualified citizens from running for political office; that because of the use of early voting in Colorado timely notice of independent expenditures is essential for informing the electorate; that in recent years the advent of significant spending on electioneering communications, as defined herein, has frustrated the purpose of existing campaign finance requirements; that

independent research has demonstrated that the vast majority of televised electioneering communications goes beyond issue discussion to express electoral advocacy; that political contributions from corporate treasuries are not an indication of popular support for the corporation's political ideas and can unfairly influence the outcome of Colorado elections; and that the interests of the public are best served by limiting campaign contributions, encouraging voluntary campaign spending limits, providing for full and timely disclosure of campaign contributions, independent expenditures, and funding of electioneering communications, and strong enforcement of campaign finance requirements.

**Source: Initiated 2002:** Entire article added, **L. 2003**, p. 3597. For the effective date of this article, see the editor's note following the article heading.

**Section 2. Definitions.** For the purpose of this article and any statutory provisions pertaining to campaign finance, including provisions pertaining to disclosure:

(1) "Appropriate officer" means the individual with whom a candidate, candidate committee, political committee, small donor committee, or issue committee must file pursuant to section 1-45-109 (1), C.R.S., or any successor section.

(2) "Candidate" means any person who seeks nomination or election to any state or local public office that is to be voted on in this state at any primary election, general election, school district election, special district election, or municipal election. "Candidate" also includes a judge or justice of any court of record who seeks to be retained in office pursuant to the provisions of section 25 of article VI. A person is a candidate for election if the person has publicly announced an intention to seek election to public office or retention of a judicial office and thereafter has received a contribution or made an expenditure in support of the candidacy. A person remains a candidate for purposes of this article so long as the candidate maintains a registered candidate committee. A person who maintains a candidate committee after an election cycle, but who has not publicly announced an intention to seek election to public office in the next or any subsequent election cycle, is a candidate for purposes of this article.

(3) "Candidate committee" means a person, including the candidate, or persons with the common purpose of receiving contributions or making expenditures under the authority of a candidate. A contribution to a candidate shall be deemed a contribution to the candidate's candidate committee. A candidate shall have only one candidate committee. A candidate committee shall be considered open and active until affirmatively closed by the candidate or by action of the secretary of state.

(4) "Conduit" means a person who transmits contributions from more than one person, directly to a candidate committee. "Conduit" does not include the contributor's immediate family members, the candidate or campaign treasurer of the candidate committee receiving the contribution, a volunteer fund raiser hosting an event for a candidate committee, or a professional fund raiser if the fund raiser is compensated at the usual and customary rate.

(4.5) "Contract holder" means any non-governmental party to a sole source government contract, including persons that control ten percent or more shares or interest in that party; or that party's officers, directors or trustees; or, in the case of collective bargaining agreements, the labor organization and any political committees created or controlled by the labor organization;

**Editor's note:** Subsection (4.5) was declared unconstitutional (see the editor's note following this section).

(5) (a) "Contribution" means:

(I) The payment, loan, pledge, gift, or advance of money, or guarantee of a loan, made to any candidate committee, issue committee, political committee, small donor committee, or political party;

(II) Any payment made to a third party for the benefit of any candidate committee, issue committee, political committee, small donor committee, or political party;

(III) The fair market value of any gift or loan of property made to any candidate committee, issue committee, political committee, small donor committee or political party;

(IV) Anything of value given, directly or indirectly, to a candidate for the purpose of promoting the candidate's nomination, retention, recall, or election.

(b) "Contribution" does not include services provided without compensation by individuals volunteering their time on behalf of a candidate, candidate committee, political committee, small donor committee, issue committee, or political party; a transfer by a membership organization of a portion of a member's dues to a small donor committee or political committee sponsored by such membership organization; or payments by a corporation or labor organization for the costs of establishing, administering, and soliciting funds from its own employees or members for a political committee or small donor committee.

(6) "Election cycle" means either:

(a) The period of time beginning thirty-one days following a general election for the particular office and ending thirty days following the next general election for that office;

(b) The period of time beginning thirty-one days following a general election for the particular office and ending thirty days following the special legislative election for that office; or

(c) The period of time beginning thirty-one days following the special legislative election for the particular office and ending thirty days following the next general election for that office.

(7) (a) "Electioneering communication" means any communication broadcasted by television or radio, printed in a newspaper or on a billboard, directly mailed or delivered by hand to personal residences or otherwise distributed that:

(I) Unambiguously refers to any candidate; and

(II) Is broadcasted, printed, mailed, delivered, or distributed within thirty days before a primary election or sixty days before a general election; and

(III) Is broadcasted to, printed in a newspaper distributed to, mailed to, delivered by hand to, or otherwise distributed to an audience that includes members of the electorate for such public office.

(b) "Electioneering communication" does not include:



(I) Any news articles, editorial endorsements, opinion or commentary writings, or letters to the editor printed in a newspaper, magazine or other periodical not owned or controlled by a candidate or political party;

(II) Any editorial endorsements or opinions aired by a broadcast facility not owned or controlled by a candidate or political party;

(III) Any communication by persons made in the regular course and scope of their business or any communication made by a membership organization solely to members of such organization and their families;

(IV) Any communication that refers to any candidate only as part of the popular name of a bill or statute.

(8) (a) "Expenditure" means any purchase, payment, distribution, loan, advance, deposit, or gift of money by any person for the purpose of expressly advocating the election or defeat of a candidate or supporting or opposing a ballot issue or ballot question. An expenditure is made when the actual spending occurs or when there is a contractual agreement requiring such spending and the amount is determined.

(b) "Expenditure" does not include:

(I) Any news articles, editorial endorsements, opinion or commentary writings, or letters to the editor printed in a newspaper, magazine or other periodical not owned or controlled by a candidate or political party;

(II) Any editorial endorsements or opinions aired by a broadcast facility not owned or controlled by a candidate or political party;

(III) Spending by persons, other than political parties, political committees and small donor committees, in the regular course and scope of their business or payments by a membership organization for any communication solely to members and their families;

(IV) Any transfer by a membership organization of a portion of a member's dues to a small donor committee or political committee sponsored by such membership organization; or payments made by a corporation or labor organization for the costs of establishing, administering, or soliciting funds from its own employees or members for a political committee or small donor committee.

(8.5) "Immediate family member" means any spouse, child, spouse's child, son-in-law, daughter-in-law, parent, sibling, grandparent, grandchild, stepbrother, stepsister, stepparent, parent-in-law, brother-in-law, sister-in-law, aunt, niece, nephew, guardian, or domestic partner;

**Editor's note:** Subsection (8.5) was declared unconstitutional (see the editor's note following this section).

(9) "Independent expenditure" means an expenditure that is not controlled by or coordinated with any candidate or agent of such candidate. Expenditures that are controlled by or coordinated with a candidate or candidate's agent are deemed to be both contributions by the maker of the expenditures, and expenditures by the candidate committee.

(10) (a) "Issue committee" means any person, other than a natural person, or any group of two or more persons, including natural persons:

(I) That has a major purpose of supporting or opposing any ballot issue or ballot question; or

(II) That has accepted or made contributions or expenditures in excess of two hundred dollars to support or oppose any ballot issue or ballot question.

(b) "Issue committee" does not include political parties, political committees, small donor committees, or candidate committees as otherwise defined in this section.

(c) An issue committee shall be considered open and active until affirmatively closed by such committee or by action of the appropriate authority.

(11) "Person" means any natural person, partnership, committee, association, corporation, labor organization, political party, or other organization or group of persons.

(12) (a) "Political committee" means any person, other than a natural person, or any group of two or more persons, including natural persons that have accepted or made contributions or expenditures in excess of \$200 to support or oppose the nomination or election of one or more candidates.

(b) "Political committee" does not include political parties, issue committees, or candidate committees as otherwise defined in this section.

(c) For the purposes of this article, the following are treated as a single political committee:

(I) All political committees established, financed, maintained, or controlled by a single corporation or its subsidiaries;

(II) All political committees established, financed, maintained, or controlled by a single labor organization; except that, any political committee established, financed, maintained, or controlled by a local unit of the labor organization which has the authority to make a decision independently of the state and national units as to which candidates to support or oppose shall be deemed separate from the political committee of the state and national unit;

(III) All political committees established, financed, maintained, or controlled by the same political party;

(IV) All political committees established, financed, maintained, or controlled by substantially the same group of persons.

(13) "Political party" means any group of registered electors who, by petition or assembly, nominate candidates for the official general election ballot. "Political party" includes affiliated party organizations at the state, county, and election district levels, and all such affiliates are considered to be a single entity for the purposes of this article, except as otherwise provided in section 7.

(14) (a) "Small donor committee" means any political committee that has accepted contributions only from natural persons who each contributed no more than fifty dollars in the aggregate per year. For purposes of this section, dues transferred by a membership organization to a small donor committee sponsored by such organization shall be treated as pro-rata contributions from individual members.

(b) "Small donor committee" does not include political parties, political committees, issue committees, or candidate committees as otherwise defined in this section.

(c) For the purposes of this article, the following are treated as a single small donor committee:

(I) All small donor committees established, financed, maintained, or controlled by a single corporation or its subsidiaries;

(II) All small donor committees established, financed, maintained, or controlled by a single labor organization; except that, any small donor committee established, financed, maintained, or controlled by a local unit of the labor organization which has the authority to make a decision independently of the state and national units as to which candidates to support or oppose shall be deemed separate from the small donor committee of the state and national unit;

(III) All small donor committees established, financed, maintained, or controlled by the same political party;

(IV) All small donor committees established, financed, maintained, or controlled by substantially the same group of persons.

(14.4) "Sole source government contract" means any government contract that does not use a public and competitive bidding process soliciting at least three bids prior to awarding the contract. This provision applies only to government contracts awarded by the state or any of its political subdivisions for amounts greater than one hundred thousand dollars indexed for inflation per the United States bureau of labor statistics consumer price index for Denver-Boulder-Greeley after the year 2012, adjusted every four years, beginning January 1, 2012, to the nearest lowest twenty five dollars. This amount is cumulative and includes all sole source government contracts with any and all governmental entities involving the contract holder during a calendar year. A sole source government contract includes collective bargaining agreements with a labor organization representing employees, but not employment contracts with individual employees. Collective bargaining agreements qualify as sole source government contracts if the contract confers an exclusive representative status to bind all employees to accept the terms and conditions of the contract;

**Editor's note:** Subsection (14.4) was declared unconstitutional (see the editor's note following this section).

(14.6) "State or any of its political subdivisions" means the state of Colorado and its agencies or departments, as well as the political subdivisions within this state including counties, municipalities, school districts, special districts, and any public or quasi-public body that receives a majority of its funding from the taxpayers of the state of Colorado.

**Editor's note:** Subsection (14.6) was declared unconstitutional (see the editor's note following this section).

(15) "Unexpended campaign contributions" means the balance of funds on hand in any candidate committee at the end of an election cycle, less the amount of all unpaid monetary obligations incurred prior to the election in furtherance of such candidacy.

**Source: Initiated 2002:** Entire article added, **L. 2003**, p. 3597. For the effective date of this article, see the editor's note following the article heading. **Initiated 2008:** (4.5), (8.5), (14.4), and (14.6) added, effective December 31, 2008, see **L. 2009**, p. 3381.

**Editor's note:** (1) In 2008, Amendment 54 amended § 13 of this article creating an exception to the effective date stating that the provisions of this article amended or added by Amendment 54 concerning sole source government contracts are effective December 31, 2008; however the Governor's proclamation date on Amendment 54 was January 8, 2009.

(2) In the case of **Dallman v. Ritter**, the Denver District Court declared the provisions of subsections (4.5), (8.5), (14.4), and (14.6) unconstitutional and issued a preliminary injunction enjoining the enforcement of Amendment 54 (see **Dallman v. Ritter**, 225 P.3d 610 (Colo. 2010)). The Colorado Supreme Court affirmed the district court's ruling (see **Dallman v. Ritter**, 225 P.3d 610 (Colo. 2010)).

**Cross references:** For the definition of "major purpose", as used in subsection (10)(a)(I), see § 1-45-103 (12)(b). **Section 3. Contribution limits.** (1) Except as described in subsections (2), (3), and (4) of this section, no person, including a political committee, shall make to a candidate committee, and no candidate committee shall accept from any one person, aggregate contributions for a primary or a general election in excess of the following amounts:

(a) Five hundred dollars to any one:

(I) Governor candidate committee for the primary election, and governor and lieutenant governor candidate committee, as joint candidates under 1-1-104, C.R.S., or any successor section, for the general election;

(II) Secretary of state, state treasurer, or attorney general candidate committee; and

(b) Two hundred dollars to any one state senate, state house of representatives, state board of education, regent of the university of Colorado, or district attorney candidate committee.

(2) No small donor committee shall make to a candidate committee, and no candidate committee shall accept from any one small donor committee, aggregate contributions for a primary or a general election in excess of the following amounts:

(a) Five thousand dollars to any one:

(I) Governor candidate committee for the primary election, and governor and lieutenant governor candidate committee, as joint candidates under 1-1-104, C.R.S., or any successor section, for the general election;

(II) Secretary of state, state treasurer, or attorney general candidate committee; and

(b) Two thousand dollars to any one state senate, state house of representatives, state board of education, regent of the university of Colorado, or district attorney candidate committee.

(3) (a) No political party shall accept aggregate contributions from any person, other than a small donor committee as described in paragraph (b) of this subsection (3), that exceed three thousand dollars per year at the state, county, district, and local level combined, and of such amount no more than twenty-five hundred dollars per year at the state level;

(b) No political party shall accept aggregate contributions from any small donor committee that exceed fifteen thousand dollars per year at the state, county, district, and local level combined, and of such amount no more than twelve thousand, five hundred dollars at the state level;

(c) No political party shall accept contributions that are intended, or in any way designated, to be passed through the party to a specific candidate's candidate committee;

(d) In the applicable election cycle, no political party shall contribute to any candidate committee more than twenty percent of the applicable spending limit set forth in section 4 of this article.

(e) Any unexpended campaign contributions retained by a candidate committee for use in a subsequent election cycle shall be counted and reported as contributions from a political party in any subsequent election for purposes of paragraph (d) of this subsection (3);

(4) (a) It shall be unlawful for a corporation or labor organization to make contributions to a candidate committee or a political party, and to make expenditures expressly advocating the election or defeat of a candidate; except that a corporation or labor organization may establish a political committee or small donor committee which may accept contributions or dues from employees, officeholders, shareholders, or members.

(b) The prohibition contained in paragraph (a) of this subsection (4) shall not apply to a corporation that:

(I) Is formed for the purpose of promoting political ideas and cannot engage in business activities; and

(II) Has no shareholders or other persons with a claim on its assets or income; and

(III) Was not established by and does not accept contributions from business corporations or labor organizations.

**Editor's note:** Subsection (4) was declared unconstitutional (see editor's note following this section).

(5) No political committee shall accept aggregate contributions or pro-rata dues from any person in excess of five hundred dollars per house of representatives election cycle.

(6) No candidate's candidate committee shall accept contributions from, or make contributions to, another candidate committee, including any candidate committee, or equivalent entity, established under federal law.

(7) No person shall act as a conduit for a contribution to a candidate committee.

(8) Notwithstanding any other section of this article to the contrary, a candidate's candidate committee may receive a loan from a financial institution organized under state or federal law if the loan bears the usual and customary interest rate, is made on a basis that assures repayment, is evidenced by a written instrument, and is subject to a due date or amortization schedule. The contribution limits described in this section shall not apply to a loan as described in this subsection (8).

(9) All contributions received by a candidate committee, issue committee, political committee, small donor committee, or political party shall be deposited in a financial institution in a separate account whose title shall include the name of the committee or political party. All records pertaining to such accounts shall be

maintained by the committee or political party for one-hundred eighty days following any general election in which the committee or party received contributions unless a complaint is filed, in which case they shall be maintained until final disposition of the complaint and any consequent litigation. Such records shall be subject to inspection at any hearing held pursuant to this article.

(10) No candidate committee, political committee, small donor committee, issue committee, or political party shall accept a contribution, or make an expenditure, in currency or coin exceeding one hundred dollars.

(11) No person shall make a contribution to a candidate committee, issue committee, political committee, small donor committee, or political party with the expectation that some or all of the amounts of such contribution will be reimbursed by another person. No person shall be reimbursed for a contribution made to any candidate committee, issue committee, political committee, small donor committee, or political party, nor shall any person make such reimbursement except as provided in subsection (8) of this section.

(12) No candidate committee, political committee, small donor committee, or political party shall knowingly accept contributions from:

(a) Any natural person who is not a citizen of the United States;

(b) A foreign government; or

(c) Any foreign corporation that does not have the authority to transact business in this state pursuant to article 115 of title 7, C.R.S., or any successor section.

(13) Each limit on contributions described in subsections (1), (2), (3) (a), (3) (b) and (5) of this section, and subsection (14) of section 2, shall be adjusted by an amount based upon the percentage change over a four year period in the United States bureau of labor statistics consumer price index for Denver- Boulder-Greeley, all items, all consumers, or its successor index, rounded to the nearest lowest twenty-five dollars. The first adjustment shall be done in the first quarter of 2007 and then every four years thereafter. The secretary of state shall calculate such an adjustment in each limit and specify the limits in rules promulgated in accordance with article 4 of title 24, C.R.S., or any successor section.

**Source: Initiated 2002:** Entire article added, L. 2003, p. 3601. For the effective date of this article, see the editor's note following the article heading.

**Editor's note:** In the case of *In re Interrogatories by Ritter*, the Supreme Court declared subsection (4) of this section unconstitutional in light of *Citizens United v. Federal Election Commission*, 558 U.S. \_\_\_, 130 S.Ct. 876, 175 L. Ed.2d 753 (2010).

**Section 4. Voluntary campaign spending limits.** (1) Candidates may certify to the secretary of state that the candidate's candidate committee shall not exceed the following spending limits for the applicable election cycle:

(a) Two and one-half million dollars combined for a candidate for governor and governor and lieutenant governor as joint candidates under 1-1-104, C.R.S., or any successor section;

(b) Five hundred thousand dollars for a candidate for secretary of state, attorney general, or treasurer;

(c) Ninety thousand dollars for a candidate for the state senate;

(d) Sixty-five thousand dollars for a candidate for the state house of representatives, state board of education, regent of the university of Colorado, or district attorney.

(2) Candidates accepting the campaign spending limits set forth above shall also agree that their personal contributions to their own campaign shall be counted as political party contributions and subject to the aggregate limit on such contributions set forth in section 3 of this article.

(3) Each candidate who chooses to accept the applicable voluntary spending limit shall file a statement to that effect with the secretary of state at the time that the candidate files a candidate affidavit as currently set forth in section 1-45-110(1), C.R.S., or any successor section. Acceptance of the applicable voluntary spending limit shall be irrevocable except as set forth in subsection (4) of this section and shall subject the candidate to the penalties set forth in section 10 of this article for exceeding the limit.

(4) If a candidate accepts the applicable spending limit and another candidate for the same office refuses to accept the spending limit, the accepting candidate shall have ten days in which to withdraw acceptance. The accepting candidate shall have this option of withdrawing acceptance after each additional non-accepting candidate for the same office enters the race.

(5) The applicable contribution limits set forth in section 3 of this article shall double for any candidate who has accepted the applicable voluntary spending limit if:

(a) Another candidate in the race for the same office has not accepted the voluntary spending limit; and

(b) The non-accepting candidate has raised more than ten percent of the applicable voluntary spending limit.

(6) Only those candidates who have agreed to abide by the applicable voluntary spending limit may advertise their compliance. All other candidates are prohibited from advertising, or in any way implying, their acceptance of voluntary spending limits.

(7) Each spending limit described in subsection (1) of this section shall be adjusted by an amount based upon the percentage change over a four year period in the United States bureau of labor statistics consumer price index for Denver-Boulder-Greeley, all items, all consumers, or its successor index, rounded to the nearest lowest twenty-five dollars. The first adjustment shall be done in the first quarter of 2007 and then every four years thereafter. The secretary of state shall calculate such an adjustment in each limit and specify the limits in rules promulgated in accordance with article 4 of title 24, C.R.S., or any successor section.

**Source: Initiated 2002:** Entire article added, **L. 2003**, p. 3604. For the effective date of this article, see the editor's note following the article heading.

**Section 5. Independent expenditures.** (1) Any person making an independent expenditure in excess of one thousand dollars per calendar year shall deliver notice in writing to the secretary of state of such independent expenditure, as well as the amount of such expenditure, and a detailed description of the use of such independent expenditure. The notice shall specifically state the name of the candidate whom the independent expenditure is intended to support or oppose. Each independent expenditure in excess of one-thousand dollars shall require the



delivery of a new notice. Any person making an independent expenditure within thirty days of a primary or general election shall deliver such notice within forty-eight hours after obligating funds for such expenditure.

(2) Any person making an independent expenditure in excess of one thousand dollars shall disclose, in the communication produced by the expenditure, the name of the person making the expenditure and the specific statement that the advertisement of material is not authorized by any candidate. Such disclosure shall be prominently featured in the communication.

(3) Expenditures by any person on behalf of a candidate for public office that are coordinated with or controlled by the candidate or the candidate's agent, or political party shall be considered a contribution to the candidate's candidate committee, or the political party, respectively.

(4) This section 5 applies only to independent expenditures made for the purpose of expressly advocating the defeat or election of any candidate.

**Source: Initiated 2002:** Entire article added, L. 2003, p. 3605. For the effective date of this article, see the editor's note following the article heading.

**Section 6. Electioneering communications.** (1) Any person who expends one thousand dollars or more per calendar year on electioneering communications shall submit reports to the secretary of state in accordance with the schedule currently set forth in 1-45-108 (2), C.R.S., or any successor section. Such reports shall include spending on such electioneering communications, and the name, and address, of any person that contributes more than two hundred and fifty dollars per year to such person described in this section for an electioneering communication. In the case where the person is a natural person, such reports shall also include the occupation and employer of such natural person. The last such report shall be filed thirty days after the applicable election.

(2) Notwithstanding any section to the contrary, it shall be unlawful for a corporation or labor organization to provide funding for an electioneering communication; except that any political committee or small donor committee established by such corporation or labor organization may provide funding for an electioneering communication.

**Editor's note:** Subsection (2) was declared unconstitutional (see editor's note following this section).

**Source: Initiated 2002:** Entire article added, L. 2003, p. 3605. For the effective date of this article, see the editor's note following the article heading.

**Editor's note:** In the case of *In re Interrogatories by Ritter*, the Supreme Court declared subsection (2) of this section unconstitutional in light of *Citizens United v. Federal Election Commission*, 558 U.S. \_\_\_, 130 S.Ct. 876, 175 L. Ed.2d 753 (2010).

**Section 7. Disclosure.** The disclosure requirements relevant to candidate committees, political committees, issue committees, and political parties, that are currently set forth in section 1-45-108, C.R.S., or any successor section, shall be extended to include small donor committees. The disclosure requirements of section 1-

45-108, C.R.S., or any successor section, shall be extended to require disclosure of the occupation and employer of each person who has made a contribution of one hundred dollars or more to a candidate committee, political committee, issue committee, or political party. For purposes of this section and 1-45-108, C.R.S., or any successor section, a political party shall be treated as separate entities at the state, county, district, and local levels.

**Source: Initiated 2002:** Entire article added, **L. 2003**, p. 3606. For the effective date of this article, see the editor's note following the article heading.

**Section 8. Filing - where to file - timeliness.** The secretary of state shall promulgate rules relating to filing in accordance with article 4 of title 24, C.R.S., or any successor section. The rules promulgated pursuant to this section shall extend section 1-45-109, C.R.S., or any successor section to apply to small donor committees.

**Source: Initiated 2002:** Entire article added, **L. 2003**, p. 3606. For the effective date of this article, see the editor's note following the article heading.

**Section 9. Duties of the secretary of state - enforcement.** (1) The secretary of state shall:

(a) Prepare forms and instructions to assist candidates and the public in complying with the reporting requirements of this article and make such forms and instructions available to the public, municipal clerks, and county clerk and recorders free of charge;

(b) Promulgate 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 this article;

(c) Prepare forms for candidates to declare their voluntary acceptance of the campaign spending limits set forth in section 4 of this article. Such forms shall include an acknowledgment that the candidate voluntarily accepts the applicable spending limit and that the candidate swears to abide by those spending limits. These forms shall be signed by the candidate under oath, notarized, filed with the secretary of state, and available to the public upon request;

(c) Maintain a filing and indexing system consistent with the purposes of this article;

(e) Make the reports and statements filed with the secretary of state's office available immediately for public inspection and copying. The secretary of state may charge a reasonable fee for providing copies of reports. No information copied from such reports shall be sold or used by any person for the purpose of soliciting contributions or for any commercial purpose;

(f) Refer any complaints filed against any candidate for the office of secretary of state to the attorney general. Any administrative law judge employed pursuant to this section shall be appointed pursuant to part 10 of article 30 of title 24, C.R.S., or any successor section. Any hearing conducted by an administrative law judge employed pursuant to subsection (2) of this section shall be conducted in accordance with the provisions of section 24-4-105, C.R.S., or any successor section.

(2) (a) Any person who believes that a violation of section 3, section 4, section 5, section 6, section 7, or section 9 (1) (e), of this article, or of sections 1-45-108, 1-45-114, 1-45-115, or 1-45-117 C.R.S., or any successor sections, has occurred may file a written complaint with the secretary of state no later than one hundred eighty days after the date of the alleged violation. The secretary of state shall refer the complaint to an administrative law judge within three days of the filing of the complaint. The administrative law judge shall hold a hearing within fifteen days of the referral of the complaint, and shall render a decision within fifteen days of the hearing. The defendant shall be granted an extension of up to thirty days upon defendant's motion, or longer upon a showing of good cause. If the administrative law judge determines that such violation has occurred, such decision shall include any appropriate order, sanction, or relief authorized by this article. The decision of the administrative law judge shall be final and subject to review by the court of appeals, pursuant to section 24-4-106 (11), C.R.S., or any successor section. The secretary of state and the administrative law judge are not necessary parties to the review. The decision may be enforced by the secretary of state, or, if the secretary of state does not file an enforcement action within thirty days of the decision, in a private cause of action by the person filing the complaint. Any private action brought under this section shall be brought within one year of the date of the violation in state district court. The prevailing party in a private enforcement action shall be entitled to reasonable attorneys fees and costs.

(b) The attorney general shall investigate complaints made against any candidate for the office of secretary of state using the same procedures set forth in paragraph (a) of this subsection (2). Complainant shall have the same private right of action as under paragraph (a) of this subsection (2).

(c) A subpoena issued by an administrative law judge requiring the production of documents by an issue committee shall be limited to documents pertaining to contributions to, or expenditures from, the committee's separate account established pursuant to section 3(9) of this article to support or oppose a ballot issue or ballot question. A subpoena shall not be limited in this manner where such issue committee fails to form a separate account through which a ballot issue or ballot question is supported or opposed.

**Source: Initiated 2002:** Entire article added, **L. 2003**, p. 3606. For the effective date of this article, see the editor's note following the article heading.

**Editor's note:** In subsection (1) of this section, it appears that the fourth paragraph should have been lettered as paragraph (d) instead of (c); however, the original document filed with the secretary of state contains the lettering reflected in this section.

**Section 10. Sanctions.** (1) Any person who violates any provision of this article relating to contribution or voluntary spending limits shall be subject to a civil penalty of at least double and up to five times the amount contributed, received, or spent in violation of the applicable provision of this article. Candidates shall be personally liable for penalties imposed upon the candidate's committee.

(2) (a) The appropriate officer shall impose a penalty of fifty dollars per day for each day that a statement or other information required to be filed pursuant to section 5, section 6, or section 7 of this article, or sections 1-45-108, 1-45-109 or 1-45-110, C.R.S., or any successor sections, is not filed by the close of business on the day due. Upon imposition of a penalty pursuant to this subsection (2), the appropriate officer shall send the person upon whom the penalty is being imposed proper notification by certified mail of the imposition of the penalty. If an

electronic mail address is on file with the secretary of state, the secretary of state shall also provide such notification by electronic mail. Revenues collected from fees and penalties assessed by the secretary of state or revenues collected in the form of payment of the secretary of state's attorney fees and costs pursuant to this article shall be deposited in the department of state cash fund created in section 24-21-104 (3), C.R.S., or any successor section.

(b) (I) Any person required to file a report with the secretary of state and upon whom a penalty has been imposed pursuant to this subsection (2) may appeal such penalty by filing a written appeal with the secretary of state no later than thirty days after the date on which notification of the imposition of the penalty was mailed to such person's last known address in accordance with paragraph (a) of this subsection (2). Except as provided in paragraph (c) of this subsection (2), the secretary shall refer the appeal to an administrative law judge. Any hearing conducted by an administrative law judge pursuant to this subsection (2) shall be conducted in accordance with the provisions of section 24-4-105, C.R.S., or any successor section. The administrative law judge shall set aside or reduce the penalty upon a showing of good cause, and the person filing the appeal shall bear the burden of proof. The decision of the administrative law judge shall be final and subject to review by the court of appeals pursuant to section 24-4-106 (11), C.R.S., or any successor section.

(II) If the administrative law judge finds that the filing of an appeal brought pursuant to subparagraph (I) of this paragraph (b) was frivolous, groundless, or vexatious, the administrative law judge shall order the person filing the appeal to pay reasonable attorney fees and costs of the secretary of state in connection with such proceeding.

(c) Upon receipt by the secretary of state of an appeal pursuant to paragraph (b) of this subsection (2), the secretary shall set aside or reduce the penalty upon a showing of good cause.

(d) Any unpaid debt owing to the state resulting from a penalty imposed pursuant to this subsection (2) shall be collected by the state in accordance with the requirements of section 24-30-202.4, C.R.S., or any successor section.

(3) Failure to comply with the provisions of this article shall have no effect on the validity of any election.

**Source: Initiated 2002:** Entire article added, **L. 2003**, p. 3608. For the effective date of this article, see the editor's note following the article heading.

**Section 11. Conflicting provisions declared inapplicable.** Any provisions in the statutes of this state in conflict or inconsistent with this article are hereby declared to be inapplicable to the matters covered and provided for in this article.

**Source: Initiated 2002:** Entire article added, **L. 2003**, p. 3609. For the effective date of this article, see the editor's note following the article heading.

**Section 12. Repeal of conflicting statutory provisions.** Sections 1-45-103, 1-45-105.3, 1-45-107, 1-45-111, and 1-45-113 are repealed.

**Source: Initiated 2002:** Entire article added, **L. 2003**, p. 3609. For the effective date of this article, see the editor's note following the article heading.

**Section 13. APPLICABILITY AND EFFECTIVE DATE.** The provisions of this article shall take effect on December 6, 2002, and be applicable for all elections thereafter, except that the provisions of this article concerning sole source government contracts shall take effect on December 31, 2008. Legislation may be enacted to facilitate its operation, but in no way limiting or restricting the provisions of this article or the powers herein granted.

**Editor's note:** This section was declared unconstitutional (see the editor's note following this section).

**Source: Initiated 2002:** Entire article added, **L. 2003**, p. 3609. For the effective date of this article, see the editor's note following the article heading. **Initiated 2008:** Entire section amended, effective December 31, 2008, see **L. 2009**, p. 3381.

**Editor's note:** (1) In 2008, Amendment 54 amended § 13 of this article creating an exception to the effective date stating that the provisions of this article amended or added by Amendment 54 concerning sole source government contracts are effective December 31, 2008; however the Governor's proclamation date on Amendment 54 was January 8, 2009.

(2) In the case of **Dallman v. Ritter**, the Denver District Court declared the provisions of this section unconstitutional and issued a preliminary injunction enjoining the enforcement of Amendment 54 (see **Dallman v. Ritter**, 225 P.3d 610 (Colo. 2010)). The Colorado Supreme Court affirmed the district court's ruling (see **Dallman v. Ritter**, 225 P.3d 610 (Colo. 2010)).

**Section 14. Severability.** If any provision of this article or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the article which can be given effect without the invalid provision or application, and to this end the provisions of this article are declared to be severable.

**Source: Initiated 2002:** Entire article added, **L. 2003**, p. 3609. For the effective date of this article, see the editor's note following the article heading.

**Section 15.** Because of a presumption of impropriety between contributions to any campaign and sole source government contracts, contract holders shall contractually agree, for the duration of the contract and for two years thereafter, to cease making, causing to be made, or inducing by any means, a contribution, directly or indirectly, on behalf of the contract holder or on behalf of his or her immediate family member and for the benefit of any political party or for the benefit of any candidate for any elected office of the state or any of its political subdivisions.

**Editor's note:** This section was declared unconstitutional (see the editor's note following this section).

**Source: Initiated 2008:** Entire section added, effective December 31, 2008, see **L. 2009**, p. 3380.

**Editor's note:** (1) In 2008, Amendment 54 amended § 13 of this article creating an exception to the effective date stating that the provisions of this article amended or added by Amendment 54 concerning sole source government contracts are effective December 31, 2008; however the Governor's proclamation date on Amendment 54 was January 8, 2009.

(2) In the case of **Dallman v. Ritter**, the Denver District Court declared the provisions of this section unconstitutional and issued a preliminary injunction enjoining the enforcement of Amendment 54 (see **Dallman v. Ritter**, 225 P.3d 610 (Colo. 2010)). The Colorado Supreme Court affirmed the district court's ruling (see **Dallman v. Ritter**, 225 P.3d 610 (Colo. 2010)).

(3) This section did not contain a headnote as it appeared on the ballot.

**Section 16.** To aid in enforcement of this measure concerning sole source contracts, the executive director of the department of personnel shall promptly publish and maintain a summary of each sole source government contract issued. Any contract holder of a sole source government contract shall promptly prepare and deliver to the executive director of the department of personnel a true and correct "Government Contract Summary," in digital format as prescribed by that office, which shall identify the names and addresses of the contract holders and all other parties to the government contract, briefly describe the nature of the contract and goods or services performed, disclose the start and end date of the contract, disclose the contract's estimated amount or rate of payment, disclose the sources of payment, and disclose other information as determined by the executive director of the department of personnel which is not in violation of federal law, trade secrets or intellectual property rights. The executive director of the department of personnel is hereby given authority to promulgate rules to facilitate this section.

**Editor's note:** This section was declared unconstitutional (see the editor's note following this section).

**Source: Initiated 2008:** Entire section added, effective December 31, 2008, see **L. 2009**, p. 3380.

**Editor's note:** (1) In 2008, Amendment 54 amended § 13 of this article creating an exception to the effective date stating that the provisions of this article amended or added by Amendment 54 concerning sole source government contracts are effective December 31, 2008; however the Governor's proclamation date on Amendment 54 was January 8, 2009.

(2) In the case of **Dallman v. Ritter**, the Denver District Court declared the provisions of this section unconstitutional and issued a preliminary injunction enjoining the enforcement of Amendment 54 (see **Dallman v. Ritter**, 225 P.3d 610 (Colo. 2010)). The Colorado Supreme Court affirmed the district court's ruling (see **Dallman v. Ritter**, 225 P.3d 610 (Colo. 2010)).

(3) This section did not contain a headnote as it appeared on the ballot.

**Section 17.** (1) Every sole source government contract by the state or any of its political subdivisions shall incorporate article XXVIII, section 15, into the contract. Any person who intentionally accepts contributions on behalf of a candidate committee, political committee, small donor committee, political party, or other entity, in violation of section 15 has engaged in corrupt misconduct and shall pay restitution to the general treasury of the contracting governmental entity to compensate the governmental entity for all costs and expenses associated with the breach, including costs and losses involved in securing a new contract if that becomes necessary. If a person responsible for the bookkeeping of an entity that has a sole source contract with a governmental entity, or if a person acting on behalf of the governmental entity, obtains knowledge of a contribution made or accepted in violation of section 15, and that person intentionally fails to notify the secretary of state or appropriate government officer about the violation in writing within ten business days of learning of such contribution, then that person may be contractually liable in an amount up to the above restitution.

(2) Any person who makes or causes to be made any contribution intended to promote or influence the result of an election on a ballot issue shall not be qualified to enter into a sole source government contract relating to that particular ballot issue.

(3) The parties shall agree that if a contract holder intentionally violates section 15 or section 17 (2), as contractual damages that contract holder shall be ineligible to hold any sole source government contract, or public employment with the state or any of its political subdivisions, for three years. The governor may temporarily suspend any remedy under this section during a declared state of emergency.

(4) Knowing violation of section 15 or section 17 (2) by an elected or appointed official is grounds for removal from office and disqualification to hold any office of honor, trust or profit in the state, and shall constitute misconduct or malfeasance.

(5) A registered voter of the state may enforce section 15 or section 17 (2) by filing a complaint for injunctive or declaratory relief or for civil damages and remedies, if appropriate, in the district court.

**Editor's note:** This section was declared unconstitutional (see the editor's note following this section).

**Source: Initiated 2008:** Entire section added, effective December 31, 2008, see **L. 2009**, p. 3380.

**Editor's note:** (1) In 2008, Amendment 54 amended § 13 of this article creating an exception to the effective date stating that the provisions of this article amended or added by Amendment 54 concerning sole source government contracts are effective December 31, 2008; however the Governor's proclamation date on Amendment 54 was January 8, 2009.

(2) In the case of **Dallman v. Ritter**, the Denver District Court declared the provisions of this section unconstitutional and issued a preliminary injunction enjoining the enforcement of Amendment 54 (see **Dallman v. Ritter**, 225 P.3d 610 (Colo. 2010)). The Colorado Supreme Court affirmed the district court's ruling (see **Dallman v. Ritter**, 225 P.3d 610 (Colo. 2010)).

(3) This section did not contain a headnote as it appeared on the ballot.

**Colorado Revised Statutes**  
**ELECTION CAMPAIGN REGULATIONS**

**ARTICLE 45**

**Fair Campaign Practices Act**

**Editor's note:** (1) This article was added in 1974. This article was repealed and reenacted by initiative in 1996, resulting in the addition, relocation, and elimination of sections as well as subject matter. The vote count on the measure at the general election held November 5, 1996, was as follows:

FOR: 928,148  
AGAINST: 482,551

(2) For amendments to this article prior to 1996, consult the Colorado statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of C.R.S. 1973 beginning on page vii in the front of this volume. Former C.R.S. section numbers are shown in editor's notes following those sections that were relocated.

**Cross references:** For public official disclosure law, see part 2 of article 6 of title 24.

**Law reviews:** For article, "Fair Campaign Practices Act: Killing Trees for Good Government", see 26 Colo. Law. 101 (Sept. 1997). For article, "Public Moneys and Ballot Issues Under the Fair Campaign Practices Act", see 34 Colo. Law. 81 (Sept. 2005). For article, "Campaign Finance Law in Colorado", see 46 Colo. Law. 35 (June 2017).

**1-45-101. Short title.** This article shall be known and may be cited as the "Fair Campaign Practices Act".

**Source: Initiated 96:** Entire article R&RE, effective upon proclamation of the Governor, January 15, 1997.

**Editor's note:** This section is similar to former § 1-45-101 as it existed prior to 1996.

**1-45-102. Legislative declaration.** The people of the state of Colorado hereby find and declare that large campaign contributions to political candidates allow wealthy contributors and special interest groups to exercise a disproportionate level of influence over the political process; that large campaign contributions create the potential for corruption and the appearance of corruption; that the rising costs of campaigning for political office prevent qualified citizens from running for political office; and that the interests of the public are best served by limiting campaign contributions, establishing campaign spending limits, full and timely disclosure of campaign contributions, and strong enforcement of campaign laws.

**Source: Initiated 96:** Entire article R&RE, effective upon proclamation of the Governor,



January 15, 1997. **Initiated 2012, (Amendment 65):** Entire section amended, L. 2013, p. 3301, effective upon proclamation of the Governor, January 1, 2013.

**Editor's note:** (1) This section is similar to former § 1-45-102 as it existed prior to 1996.

(2) This section was amended by initiative in 2012. The vote count on the measure at the general election held November 6, 2012, was as follows:

FOR: 1,276,432

AGAINST: 988,542

**1-45-103. Definitions - repeal.** As used in this article 45, unless the context otherwise requires:

(1) "Appropriate officer" shall have the same meaning as set forth in section 2 (1) of article XXVIII of the state constitution.

(1.3) "Ballot issue" shall have the same meaning as set forth in section 1-1-104 (2.3); except that, for purposes of section 1-45-117, "ballot issue" shall mean both a ballot issue as defined in this subsection (1.3) and a ballot question.

(1.5) "Ballot question" shall have the same meaning as set forth in section 1-1-104 (2.7).

(2) "Candidate" shall have the same meaning as set forth in section 2 (2) of article XXVIII of the state constitution.

(3) "Candidate committee" shall have the same meaning as set forth in section 2 (3) of article XXVIII of the state constitution.

(4) "Candidate committee account" shall mean the account established by a candidate committee with a financial institution pursuant to section 3 (9) of article XXVIII of the state constitution.

(5) "Conduit" shall have the same meaning as set forth in section 2 (4) of article XXVIII of the state constitution.

(6) (a) "Contribution" shall have the same meaning as set forth in section 2 (5) of article XXVIII of the state constitution.

(b) "Contribution" includes, with regard to a contribution for which the contributor receives compensation or consideration of less than equivalent value to such contribution, including, but not limited to, items of perishable or nonpermanent value, goods, supplies, services, or participation in a campaign-related event, an amount equal to the value in excess of such compensation or consideration as determined by the candidate committee.

(c) "Contribution" also includes:

(l) Any payment, loan, pledge, gift, advance of money, or guarantee of a loan made to

any political organization;

(II) Any payment made to a third party on behalf of and with the knowledge of the political organization; or

(III) The fair market value of any gift or loan of property made to any political organization.

(d) "Contribution" does not include the payment of legal fees to advise a candidate on compliance with campaign laws or regulations or to represent a candidate or candidate committee in any action in which the candidate or committee has been named as a defendant. Such legal services are not undertaken "for the benefit of any candidate committee" or "for the purpose of promoting the candidate's nomination, retention, recall, or election" as those phrases are used in section 2 (5)(a)(II) and (5)(a)(IV) of article XXVIII of the state constitution.

(e) "Contribution" does not include an intervention by the secretary of state, as authorized by section 1-45-111.5 (1.5)(g), in any action brought to enforce the provisions of article XXVIII of the state constitution or this article 45.

(7) "Corporation" means a domestic corporation incorporated under and subject to the "Colorado Business Corporation Act", articles 101 to 117 of title 7, C.R.S., a domestic nonprofit corporation incorporated under and subject to the "Colorado Revised Nonprofit Corporation Act", articles 121 to 137 of title 7, C.R.S., or any corporation incorporated under and subject to the laws of another state. For purposes of this article, "domestic corporation" shall mean a forprofit or nonprofit corporation incorporated under and subject to the laws of this state, and "nondomestic corporation" shall mean a corporation incorporated under and subject to the laws of another state or foreign country. For purposes of this article, "corporation" includes the parent of a subsidiary corporation or any subsidiaries of the parent, as applicable.

(7.3) (a) "Donation" means:

(I) The payment, loan, pledge, gift, or advance of money, or the guarantee of a loan, made to any person for the purpose of making an independent expenditure;

(II) Any payment made to a third party that relates to, and is made for the benefit of, any person that makes an independent expenditure;

(III) The fair market value of any gift or loan of property that is given to any person for the purpose of making an independent expenditure; or

(IV) Anything of value given, directly or indirectly, to any person for the purpose of making an independent expenditure.

(b) "Donation" shall not include a transfer by a membership organization of a portion of a member's dues for an independent expenditure sponsored by such membership organization.

(7.5) "Earmark" means a designation, instruction, or encumbrance that directs the transmission and use by the recipient of all or part of a donation to a third party for the purpose of making one or more independent expenditures or electioneering communications in excess of

one thousand dollars.

(8) "Election cycle" shall have the same meaning as set forth in section 2 (6) of article XXVIII of the state constitution.

(9) "Electioneering communication" has the same meaning as set forth in section 2 (7) of article XXVIII of the state constitution. For purposes of the disclosure required by section 1-45-108, "electioneering communication" also includes any communication that satisfies all other requirements set forth in said section 2 (7) of article XXVIII but that is broadcast, printed, mailed, delivered, or distributed between the primary election and the general election.

(10) (a) "Expenditure" has the same meaning as set forth in section 2 (8) of article XXVIII of the state constitution.

(b) "Expenditure" does not include legal services paid to defend a candidate or candidate committee against any action brought to enforce the provisions of article XXVIII of the state constitution or this article 45.

(10.5) "Foreign corporation" means:

(a) A parent corporation or the subsidiary of a parent corporation formed under the laws of a foreign country that is functionally equivalent to a domestic corporation;

(b) A parent corporation or the subsidiary of a parent corporation in which one or more foreign persons hold a combined ownership interest that exceeds fifty percent;

(c) A parent corporation or the subsidiary of a parent corporation in which one or more foreign persons hold a majority of the positions on the corporation's board of directors; or

(d) A parent corporation or the subsidiary of a parent corporation whose United Statesbased operations, or whose decision-making with respect to political activities, falls under the direction or control of a foreign entity, including the government of a foreign country.

(11) "Independent expenditure" shall have the same meaning as set forth in section 2 (9) of article XXVIII of the state constitution.

(11.5) "Independent expenditure committee" means one or more persons that make an independent expenditure in an aggregate amount in excess of one thousand dollars or that collect in excess of one thousand dollars from one or more persons for the purpose of making an independent expenditure.

(12) (a) "Issue committee" shall have the same meaning as set forth in section 2 (10) of article XXVIII of the state constitution.

(b) For purposes of section 2 (10)(a)(I) of article XXVIII of the state constitution, "major purpose" means support of or opposition to a ballot issue or ballot question that is reflected by:

(I) An organization's specifically identified objectives in its organizational documents at

the time it is established or as such documents are later amended; or

(II) An organization's demonstrated pattern of conduct based upon its:

(A) Annual expenditures in support of or opposition to a ballot issue or ballot question;  
or

(B) Production or funding, or both, of written or broadcast communications, or both, in support of or opposition to a ballot issue or ballot question.

(c) The provisions of paragraph (b) of this subsection (12) are intended to clarify, based on the decision of the Colorado court of appeals in *Independence Institute v. Coffman*, 209 P.3d 1130 (Colo. App. 2008), cert. denied, 558 U.S. 1024, 130 S. Ct. 165, 175 L. Ed. 479 (2009), section 2 (10)(a)(I) of article XXVIII of the state constitution and not to make a substantive change to said section 2 (10)(a)(I).

(12.5) "Media outlet" means a publication or broadcast medium that transmits news, feature stories, entertainment, or other information to the public through various distribution channels, including, without limitation, newspapers; magazines; radio; and broadcast, cable, or satellite television.

(12.7) "Obligating" means, in connection with a named candidate, agreeing to spend in excess of one thousand dollars for an independent expenditure or to give, pledge, loan, or purchase one or more goods, services, or other things of value that have a fair market value in excess of one thousand dollars as an independent expenditure. "Obligating" shall not require that the total amount in excess of one thousand dollars be finally determined at the time of the agreement to spend moneys for an independent expenditure or to give, pledge, loan, or purchase anything of value.

(13) "Person" shall have the same meaning as set forth in section 2 (11) of article XXVIII of the state constitution.

(14) "Political committee" shall have the same meaning as set forth in section 2 (12) of article XXVIII of the state constitution.

(14.5) "Political organization" means a political organization defined in section 527 (e)(1) of the federal "Internal Revenue Code of 1986", as amended, that is engaged in influencing or attempting to influence the selection, nomination, election, or appointment of any individual to any state or local public office in the state and that is exempt, or intends to seek any exemption, from taxation pursuant to section 527 of the internal revenue code. "Political organization" shall not be construed to have the same meaning as "political organization" as defined in section 1-1-104 (24) for purposes of the "Uniform Election Code of 1992", articles 1 to 13 of this title.

(15) "Political party" shall have the same meaning as set forth in section 2 (13) of article XXVIII of the state constitution.

(15.3) "Regular biennial school election" means the election that is described in section

22-31-104 (1), C.R.S.

(15.5) "Regular biennial school electioneering communication" has the same meaning as "electioneering communication" as defined in section 2 (7) of article XXVIII of the state constitution; except that, for purpose of the definition of regular biennial school electioneering communication only, "candidate" as referenced in section 2 (7)(a)(I) of said article means a candidate in a regular biennial school election and the requirements specified in section 2 (7)(a)(II) mean a communication that is broadcast, printed, mailed, delivered, or distributed within sixty days before a regular biennial school election. Except as otherwise specified in this subsection (15.5), the definition of "regular biennial school electioneering communication" is the same as that of "electioneering communication".

(16) "Small donor committee" shall have the same meaning as set forth in section 2 (14) of article XXVIII of the state constitution.

(16.3) (a) "Small-scale issue committee" means an issue committee that has accepted or made contributions or expenditures in an amount that does not exceed five thousand dollars during an applicable election cycle for the major purpose of supporting or opposing any ballot issue or ballot question.

(b) The following are treated as a single small-scale issue committee:

(I) All small-scale issue committees that support or oppose a common ballot measure if the committees are established, financed, maintained, or controlled by a single corporation or its subsidiaries;

(II) All small-scale issue committees that support or oppose a common ballot measure if the committees are established, financed, maintained, or controlled by a single labor organization or the affiliated local units it directs; or

(III) All small-scale issue committees that support or oppose a common ballot measure if the committees are established, financed, maintained, or controlled by substantially the same person, group of persons, or other organizations.

(16.5) "Spending" means funds expended influencing or attempting to influence the selection, nomination, election, or appointment of any individual to any state or local public office in the state and includes, without limitation, any purchase, payment, distribution, loan, advance, deposit, or gift of money or anything else of value by any political organization, a contract, promise, or agreement to expend funds made or entered into by any political organization, or any electioneering communication by any political organization.

(17) "Subsidiary" means a business entity having more than half of its stock owned by another entity or person, or a business entity of which a majority interest is controlled by another person or entity.

(18) "Unexpended campaign contributions" shall have the same meaning as set forth in section 2 (15) of article XXVIII of the state constitution.

**Source: Initiated 96:** Entire article R&RE, effective upon proclamation of the Governor, January 15, 1997. **L. 98:** (1) added and (8) amended, p. 223, § 1, effective April 10; (1.5) amended and (14) added, p. 954, § 1, effective May 27. **L. 99:** (5) amended, p. 1390, § 12, effective June 4. **L. 2000:** (1.3), (4)(a)(V), and (4.5) added and (4)(a)(III), (10)(b), and (12) amended, pp. 122, 123, §§ 2, 3, effective March 15; (8) amended, p. 1724, § 1, effective June 1. **L. 2002:** (8)(a)(I) amended and (8)(a)(III) added, p. 198, § 1, effective April 3; (1.5) and (2) amended, p. 1576, § 1, effective July 1. **Initiated 2002:** Entire section repealed, effective upon proclamation of the Governor (see editor's note, (2)). **L. 2003:** Entire section RC&RE, p. 2156, § 1, effective June 3. **L. 2007:** (7) amended, p. 1766, § 1, effective June 1; (6)(c), (14.5), and (16.5) added, pp. 1225, 1224, §§ 2, 1, effective July 1. **L. 2009:** (1.3) and (1.5) added, (HB 09-1153), ch. 174, p. 774, § 1, effective September 1. **L. 2010:** (7) amended and (7.3), (7.5), (10.5), (11.5), (12.5), and (12.7) added, (SB 10-203), ch. 269, p. 1229, § 2, effective May 25; (12) amended, (HB 10-1370), ch. 270, p. 1241, § 4, effective January 1, 2011. **L. 2011:** (12)(c) amended, (HB 11-1303), ch. 264, p. 1148, § 2, effective August 10. **L. 2016:** (16.3) added, (SB 16-186), ch. 269, p. 1113, § 1, effective June 10; (15.3) and (15.5) added, (HB 16-1282), ch. 267, p. 1105, § 1, effective August 10. **L. 2018:** (6)(d) and (6)(e) added and (10) amended, (HB 18-1047), ch. 155, p. 1091, § 1, effective April 23. **L. 2019:** IP and (7.5) amended and (16.3) R&RE, (HB 19-1318), ch. 328, p. 3040, § 1, effective August 2; IP and (9) amended, (SB 19-068), ch. 69, p. 250, § 1, effective August 2.

**Editor's note:** (1) This section is similar to former § 1-45-103 as it existed prior to 1996.

(2) (a) Subsection (4) of section 1 of article V of the state constitution provides that initiated and referred measures shall take effect from and after the official declaration of the vote thereon by the proclamation of the Governor. The measure enacting article XXVIII of the state constitution takes effect upon proclamation of the vote by the Governor. The Governor's proclamation was issued on December 20, 2002. However section 13 of the measure enacting article XXVIII of the state constitution provides that the effective date of article XXVIII is December 6, 2002.

(b) Prior to the recreation and reenactment of this section in 2013, this section was repealed by an initiated measure that was adopted by the people in the general election held November 5, 2002. Section 12 of article XXVIII provides for the repeal of this section. For the text of the initiative and the vote count, see Session Laws of Colorado 2003, p. 3609.

(3) Prior to the reenactment of subsection (16.3) on August 2, 2019, subsection (16.3)(c) provided for the repeal of subsection (16.3), effective June 30, 2019. (See. L. 2016, p. 1113.)

(4) Section 4(2) of chapter 69 (SB 19-068), Session Laws of Colorado 2019, provides that the act changing this section applies to the portion of any election cycle or for the portion of the calendar year remaining after August 2, 2019, and for any election cycle or calendar year commencing after August 2, 2019, whichever is applicable.

(5) Section 7(2) of chapter 328 (HB 19-1318), Session Laws of Colorado 2019, provides that the act changing this section applies to the portion of any election cycle or to the portion of the calendar year remaining after August 2, 2019, and for any election cycle or calendar year commencing after August 2, 2019, whichever is applicable.

**Cross references:** (1) For the legislative declaration in the 2010 act amending subsection (7) and adding subsections (7.3), (7.5), (10.5), (11.5), (12.5), and (12.7), see section 1 of chapter 269, Session Laws of Colorado 2010.

(2) For the legislative declaration in the 2010 act amending subsection (12), see section 1 of chapter 270, Session Laws of Colorado 2010.

(3) For the legislative declaration in the 2011 act amending subsection (12)(c), see section 1 of chapter 264, Session Laws of Colorado 2011.

**1-45-103.7. Contribution limits - county offices - treatment of independent expenditure committees - contributions from limited liability companies - voter instructions on spending limits - definitions.** (1) Nothing in article XXVIII of the state constitution or this article shall be construed to prohibit a corporation or labor organization from making a contribution to a political committee.

(1.5) (a) (I) The maximum amount of aggregate contributions that any one person other than a small donor committee or a political party may make to a candidate committee of a candidate for a county office, and that a candidate committee for such candidate may accept from any such person, is one thousand two hundred fifty dollars for the primary election and one thousand two hundred fifty dollars for the general election.

(II) The maximum amount of aggregate contributions that any one small donor committee may make to a candidate committee of a candidate for a county office, and that a candidate committee for such candidate may accept from any one small donor committee, is twelve thousand five hundred dollars for the primary election and twelve thousand five hundred dollars for the general election.

(III) The maximum amount of aggregate contributions that a political party may make to a candidate committee of a candidate for a county office, and that a candidate committee for such candidate may accept from any political party, is twenty-two thousand one hundred twentyfive dollars for the applicable election cycle.

(b) Candidates may accept contributions subject to the aggregate limits specified in subsection (1.5)(a)(I) or (1.5)(a)(II) of this section in accordance with subsection (3) of this section.

(c) Any monetary amount specified in subsection (1.5)(a) of this section must be adjusted in accordance with the adjustments made to other contribution limits as specified in section 3 (13) of article XXVIII of the state constitution.

(d) The requirements of sections 1-45-108 and 1-45-109, as applicable, apply to any contribution made or received that is subject to subsection (1.5)(a) of this section.

(e) For purposes of this subsection (1.5), "county office" means a county commissioner, county clerk and recorder, sheriff, coroner, treasurer, assessor, or surveyor.

(2) A political committee may receive and accept moneys contributed to such committee by a corporation or labor organization pursuant to subsection (1) of this section for disbursement

to a candidate committee or political party without depositing such moneys in an account separate from the account required to be established for the receipt and acceptance of all contributions by all committees or political parties in accordance with section 3 (9) of article XXVIII of the state constitution.

(2.5) (a) An independent expenditure committee differs from a political committee in that an independent expenditure committee does not coordinate its activities with a candidate or political party.

(b) An independent expenditure committee shall not be treated as a political committee and, therefore, is not subject to the requirements of section 3 (5) of article XXVIII of the state constitution.

(3) A candidate committee established in the name of a candidate affiliated with either a major political party or a minor political party who is running in a primary election may accept:

(a) The aggregate contribution limit specified in section 3 (1) of article XXVIII of the state constitution for a primary election at any time after the date of the primary election in which the candidate in whose name the candidate committee is accepting contributions is on the primary election ballot; or

(b) The aggregate contribution limit specified in section 3 (1) of article XXVIII of the state constitution for a general election at any time prior to the date of the primary election in which the candidate in whose name the candidate committee is accepting contributions is on the primary election ballot.

(4) A candidate committee established in the name of a candidate affiliated with either a major political party or a minor political party running in a primary election may expend contributions received and accepted for a general election prior to the date of the primary election in which the candidate in whose name the candidate committee is accepting contributions is on the primary election ballot. A candidate committee established in the name of a candidate affiliated with a major political party or a minor political party running in a primary election who wins the primary election may expend contributions received and accepted for a primary election in the general election.

(4.5) (a) A candidate committee established in the name of a candidate who is a write-in candidate, an unaffiliated candidate, or the candidate of a minor political party who is not running in a primary election may accept from any one person the aggregate contribution limit specified in either section 3 (1) of article XXVIII of the state constitution or subsection (1.5)(a) of this section applicable to the office he or she is seeking at any point during the election cycle in which the candidate in whose name the candidate committee is accepting contributions is on the general election ballot.

(b) A candidate committee established in the name of a candidate who is a write-in candidate, an unaffiliated candidate, or the candidate of a minor political party who is not running in a primary election may expend contributions received and accepted in accordance with paragraph (a) of this subsection (4.5) at any point during the election cycle in which the candidate in whose name the candidate committee is accepting contributions is on the general



election ballot.

(5) (a) No limited liability company shall make any contribution to a candidate committee or political party if one or more of the individual members of the limited liability company is:

(I) A corporation;

(II) A labor organization;

(III) A natural person who is not a citizen of the United States;

(IV) A foreign government;

(V) A professional lobbyist, volunteer lobbyist, or the principal of a professional or volunteer lobbyist, and the contribution is prohibited under section 1-45-105.5 (1); or

(VI) Otherwise prohibited by law from making the contribution.

(b) No limited liability company shall make any contribution to a political committee if one or more of the individual members of the limited liability company is:

(I) An entity formed under and subject to the laws of a foreign country;

(II) A natural person who is not a citizen of the United States; or

(III) A foreign government.

(c) Notwithstanding any other provision of this subsection (5), no limited liability company shall make any contribution to a candidate committee or political party if either the limited liability company has elected to be treated as a corporation by the internal revenue service pursuant to 26 CFR 301.7701-3 or any successor provision or the shares of the limited liability company are publicly traded. A contribution by a limited liability company with a single natural person member that does not elect to be treated as a corporation by the internal revenue service pursuant to 26 CFR 301.7701-3 shall be attributed only to the single natural person member.

(d) (I) Any limited liability company that is authorized to make a contribution shall, in writing, affirm to the candidate committee, political committee, or political party to which it has made a contribution, as applicable, that it is authorized to make a contribution, which affirmation shall also state the names and addresses of all of the individual members of the limited liability company. No candidate committee, political committee, or political party shall accept a contribution from a limited liability company unless the written affirmation satisfying the requirements of this paragraph (d) is provided before the contribution is deposited by the candidate committee, political committee, or political party. The candidate committee, political committee, or political party receiving the contribution shall retain the written affirmation for not less than one year following the date of the end of the election cycle during which the contribution is received.

(II) Any contribution by a limited liability company, and the aggregate amount of contributions from multiple limited liability companies attributed to a single member of any such company under this subparagraph (II), shall be subject to the limits governing such contributions under section 3 of article XXVIII of the state constitution. A limited liability company that makes any contribution to a candidate committee, political committee, or political party shall, at the time it makes the contribution, provide information to the recipient committee or political party as to the amount of the total contribution attributed to each member of the limited liability company. The attribution shall reflect the capital each member of the limited liability company has invested in the company relative to the total amount of capital invested in the company as of the date the company makes the campaign contribution, and for a single member limited liability company, the contribution shall be attributed to that single member. The limited liability company shall then deduct the amount of the contribution attributed to each of its members from the aggregate contribution limit applicable to multiple limited liability companies under this subparagraph (II) for purposes of ensuring that the aggregate amount of contributions from multiple limited liability companies attributed to a single member does not exceed the contribution limits in section 3 of article XXVIII of the state constitution. Nothing in this subparagraph (II) shall be construed to restrict a natural person from making a contribution in his or her own name to any committee or political party to the extent authorized by law.

(5.3) An issue committee or small-scale issue committee shall not knowingly accept contributions from:

(a) Any natural person who is not a citizen of the United States;

(b) A foreign government; or

(c) Any foreign corporation that does not have the authority to transact business in this state pursuant to article 115 of title 7 or any successor section.

(5.5) A natural person who is not a citizen of the United States, a foreign government, or a foreign corporation shall not establish, register, or maintain a political committee, small donor committee, political party, issue committee, or small-scale issue committee, or make an electioneering communication or regular biennial school electioneering communication.

(6) No nondomestic corporation may make any contribution under article XXVIII of the state constitution or this article that a domestic corporation is prohibited from making under article XXVIII of the state constitution or this article.

(6.5) Notwithstanding any other provision of law, a candidate committee established in the name of a candidate may expend contributions received and accepted by the committee during any particular election cycle to reimburse the candidate for reasonable and necessary expenses for the care of children or other dependents the candidate incurs directly in connection with the candidate's campaign activities during the election cycle. The candidate committee shall disclose the expenditures in the same manner as any other expenditures the committee is required to disclose under section 1-45-108 (1)(a)(I).

(7) (a) Any person who believes that a violation of subsection (1.5), (5), or (6) of this

section has occurred may file a written complaint with the secretary of state in accordance with section 1-45-111.7.

(b) Any person who has violated subsection (1.5), (5)(a), (5)(b), (5)(c), or (6) of this section is subject to a civil penalty of at least double and up to five times the amount contributed or received in violation of the applicable provision.

(c) Any person who has violated any of the provisions of subparagraph (I) of paragraph (d) of subsection (5) of this section shall be subject to a civil penalty of fifty dollars per day for each day that the written affirmation regarding the membership of a limited liability company has not been filed with or retained by the candidate committee, political committee, or political party to which a contribution has been made.

(8) As used in this section, "limited liability company" has the same meaning as "domestic limited liability company" as defined in section 7-90-102 (15) or "foreign limited liability company" as defined in section 7-90-102 (24).

(9) (a) The voters instruct the Colorado congressional delegation to propose and support, and the Colorado state legislature to ratify, an amendment to the United States Constitution that allows Congress and the states to limit campaign contributions and spending, to ensure that all citizens, regardless of wealth, can express their views to one another and their government on a level playing field.

(b) The provisions of this subsection shall take effect on January 1, 2013, and be applicable thereafter.

(10) For purposes of this section, the terms "unaffiliated", "major political party", and "minor political party" have the same meanings as specified in the "Uniform Election Code of 1992", articles 1 to 13 of this title.

(11) (a) If, within the six months before becoming a candidate for public office, a person actively solicits funds for an independent expenditure committee with the intent of benefiting his or her future candidacy, any expenditure made by that independent expenditure committee in that candidate's race is presumed to be controlled by or coordinated with that candidate and deemed to constitute both a contribution by the maker of the expenditures, and an expenditure by the candidate committee.

(b) If any complaint filed under section 1-45-111.7 for a violation of this subsection (11) fails to state sufficient facts to support the allegations of the complaint, upon a final agency action, the respondent to such a complaint may apply to the state district court for an award of the person's attorneys fees and costs in connection with defending against the complaint if the district court determines that the complaint was frivolous, vexatious, or for the purpose of harassment.

**Source:** L. 2003: Entire section added, p. 2160, § 6, effective June 3. L. 2004: Entire section amended, p. 863, § 1, effective May 21. L. 2007: (5), (6), (7), and (8) added, p. 1766, § 2, effective June 1. L. 2008: (5)(d)(II) amended, p. 440, § 1, effective April 14. L. 2010: (2.5) added and (6) and (8) amended, (SB 10-203), ch. 269, p. 1230, § 3, effective May 25. **Initiated**

**2012, (Amendment 65):** (9) added, L. 2013, p. 3301, effective upon proclamation of the Governor, January 1, 2013. **L. 2014:** IP(3) and (4) amended and (4.5) and (10) added, (HB 14-1335), ch. 145, p. 494, § 2, effective May 2. **L. 2018:** (2.5) and (8) amended, (HB 18-1047), ch. 155, p. 1092, § 2, effective April 23. **L. 2019:** (7)(a) amended, (SB 19-232), ch. 330, p. 3065, § 2, effective July 1; (1.5) added and (4.5)(a) and (7)(b) amended, (HB 19-1007), ch. 97, p. 356, § 1, effective August 2; (5.3), (5.5), and (11) added, (HB 19-1318), ch. 328, p. 3041, § 2, effective August 2; (6.5) added, (SB 19-229), ch. 354, p. 3260, § 1, effective September 1.

**Editor's note:** (1) Subsection (9) was added by initiative in 2012. The vote count on the measure at the general election held November 6, 2012, was as follows:

FOR: 1,276,432  
AGAINST: 988,542

(2) Section 4(2) of chapter 97 (HB 19-1007), Session Laws of Colorado 2019, provides that the act changing this section applies to the portion of any election cycle or for the portion of the calendar year remaining after August 2, 2019, and for any election cycle or calendar year commencing after August 2, 2019, whichever is applicable.

(3) Section 7(2) of chapter 328 (HB 19-1318), Session Laws of Colorado 2019, provides that the act changing this section applies to the portion of any election cycle or to the portion of the calendar year remaining after August 2, 2019, and for any election cycle or calendar year commencing after August 2, 2019, whichever is applicable.

(4) Section 6(1) of chapter 330 (SB 19-232), Session Laws of Colorado 2019, provides that the act changing this section applies to complaints filed with the secretary of state on or after July 1, 2019.

(5) Section 3(2) of chapter 354 (SB 19-229), Session Laws of Colorado 2019, provides that the act changing this section applies to the portion of any election cycle or for the portion of the calendar year remaining after September 1, 2019, and for any election cycle or calendar year commencing after September 1, 2019, whichever is applicable.

**Cross references:** (1) For the legislative declaration in the 2010 act adding subsection (2.5) and amending subsections (6) and (8), see section 1 of chapter 269, Session Laws of Colorado 2010.

(2) For the legislative declaration in HB 14-1335, see section 1 of chapter 145, Session Laws of Colorado 2014.

#### **1-45-104. Contribution limits. (Repealed)**

**Source: Initiated 96:** Entire article R&RE, effective upon proclamation of the Governor, January 15, 1997. **L. 98:** (13)(a)(II) amended, p. 632, § 2, effective May 6; (13)(c) amended, p. 950, § 1, effective May 27; (14) added, p. 955, § 2, effective May 27. **L. 99:** IP(2) amended, p. 1391, § 13, effective June 4. **L. 2000:** Entire section repealed, p. 129, § 12, effective March 15.

**Editor's note:** This section was similar to former § 1-45-111 as it existed prior to 1996.

### **1-45-105. Voluntary campaign spending limits. (Repealed)**

**Source: Initiated 96:** Entire article R&RE, effective upon proclamation of the Governor, January 15, 1997. **L. 98:** (3) amended, p. 951, § 2, effective May 27. **L. 2000:** Entire section repealed, p. 129, § 12, effective March 15.

**Editor's note:** This section was similar to former § 1-45-112 as it existed prior to 1996.

### **1-45-105.3. Contribution limits. (Repealed)**

**Source: L. 2000:** Entire section added with relocations, p. 118, § 1, effective March 15.

**L. 2002:** (4)(a.5) added, p. 1929, § 1, effective June 7. **Initiated 2002:** Entire section repealed, effective upon proclamation of the Governor (see editor's note, (2)).

**Editor's note:** (1) The provisions of this section were similar to several former provisions of § 1-45-104 as they existed prior to 2000.

(2) (a) Subsection (4) of section 1 of article V of the state constitution provides that initiated and referred measures shall take effect from and after the official declaration of the vote thereon by the proclamation of the Governor. The measure enacting article XXVIII of the state constitution takes effect upon proclamation of the vote by the Governor. The Governor's proclamation was issued on December 20, 2002. However, section 13 of the measure enacting article XXVIII of the state constitution provides that the effective date of article XXVIII is December 6, 2002.

(b) This section was repealed by an initiated measure that was adopted by the people in the general election held November 5, 2002. Section 12 of article XXVIII provides for the repeal of this section. For the text of the initiative and the vote count, see Session Laws of Colorado 2003, p. 3609.

### **1-45-105.5. Contributions to members of general assembly and governor during**

**consideration of legislation.** (1) (a) No professional lobbyist, volunteer lobbyist, or principal of a professional lobbyist or volunteer lobbyist shall make or promise to make a contribution to, or solicit or promise to solicit a contribution for:

(I) A member of the general assembly or candidate for the general assembly, when the general assembly is in regular session;

(II) (A) The governor or a candidate for governor when the general assembly is in regular session or when any measure adopted by the general assembly in a regular session is pending before the governor for approval or disapproval; or

(B) The lieutenant governor, the secretary of state, the state treasurer, the attorney general, or a candidate for any of such offices when the general assembly is in regular session.

(b) As used in this subsection (1):

(I) "Principal" means any person that employs, retains, engages, or uses, with or without compensation, a professional or volunteer lobbyist. One does not become a principal, nor may one be considered a principal, merely by belonging to an organization or owning stock in a corporation that employs a lobbyist.

(II) The terms "professional lobbyist" and "volunteer lobbyist" shall have the meanings ascribed to them in section 24-6-301, C.R.S.

(c) (I) Nothing contained in this subsection (1) shall be construed to prohibit lobbyists and their principals from raising money when the general assembly is in regular session or when regular session legislation is pending before the governor, except as specifically prohibited in paragraph (a) of this subsection (1).

(II) Nothing contained in this subsection (1) shall be construed to prohibit a lobbyist or principal of a lobbyist from participating in a fund-raising event of a political party when the general assembly is in regular session or when regular session legislation is pending before the governor, so long as the purpose of the event is not to raise money for specifically designated members of the general assembly, specifically designated candidates for the general assembly, the governor, or specifically designated candidates for governor.

(III) A payment by a lobbyist or a principal of a lobbyist to a political party to participate in such a fund-raising event shall be reported as a contribution to the political party pursuant to section 1-45-108; except that, if the lobbyist or principal of a lobbyist receives a meal in return for a portion of the payment, only the amount of the payment in excess of the value of the meal shall be considered a contribution to the political party. The political party shall determine the value of the meal received for such payment, which shall approximate the actual value of the meal.

(IV) A gift of a meal described in subparagraph (III) of this paragraph (c) by a lobbyist or a principal of a lobbyist to a candidate elected to any office described in paragraph (a) of this subsection (1) but who has not yet been sworn into such office shall be reported as follows:

(A) The lobbyist shall report the value of the meal in the lobbyist disclosure statement filed pursuant to section 24-6-302, C.R.S.

(B) The elected candidate who has not yet been sworn into office shall report the value of the meal in the public official disclosure statement filed pursuant to section 24-6-203, C.R.S.

**Source: L. 2000:** Entire section added with relocations, p. 118, § 1, effective March 15.

**L. 2012:** IP(1)(c)(IV) and (1)(c)(IV)(B) amended, (HB 12-1070), ch. 167, p. 586, § 5, effective August 8.

**Editor's note:** This section is similar to former § 1-45-104 (13) as it existed prior to 2000.

**1-45-106. Unexpended campaign contributions.** (1) (a) (I) Subject to the requirements of section 3 (3)(e) of article XXVIII of the state constitution, unexpended campaign contributions to a candidate committee may be:

(A) Contributed to a political party;

(B) Contributed to a candidate committee established by the same candidate for a different public office, subject to the limitations set forth in section 3 of article XXVIII of the state constitution, if the candidate committee making such a contribution is affirmatively closed by the candidate no later than ten days after the date such a contribution is made;

(C) Donated to a charitable organization recognized by the internal revenue service;

(D) Returned to the contributors, or retained by the committee for use by the candidate in a subsequent campaign.

(II) Except as authorized by section 1-45-103.7 (6.5), in no event shall contributions to a candidate committee be used for personal purposes not reasonably related to supporting the election of the candidate.

(III) A candidate committee for a former officeholder or a person not elected to office shall expend all of the unexpended campaign contributions retained by such candidate committee, for the purposes specified in this subsection (1), no later than nine years from the date such officeholder's term expired or from the date of the election at which such person was a candidate for office, whichever is later.

(b) In addition to any use described in paragraph (a) of this subsection (1), a person elected to a public office may use unexpended campaign contributions held by the person's candidate committee for any of the following purposes:

(I) Voter registration;

(II) Political issue education, which includes obtaining information from or providing information to the electorate;

(III) Postsecondary educational scholarships;

(IV) To defray reasonable and necessary expenses related to mailings and similar communications to constituents;

(V) Any expenses that are directly related to such person's official duties as an elected official, including, but not limited to, expenses for the purchase or lease of office equipment and supplies, room rental for public meetings, necessary travel and lodging expenses for legislative education such as seminars, conferences, and meetings on legislative issues, and telephone and pager expenses.

(2) (Deleted by amendment, L. 2000, p. 123, § 4, effective March 15, 2000.)

(3) Unexpended contributions to an issue committee may be donated to any charitable organization recognized by the Internal Revenue Service or returned to the contributor.

(4) This section shall apply to unexpended campaign contributions transferred from a political committee formed prior to January 15, 1997, to a candidate committee registering after January 15, 1997, pursuant to section 1-45-108.

(5) Notwithstanding any other provision of law, any unexpended campaign contributions retained by a candidate committee for use in a subsequent election cycle shall be counted and reported as contributions from a political party in any subsequent election in accordance with the requirements of section 3 (3)(e) of article XXVIII of the state constitution.

**Source: Initiated 96:** Entire article R&RE, effective upon proclamation of the Governor, January 15, 1997. **L. 98:** (1) amended, p. 955, § 3, effective May 27. **L. 2000:** (1)(a) and (2) amended, p. 123, § 4, effective March 15. **L. 2003:** IP(1)(a)(I) amended and (5) added, p. 2157, § 2, effective June 3. **L. 2010:** (1)(a)(I)(B) amended, (SB 10-041), ch. 151, p. 522, § 1, effective July 1. **L. 2019:** (1)(a)(II) amended, (SB 19-229), ch. 354, p. 3260, § 2, effective September 1.

**Editor's note:** (1) This section is similar to § 1-45-109 as it existed prior to 1996.

(2) Section 3(2) of chapter 354 (SB 19-229), Session Laws of Colorado 2019, provides that the act changing this section applies to the portion of any election cycle or for the portion of the calendar year remaining after September 1, 2019, and for any election cycle or calendar year commencing after September 1, 2019, whichever is applicable.

#### **1-45-107. Independent expenditures. (Repealed)**

**Source: Initiated 96:** Entire article R&RE, effective upon proclamation of the Governor, January 15, 1997. **Initiated 2002:** Entire section repealed, effective upon proclamation of the Governor (see editor's note, (2)).

**Editor's note:** (1) This section was similar to former § 1-45-110.5 as it existed prior to 1996.

(2) (a) Subsection (4) of section 1 of article V of the state constitution provides that initiated and referred measures shall take effect from and after the official declaration of the vote thereon by the proclamation of the Governor. The measure enacting article XXVIII of the state constitution takes effect upon proclamation of the vote by the Governor. The Governor's proclamation was issued on December 20, 2002. However, section 13 of the measure enacting article XXVIII of the state constitution provides that the effective date of article XXVIII is December 6, 2002.

(b) This section was repealed by an initiated measure that was adopted by the people in the general election held November 5, 2002. Section 12 of article XXVIII provides for the repeal of this section. For the text of the initiative and the vote count, see Session Laws of Colorado 2003, p. 3609.

**1-45-107.5. Independent expenditures - restrictions on foreign corporations - registration - disclosure - disclaimer requirements - definitions.** (1) Notwithstanding any other provision of law, no natural person who is not a citizen of the United States, foreign government, or foreign corporation may expend moneys on an independent expenditure in connection with an election in the state, and no independent expenditure committee may



knowingly accept a donation from any natural person who is not a citizen of the United States, any foreign government, or any foreign corporation.

(2) In accordance with the decision of the supreme court of Colorado in the case of *In re Interrogatories Propounded by Governor Bill Ritter, Jr., Concerning the Effect of Citizens United v. Federal Election Comm'n*, 558 U.S. \_\_\_\_ (2010), on Certain Provisions of Article XXVIII of the Constitution of the State of Colorado, 227 P.3d 892 (Colo. 2010), notwithstanding sections 3 (4)(a) and 6 (2) of article XXVIII of the state constitution, corporations and labor organizations shall not be prohibited from making independent expenditures. All such expenditures shall be disclosed in accordance with the requirements of this article and article XXVIII of the state constitution. For purposes of this article and article XXVIII of the state constitution, any use of the word "person" shall be construed to include, without limitation, any corporation or labor organization.

(3) (a) Any person that accepts a donation that is given for the purpose of making an independent expenditure in excess of one thousand dollars or that makes an independent expenditure in excess of one thousand dollars shall register with the appropriate officer within two business days of the date on which an aggregate amount of donations accepted or expenditures made reaches or exceeds one thousand dollars.

(b) The registration required by paragraph (a) of this subsection (3) shall include a statement listing:

(I) The person's full name, spelling out any acronyms used therein;

(II) A natural person authorized to act as a registered agent;

(III) A street address and telephone number for the principal place of operations; and

(IV) The aggregate ownership interest in the person held by foreign persons calculated as of the time the person registers with the appropriate officer under paragraph (a) of this subsection (3).

(c) If the person identified in subparagraph (I) of paragraph (b) of this subsection (3) is a corporation, a subsidiary may register on behalf of its parent corporation or for other subsidiaries of the parent corporation, and the parent corporation may register on behalf of all of its subsidiaries. In each such case, the registered agent of the person registering shall serve as the registered agent for all such affiliated corporations. Registration of a subsidiary shall include the name of its parent corporation as well as any names under which the subsidiary does business.

(d) If the person identified in subparagraph (I) of paragraph (b) of this subsection (3) is a labor organization, a local labor organization may register on behalf of any affiliated local, national, or international labor organization that will be making independent expenditures, and a national or international labor organization may register on behalf of any affiliated local labor organization that will be making independent expenditures. In each such case, the registered agent of the labor organization that is registering shall serve as the registered agent for each affiliated local, national, or international labor organization.

(4) (a) In addition to any other applicable disclosure requirements specified in this article or in article XXVIII of the state constitution, any person making an independent expenditure in an aggregate amount in excess of one thousand dollars in any one calendar year shall report the following to the appropriate officer:

(I) The person's full name, or, if the person is a subsidiary of a parent corporation, the full name of the parent corporation, spelling out any acronyms used therein;

(II) All names under which the person does business in the state if such names are different from the name identified pursuant to subparagraph (I) of this paragraph (a);

(III) The address of the home office of the person, or, if the person is a subsidiary of a parent corporation, the home office of the parent corporation; and

(IV) The name and street address in the state of its registered agent.

(b) (I) Any person who expends an aggregate amount in excess of one thousand dollars or more per calendar year for the purpose of making an independent expenditure shall report to the appropriate officer, in accordance with the requirements of this section, the name and address of any person that, for the purpose of making an independent expenditure, donates more than two hundred fifty dollars per year to the person expending one thousand dollars or more on an independent expenditure.

(II) If the person making the donation of two hundred fifty dollars or more is a natural person, the disclosure required by subparagraph (I) of this paragraph (b) shall also include the donor's occupation and employer.

(III) If the person making the donation of two hundred fifty dollars or more is not a natural person, the disclosure required by this paragraph (b) shall also include:

(A) The donor's full name, or, if the donor is a subsidiary of a parent corporation, the full name of the parent corporation, spelling out any acronyms used therein;

(B) All names under which the donor does business in the state if such names are different from the name identified pursuant to subparagraph (I) of this paragraph (b);

(C) The address of the home office of the donor, or, if the donor is a subsidiary of a parent corporation, the home office of the parent corporation; and

(D) The name and street address in the state of the donor's registered agent.

(c) The information required to be disclosed pursuant to paragraph (a) of this subsection

(4) must be reported in accordance with the schedule specified in section 1-45-108 (2) for political committees; except that any person making an independent expenditure in excess of one thousand dollars within thirty days before a primary, general, or regular biennial school election shall provide such report within forty-eight hours after obligating moneys for the independent expenditure.

(5) (a) In addition to any other applicable requirements provided by law, and subject to the provisions of this section, any communication that is broadcast, printed, mailed, delivered; placed on a website, streaming media service, or online forum for a fee; or that is otherwise distributed that constitutes an independent expenditure for which the person making the independent expenditure expends in excess of one thousand dollars on the communication shall include in the communication a statement that:

(I) The communication has been "paid for by (full name of the person paying for the communication)"; and

(II) Identifies a natural person who is the registered agent if the person identified in subsection (5)(a)(I) of this section is not a natural person.

(b) In the case of a broadcast or online video or audio communication, the statement required by subsection (5)(a) of this section shall satisfy all applicable requirements promulgated by the federal communications commission for size, duration, and placement.

(c) In the case of a nonbroadcast communication, including an online communication, the secretary of state shall, by rule, establish size and placement requirements for the disclaimer statement. If the size, format, or display requirements of the communication make it impracticable to include a disclaimer statement on the communication, the rules must require that the disclaimer statement be available by means of a direct link from the communication to the web page or application screen containing the statement.

(6) Any person that expends an aggregate amount in excess of one thousand dollars on an independent expenditure in any one calendar year shall deliver written notice to the appropriate officer that shall list with specificity the name of the candidate whom the independent expenditure is intended to support or oppose. Where the independent expenditure is made within thirty days before a primary, general, or regular biennial school election, the notice required by this subsection (6) must be delivered within forty-eight hours after the person obligates moneys for the independent expenditure.

(7) Any person that accepts any donation that is given for the purpose of making an independent expenditure or expends any moneys on an independent expenditure in an aggregate amount in excess of one thousand dollars in any one calendar year shall establish a separate account in a financial institution, and the title of the account shall indicate that it is used for such purposes. All such donations accepted by such person for the making of any such independent expenditures shall only be deposited into the account, and any moneys expended for the making of such independent expenditure shall only be withdrawn from the account. As long as the person uses a separate account for the purposes of this subsection (7), in any complaint relating to the use of the person's account, no discovery may be made of information relating to the identity of the person's members and general donors and any discovery is limited to the sources, amounts, and uses of donations deposited into and expenditures withdrawn from the account.

(8) Any person that expends moneys on an independent expenditure in excess of one thousand dollars, regardless of the medium of the communication produced by the expenditure, shall disclose to the secretary of state, in accordance with the schedule specified in section 1-45-

108 (2) for political committees, any donation in excess of twenty dollars given in that reporting period for the purpose of making an independent expenditure.

(9) Repealed.

(10) Any earmarked donation given for the purpose of making an independent expenditure in excess of one thousand dollars shall be disclosed as a donation from both the original source of the donation and the person transferring the donation.

(11) On reports it files with the appropriate official, an independent expenditure committee that obligates in excess of one thousand dollars for an independent expenditure shall disclose a good faith estimate of the fair market value of the expenditure if the committee does not know the actual amount of the expenditure as of the date that a report is required to be filed with the appropriate official.

(12) All information required to be disclosed to the secretary of state under this section shall be posted on the website of the secretary within two business days after its receipt by the secretary.

(13) Notwithstanding any other provision of this section, any requirement contained in this section that is applicable to a corporation shall also be applicable to a labor organization.

(14) (a) Any covered organization that contributes, donates, or transfers ten thousand dollars or more to any person, earmarked for the purpose of making an independent expenditure or electioneering communication, during any one calendar year, shall provide to the recipient of the contribution, donation, or transfer an affirmation, in writing, that includes the information listed in subsection (14)(d) of this section. After reaching the ten thousand dollar threshold, the covered organization shall provide a new affirmation statement for each qualifying subsequent contribution, donation, or transfer during that calendar year.

(b) Any covered organization that transfers ten thousand dollars or more to any person, earmarked for the purpose of that person making a contribution, donation, or transfer to pay for an independent expenditure or electioneering communication, during any one calendar year, shall provide to the recipient of the transfer an affirmation, in writing, that includes the information listed in subsection (14)(d) of this section. After reaching the ten thousand dollar threshold, the covered organization shall provide a new affirmation statement for each qualifying subsequent transfer during that calendar year.

(c) A person shall not accept a contribution, donation, or transfer as described in subsection (14)(a) or (14)(b) of this section from a covered organization unless the covered organization provides a written affirmation to the recipient satisfying the requirements of subsection (14)(d) of this section. The recipient shall include the written affirmation when reporting the independent expenditure or electioneering communication to the appropriate filing officer and shall retain the written affirmation for not less than one year following the date of the end of the election cycle during which the affirmation was received.

(d) The affirmation required by this subsection (14) must include:

(I) The name of the covered organization and its principal place of business;

(II) The amount of the contribution, donation, or transfer and the name of the person who received the contribution, donation, or transfer;

(III) (A) If the covered organization is a for-profit corporation, each beneficial owner's name and current residence or business address and, if a listed beneficial owner exercises control over the entity through another legal entity, such as a corporation, partnership, limited liability company, or trust, each such other legal entity and each such beneficial owner who will use that other entity to exercise control over the entity.

(B) For purposes of this subsection (14)(d)(III), "beneficial owner" means a corporation's officers, directors, and owners of more than five percent of the corporation.

(IV) (A) If the covered organization is not a for-profit corporation but is subject to disclosure under subsection (14)(a) or (14)(b) of this section, a list of any person who transferred five thousand dollars or more to the covered organization and who earmarked that transfer of funds for the purpose of making an independent expenditure or electioneering communication as determined by the earlier of either the preceding twelve-month period that ends on the date of the transmission of the independent expenditure or electioneering communication or that ends on the date of the transfer.

(B) A covered organization is not required to include a natural person's name if disclosure of that person would lead to a reasonable probability of harm, threats, harassment, or reprisals to the person or to individuals affiliated with that person.

(C) A covered organization may only redact a person's name from its report under subsection (14)(d)(IV)(B) of this section if the person has affirmed on a form provided by the secretary of state, under oath, that the person believes there is a reasonable probability that they will be subject to harm, threats, harassment, or reprisal if disclosed. The covered organization shall retain the affirmation for not less than one year and shall produce the affirmation to the secretary of state's office in response to a request for information related to any investigation of a campaign finance violation. The affirmation must remain confidential during the pendency of any investigation and complaint with a hearing officer under section 1-45-117.5. Following a final agency decision finding that the individual whose name was redacted does not meet the requirements of this subsection (14)(d)(IV)(C), including the applicable period for appeal, the affirmation is no longer confidential and is subject to public review.

(D) If the contribution, donation, or transfer under subsection (14)(a) or (14)(b) of this section is from another covered organization, the covered organization shall provide a list of persons who transferred to that covered organization consistent with subsections (14)(d)(IV)(B) and (14)(d)(IV)(C) of this section.

(V) A covered organization need not include a transfer made for a commercial transaction in the ordinary course of any trade or business conducted by the covered organization.

(VI) A certification by the chief executive officer or person who is the head of the

covered organization stating that the contribution, donation, or transfer is not made in cooperation, consultation, or concert with or at the request or suggestion of a candidate, authorized committee, or agent of a candidate, political party, or agent of a political party.

(e) For purposes of this subsection (14), "covered organization" means a corporation, including an entity organized under section 501(c) or 527 of the internal revenue code, a labor organization, or an independent expenditure committee. It does not include a small donor committee, political party committee, or candidate committee.

(f) For purposes of this subsection (14), "transfer", "donate", or "contribute" does not include the provision of funds to a vendor or in payment of a contract for goods or services.

**Source:** **L. 2010:** Entire section added, (SB 10-203), ch. 269, p. 1231, § 4, effective May 25. **L. 2016:** (4)(c) and (6) amended, (HB 16-1282), ch. 267, p. 1106, § 2, effective August 10. **L. 2018:** (9) repealed, (HB 18-1047), ch. 155, p. 1092, § 3, effective April 23. **L. 2019:** (1) and (5) amended and (14) added, (HB 19-1318), ch. 328, p. 3042, § 3, effective August 2.

**Editor's note:** Section 7(2) of chapter 328 (HB 19-1318), Session Laws of Colorado 2019, provides that the act changing this section applies to the portion of any election cycle or to the portion of the calendar year remaining after August 2, 2019, and for any election cycle or calendar year commencing after August 2, 2019, whichever is applicable.

**Cross references:** For the legislative declaration in the 2010 act adding this section, see section 1 of chapter 269, Session Laws of Colorado 2010.

**1-45-108. Disclosure - definitions - repeal.** (1) (a) (I) Subject to subsection (1.5) of this section, all candidate committees, political committees, issue committees, small donor committees, and political parties shall report to the appropriate officer their contributions received, including the name and address of each person who has contributed twenty dollars or more; expenditures made, and obligations entered into by the committee or party.

(II) Subject to subsection (1.5) of this section, in the case of contributions made to a candidate committee, political committee, issue committee, and political party, the disclosure required by this section shall also include the occupation and employer of each person who has made a contribution of one hundred dollars or more to such committee or party.

(III) Any person who expends one thousand dollars or more per calendar year on electioneering communications or regular biennial school electioneering communications shall report to the secretary of state, in accordance with the disclosure required by this section, the amount expended on the communications and the name and address of any person that contributes more than two hundred fifty dollars per year to the person expending one thousand dollars or more on the communications. If the person making a contribution of more than two hundred fifty dollars is a natural person, the disclosure required by this section must also include the person's occupation and employer. Electioneering communication reports must include the name of the candidate or candidates unambiguously referred to in the electioneering communication or regular biennial school electioneering communication. In accordance with section 1-45-103 (9), an electioneering communication includes any communication that satisfies all other requirements set forth in section 2 (7) of article XXVIII of the state constitution but that is broadcast, printed, mailed, delivered, or distributed between the primary election and the general election.

(IV) In the case of a limited liability company, the disclosure required by this section shall include, in addition to any other information required to be disclosed, each contribution from the limited liability company regardless of the dollar amount of the contribution.

(V) Any disbursement not otherwise defined as an expenditure may be reported to the appropriate officer.

(b) (Deleted by amendment, L. 2003, p. 2158, § 3, effective June 3, 2003.)

(c) A candidate committee in a special district election is not required to file reports under this section until the committee has received contributions or made expenditures exceeding two hundred dollars in the aggregate during the election cycle.

(d) For purposes of this section, a political party shall be treated as a separate entity at the state, county, district, and local levels.

(e) A candidate's candidate committee may reimburse the candidate for expenditures the candidate has made on behalf of the candidate committee. Any such expenditures may be reimbursed at any time. Notwithstanding any other provision of law, any expenditure reimbursed to the candidate by the candidate's candidate committee within the election cycle during which the expenditure is made shall be treated only as an expenditure and not as a contribution to and an expenditure by the candidate's candidate committee. Notwithstanding the date on which any such expenditure is reimbursed, the expenditure shall be reported at the time it is made in accordance with the requirements of this section.

(1.5) Notwithstanding any other provision of law, in light of the opinion of the United States court of appeals for the tenth circuit in the case of *Coalition for Secular Government v. Williams*, no. 14-1469 (10th circuit March 2, 2016), that affirmed the order of the federal district court in the case of *Coalition for Secular Gov't v. Gessler*, case no. 12 CV 1708, the disclosure requirements specified in subsection (1)(a)(I) or (1)(a)(II) of this section and the reporting requirements specified in subsection (3.3) or (6) of this section shall not apply to a small-scale issue committee. A small-scale issue committee shall disclose or file reports about the contributions or expenditures it has made or received or otherwise register as an issue committee in connection with accepting or making such contributions or expenditures in accordance with the following alternative requirements:

(a) A small-scale issue committee that accepts or makes contributions or expenditures in an aggregate amount during any applicable election cycle that does not exceed two hundred dollars is not required to disclose or file reports about the contributions or expenditures it has made or received or otherwise register as an issue committee in connection with accepting or making such contributions or expenditures.

(b) (I) A small-scale issue committee that accepts or makes contributions or expenditures in an aggregate amount during any applicable election cycle of between two hundred dollars and five thousand dollars shall register with the appropriate officer within ten business days of the date on which the aggregate amount of contributions or expenditures exceeds two hundred dollars. The registration required by this subsection (1.5)(b)(I) must include a statement listing:

(A) The committee's full name, spelling out any acronyms used in the name;

(B) The name of a natural person authorized to act as a registered agent of the committee;

(C) A street address for the principal place of business of the committee;

(D) The purpose or nature of interest of the committee; and

(E) The name of the financial institution in which, in a separate account bearing the name of the committee, all contributions received by the committee are deposited.

(II) A small-scale issue committee described in subsection (1.5)(b)(I) of this section is not required to make any disclosure about any contributions or expenditures it has made or received.

(c) (I) At such time as an issue committee that began as a small-scale issue committee accepts or makes contributions or expenditures in an aggregate amount during any applicable election cycle that exceeds five thousand dollars, the committee shall report to the appropriate officer, for each particular contribution or expenditure accepted or made, the name and address of each person who has made such contribution and the amount of each specific contribution and expenditure accepted or made by the committee.

(II) At such time as any issue committee that began as a small-scale issue committee accepts or makes contributions or expenditures in an aggregate amount during any applicable election cycle that exceeds five thousand dollars, the committee shall make disclosure of any contributions or expenditures it accepts or makes on or after the date on which such aggregate amount exceeds five thousand dollars in compliance with all applicable requirements under this article 45 pertaining to the disclosure by an issue committee of its contributions or expenditures accepted or made.

(III) Within fifteen days of a small-scale issue committee becoming subject to the applicable requirements governing an issue committee under this article 45, the committee through its registered agent shall report this change in the committee's status to the secretary of state.

(2) (a) (I) Except as provided in subparagraph (V) of this paragraph (a) and subsections (2.5), (2.7), and (6) of this section, such reports that are required to be filed with the secretary of state must be filed:

(A) Quarterly in off-election years no later than the fifteenth calendar day following the end of the applicable quarter;

(B) On the first Monday in May and on each Monday every two weeks thereafter before the primary election;

(C) On the first day of each month beginning the sixth full month before the major



election; except that no monthly report shall be required on the first day of the month in which the major election is held;

(D) On the first Monday in September and on each Monday every two weeks thereafter before the major election;

(E) Thirty days after the major election in election years; and

(F) Fourteen days before and thirty days after a special legislative election held in an offelection year.

(II) Such reports that are required to be filed with the municipal clerk and such reports required to be filed pursuant to section 1-45-109 (1)(a)(II) and (1)(c) shall be filed on the twentyfirst day and on the Friday before and thirty days after the primary election, where applicable, and the major election in election years and annually in off-election years on the first day of the month in which the anniversary of the major election occurs.

(III) For purposes of this section, "election year" means every even-numbered year for political parties and political committees and each year in which the particular candidate committee's candidate, or issue committee's issue, appears on the ballot, including a regular biennial school election; and "major election" means the election that decides an issue committee's issue, the election that elects a person to the public office sought by the candidate committee's candidate, and a regular biennial school election.

(IV) If the reporting day falls on a weekend or legal holiday, the report shall be filed by the close of the next business day.

(V) Any political committee, small donor committee, independent expenditure committee, or political organization that is participating in a regular biennial school election shall file its disclosure reports in accordance with the filing schedule specified in subparagraphs (C) to (E) of subparagraph (I) of this paragraph (a) as of the date the committee or organization, as applicable, makes an expenditure or undertakes spending in connection with that election.

(b) The reports required by this section shall also include the balance of funds at the beginning of the reporting period, the total of contributions received, the total of expenditures made during the reporting period, and the name and address of the financial institution used by the committee or party.

(c) All reports filed with the secretary of state pursuant to this subsection (2) shall be for the reporting periods established pursuant to rules promulgated by the secretary of state in accordance with article 4 of title 24, C.R.S.

(d) A candidate committee for a former officeholder or a person not elected to office that has no change in the balance of funds maintained by such committee, receives no contributions, makes no expenditures, and enters into no obligations during a reporting period shall not be required to file a report under this section for such period.

(e) The reporting period for all reports required to be filed with the municipal clerk and such reports required to be filed pursuant to section 1-45-109 (1)(a)(II) and (1)(c) shall close five calendar days prior to the effective date of filing.

(2.3) Repealed.

(2.5) (a) Except as provided in subsection (2.5)(b) of this section, and in addition to any report required to be filed with the secretary of state or municipal clerk under this section, all candidate committees, issue committees, and political parties must file a report with the secretary of state of any contribution of one thousand dollars or more at any time within thirty days preceding the date of the primary election, general election, or regular biennial school election. This report shall be filed with the secretary of state no later than twenty-four hours after receipt of said contribution.

(b) Notwithstanding the provisions of subsection (2.5)(a) of this section, the following committees need not file the reports described in subsection (2.5)(a) of this section in the following instances:

(I) An issue committee need not report a contribution of one thousand dollars or more preceding a primary election;

(II) A committee for a candidate not on the ballot need not report a contribution of one thousand dollars or more during the off-election year; and

(III) A candidate or candidate committee for school board need not report a contribution of one thousand dollars or more during the off-election year.

(2.7) Any candidate or candidate committee supporting any candidate, including an incumbent, in a recall election, shall file reports of contributions and expenditures with the appropriate officer fourteen and seven days before the recall election and thirty days after the recall election.

(3) Except as otherwise provided in subsection (3.5) of this section, all candidate committees, political committees, small donor committees, and political parties shall register with the appropriate officer before accepting or making any contributions. Registration shall include a statement listing:

(a) The organization's full name, spelling out any acronyms used therein;

(b) A natural person authorized to act as a registered agent;

(c) A street address and telephone number for the principal place of operations;

(d) All affiliated candidates and committees;

(e) The purpose or nature of interest of the committee or party.

(f) (Deleted by amendment, L. 2010, (SB 10-041), ch. 151, p. 522, § 2, effective July 1,

2010.)

(3.3) Subject to subsections (1.5) and (7) of this section, each issue committee shall register with the appropriate officer within ten calendar days of accepting or making contributions or expenditures in excess of two hundred dollars to support or oppose any ballot issue or ballot question or upon receipt of the notice from the secretary of state pursuant to section 1-40-113 (1)(b). If required to register under the requirements of this subsection (3.3), the registration of the issue committee must include a statement containing the items listed in paragraphs (a) to (e) of subsection (3) of this section in connection with other committees and a political party.

(3.5) Any political committee that has registered with the federal election commission may file with the appropriate officer a copy of the registration filed with the federal election commission and, insofar as such registration contains substantially the same information required by subsection (3) of this section, the political committee shall be considered to have registered with the appropriate officer for purposes of subsection (3) of this section and, therefore, shall be authorized to accept or make contributions as permitted by law. Any political committee that satisfies the requirements of this subsection (3.5) shall be subject to all other legal requirements pertaining to contributions and disclosure that are applicable to political committees.

(4) (Deleted by amendment, L. 2010, (SB 10-041), ch. 151, p. 522, § 2, effective July 1, 2010.)

(5) The registration and reporting requirements of this section shall not apply to that part of the organizational structure of a political party which is responsible for only the day-to-day operations of such political party at the national level if copies of the reports required to be filed with the Federal Election Commission pursuant to the "Federal Election Commission Act of 1971", as amended, are filed with the secretary of state and include the information required by this section.

(6) Subject to subsection (1.5) of this section, any issue committee whose purpose is the recall of any elected official shall register with the appropriate officer within ten calendar days of accepting or making contributions or expenditures in excess of two hundred dollars to support or oppose the recall. Reports of contributions and expenditures shall be filed with the appropriate officer within fifteen days of the filing of the committee registration and every thirty days thereafter until the date of the recall election has been established and then fourteen days and seven days before the recall election and thirty days following the recall election.

(7) (a) Notwithstanding any other provision of law, and subject to subsection (7)(b) of this section, a matter is considered a ballot issue or a ballot question for the purpose of determining whether an issue committee has been formally established, thereby necessitating compliance with any disclosure and reporting requirements of this article 45 and article XXVIII of the state constitution, at the earliest of the following:

(l) A title for the matter has been designated and fixed in accordance with law and any motion for rehearing has been heard;

(II) The matter has been referred to the voters by the general assembly or the governing body of any political subdivision of the state with authorization to refer matters to the voters;

(III) In the case of a citizen referendum petition, the matter has been submitted for format approval in accordance with law;

(IV) A petition concerning the matter has been circulated and signed by at least one person; except that, where a matter becomes a ballot issue or ballot question upon such signing, any person opposing the matter shall not be considered to be an issue committee for purposes of this article and article XXVIII of the state constitution until one such person knows or has reason to know of the circulation; or

(V) A signed petition has been submitted to the appropriate officer in accordance with law.

(b) Notwithstanding the provisions of paragraph (a) of this subsection (7), where a matter concerns a municipal annexation brought pursuant to article 12 of title 31, C.R.S., the matter shall not be considered to be a ballot issue or ballot question for the purpose of determining whether an issue committee has been formally established, thereby necessitating compliance with any disclosure and reporting requirements of this article and article XXVIII of the state constitution, unless and until the first notice of the annexation election has been published in accordance with the requirements of section 31-12-112 (6), C.R.S.

(8) (a) Any expenditure or spending on a covered communication that is controlled by or coordinated with a candidate or candidate's agent or a political party is considered both a contribution by the maker of the expenditure or spending, and an expenditure by the candidate committee.

(b) For purposes of this subsection (8), "covered communication" includes:

(I) A communication that expressly advocates for the election or defeat of a candidate;

(II) An electioneering communication as defined in section 2 (7) of article XXVIII of the state constitution and section 1-45-103 (9), or regular biennial electioneering communication as defined in section 1-45-103 (15.5); and

(III) A communication by a political organization that influences or attempts to influence the selection, nomination, election, or appointment of a candidate to public office.

**Source: Initiated 96:** Entire article R&RE, effective upon proclamation of the Governor, January 15, 1997. **L. 98:** (1), (2)(a), and IP(3) amended, p. 223, § 2, effective April 10; (2)(c) added, p. 951, § 3, effective May 27. **L. 99:** (2)(a) amended and (2)(c)(V) and (2)(c)(VI) added, p. 1391, §§ 14, 15, effective June 4. **L. 2000:** (2)(a) and (2)(c) amended and (2)(d), (2.3), and (2.5) added, pp. 124, 125, §§ 5, 6, effective March 15; (1) amended, p. 1725, § 2, effective June 1; (2)(e) added, p. 791, § 2, effective August 2. **L. 2001:** (3)(f) added, p. 808, § 1, effective August 8; (2.3) amended, p. 1111, § 2, effective September 1. **L. 2002:** IP(2)(a)(I) and (6) amended and (2.7) added, p. 198, § 2, effective April 3; (1)(c) added, p. 1640, § 33, effective June 7. **L. 2003:** (1)(a), (1)(b), (2.3)(a), (2.5), IP(3), and (3)(f) amended and (1)(d) added, p.

2158, § 3, effective June 3. **L. 2004:** (1)(e) and (3.5) added and IP(3) amended, p. 864, §§ 2, 3, effective May 21. **L. 2007:** IP(2)(a)(I) amended, p. 2017, § 2, effective June 1; IP(2)(a)(I) and (2)(a)(I)(B) amended, p. 1299, § 2, effective July 1. **L. 2008:** (1)(a)(IV) added, p. 441, § 2, effective April 14. **L. 2009:** (2)(a)(II), (2)(e), and (2.5) amended, (HB 09-1357), ch. 361, p. 1871, § 1, effective July 1; IP(3) and (3)(f) amended and (3.3) and (7) added, (HB 09-1153), ch. 174, p. 774, § 2, effective September 1. **L. 2010:** (1)(a)(III), (3)(f), (3.3), (4), and (6) amended, (SB 10-041), ch. 151, p. 522, § 2, effective July 1; (3.3) amended, (HB 10-1370), ch. 270, p. 1241, § 5, effective January 1, 2011. **L. 2012:** (2)(a)(I)(B) amended, (SB 12-014), ch. 1, p. 1, § 1, effective January 30; (1)(c) amended, (HB 12-1269), ch. 83, p. 274, § 1, effective August 8. **L. 2016:** (1)(a)(I), (1)(a)(II), (3.3), and (6) amended and (1.5) added, (SB 16-186), ch. 269, p. 1114, § 2, effective June 10; (1)(a)(III), IP(2)(a)(I), (2)(a)(III), and (2.5) amended and (2)(a)(V) added, (HB 16-1282), ch. 267, p. 1106, § 3; effective August 10. **L. 2018:** (1)(a)(III), (2.5), IP(7)(a), and (7)(a)(I) amended and (1)(a)(V) added, (HB 18-1047), ch. 155, p. 1093, § 4, effective April 23. **L. 2019:** (1)(a)(III) amended, (SB 19-068), ch. 69, p. 250, § 2, effective August 2; (1.5) R&RE and (8) added, (HB 19-1318), ch. 328, p. 3044, § 4, effective August 2.

**Editor's note:** (1) This section is similar to former § 1-45-108 as it existed prior to 1996.

(2) The numbering of this section originated in an initiated measure. As a result of an amendment to this section by House Bill 00-1194, subsections (2)(a)(I) and (2)(a)(II) as they existed prior to March 15, 2000, were renumbered on revision as (2)(a)(III) and (2)(a)(IV).

(3) Subsection (2.3)(b) provided for the repeal of subsection (2.3), effective January 1, 2007. (See L. 2001, p. 1111.)

(4) Amendments to subsection (3.3) by Senate Bill 10-041 and House Bill 10-1370 were harmonized.

(5) Prior to the reenactment of subsection (1.5) on August 2, 2019, subsection (1.5)(d) provided for the repeal of subsection (1.5), effective June 30, 2019. (See L. 2016, p. 1114.)

(6) Section 4(2) of chapter 69 (SB 19-068), Session Laws of Colorado 2019, provides that the act changing this section applies to the portion of any election cycle or for the portion of the calendar year remaining after August 2, 2019, and for any election cycle or calendar year commencing after August 2, 2019, whichever is applicable.

(7) Section 7(2) of chapter 328 (HB 19-1318), Session Laws of Colorado 2019, provides that the act changing this section applies to the portion of any election cycle or to the portion of the calendar year remaining after August 2, 2019, and for any election cycle or calendar year commencing after August 2, 2019, whichever is applicable.

**Cross references:** For the legislative declaration in the 2010 act amending subsection (3.3), see section 1 of chapter 270, Session Laws of Colorado 2010.

**1-45-108.3. Disclaimer statement - committees - electioneering communications. (1)**

A candidate committee, political committee, issue committee, small donor committee, political organization, political party, or other person making an expenditure in excess of or spending

more than one thousand dollars per calendar year on a communication that must be disclosed under article XXVIII of the state constitution or under this article 45 or supports or opposes a ballot issue or ballot question, and that is broadcast, printed, mailed, delivered; placed on a website, streaming media service, or online forum for a fee; or that is otherwise distributed shall include in the communication a disclaimer statement in accordance with subsection (2) of this section.

(2) The disclaimer statement required by subsection (1) of this section must conform to the requirements specified in section 1-45-107.5 (5) for content, size, duration, and placement.

(3) In addition to any other applicable requirements provided by law, any person who expends one thousand dollars or more per calendar year on electioneering communications or regular biennial school electioneering communications shall, in accordance with the requirements specified in section 1-45-107.5 (5), state in the communication the name of the person making the communication. For purposes of this subsection (3), an "electioneering communication" also includes any communication that satisfies all other requirements set forth in section 2 (7) of article XXVIII of the state constitution but that is broadcast, printed, mailed, delivered, or distributed between the primary election and the general election.

**Source:** L. 2010: Entire section added, (HB 10-1370), ch. 270, p. 1242, § 6, effective January 1, 2011. L. 2019: (3) added, (SB 19-068), ch. 69, p. 251, § 3, effective August 2; entire section amended, (HB 19-1318), ch. 328, p. 3046, § 5, effective August 2.

**Editor's note:** (1) Section 4(2) of chapter 69 (SB 19-068), Session Laws of Colorado 2019, provides that the act changing this section applies to the portion of any election cycle or for the portion of the calendar year remaining after August 2, 2019, and for any election cycle or calendar year commencing after August 2, 2019, whichever is applicable.

(2) Section 7(2) of chapter 328 (HB 19-1318), Session Laws of Colorado 2019, provides that the act changing this section applies to the portion of any election cycle or to the portion of the calendar year remaining after August 2, 2019, and for any election cycle or calendar year commencing after August 2, 2019, whichever is applicable.

**Cross references:** For the legislative declaration in the 2010 act adding this section, see section 1 of chapter 270, Session Laws of Colorado 2010.

**1-45-108.5. Political organizations - disclosure.** (1) Any political organization shall report to the appropriate officer in accordance with the requirements of sections 1-45-108 and 1-45-109:

(a) Any contributions it receives, including the name and address of each person who has contributed twenty dollars or more to the political organization in the reporting period, and the occupation and employer of each natural person who has made a contribution of one hundred dollars or more to the political organization; and

(b) Any spending by the political organization that exceeds twenty dollars in any one reporting period.

(2) No political organization shall accept a contribution, or undertake spending, in currency or coin exceeding one hundred dollars.

(3) Nothing in this section shall be construed to:

(a) Require any political organization to make any additional disclosure pursuant to this section to the extent the political organization is already providing disclosure as a committee or political party in a manner that satisfies the requirements of sections 1-45-108 and 1-45-109; or

(b) Authorize the secretary of state to require disclosure of the name of any natural person that is a member of an entity unless the natural person has made a contribution to a political organization in the amount of twenty dollars or more in a reporting period.

**Source: L. 2007:** Entire section added, p. 1225, § 3, effective July 1.

**1-45-109. Filing - where to file - timeliness.** (1) For the purpose of meeting the filing and reporting requirements of this article 45:

(a) The following shall file with the secretary of state:

(I) Candidates for statewide office, the general assembly, district attorney, district court judge, school district director, or any office representing more than one county; the candidate committees for such candidates; political committees in support of or in opposition to such candidates; issue committees in support of or in opposition to an issue on the ballot in more than one county; small donor committees making contributions to such candidates; and persons expending one thousand dollars or more per calendar year on electioneering communications.

(II) Candidates in special district elections; the candidate committees of such candidates; political committees in support of or in opposition to such candidates; issue committees supporting or opposing a special district ballot issue; and small donor committees making contributions to such candidates.

(b) Candidates in municipal elections, their candidate committees, any political committee in support of or in opposition to such candidate, an issue committee supporting or opposing a municipal ballot issue, and small donor committees making contributions to such candidates shall file with the municipal clerk.

(c) All other candidates, candidate committees, issue committees, political committees, and small donor committees shall file with the secretary of state.

(2) (a) Reports required to be filed by this article 45 are timely if received by the appropriate officer not later than the close of business on the due date.

(b) A person upon whom a penalty has been imposed for failure to file a statement or other information required to be filed pursuant to section 5, 6, or 7 of article XXVIII of the state constitution or section 1-45-108, this section, or section 1-45-110 by the due date may appeal the penalty by filing a written appeal with the appropriate officer no later than thirty days after the date on which notification of the imposition of the penalty was mailed to the person's last-known

address. Upon receipt of an appeal pursuant to this paragraph (b), the appropriate officer shall set aside or reduce the penalty upon a showing of good cause.

(3) In addition to any other reporting requirements of this article, every incumbent in public office and every candidate elected to public office is subject to the reporting requirements of section 24-6-203, C.R.S.

(4) (a) All reports required to be filed by this article 45 are public records and are open to inspection by the public during regular business hours. A copy of the report must be kept by the appropriate officer and a copy shall be made available immediately in a file for public inspection. When the secretary of state is the appropriate officer, the secretary shall make reports viewable on the secretary of state's official website.

(b) and (c) Repealed.

(5) (a) The secretary of state shall operate and maintain a website so as to allow any person who wishes to review reports filed with the secretary of state's office pursuant to this article electronic read-only access to such reports free of charge.

(b) All reports required to be filed by this article that are electronically filed pursuant to subsection (6) of this section shall be made available immediately on the website.

(c) The website shall enable a user to produce summary reports based on search criteria that shall include, but not be limited to the reporting period, date, name of the person making a contribution or expenditure, candidate, and committee.

(d) At the earliest practicable date, the secretary of state shall develop and implement improvements to the website's design and structure to improve the public's ability to navigate, search, browse, download, and analyze information. Such improvements shall include but need not be limited to:

(I) Enhanced searching and summary reporting, including additional search fields such as zip code, employer, and vendor, the ability to search across multiple committees and all filers, the ability to filter or limit searches, such as by election cycle or candidate, the inclusion of smart-search features such as "name sounds like" or "name contains", and numerical totaling of amounts shown on search results;

(II) Features that facilitate the ability to download raw data and search results in one or more common formats to enable offline sorting and analyzing;

(III) Detailed, technical instructions for users;

(IV) Information to help users determine the scope of candidates' and committees' reports and campaign data available online, including explanations of which types of reports are available, the period covered by the online data, and which specific reports can be viewed for each campaign committee; and

(V) Resources that give the public comparative context when viewing campaign finance



data, such as compilations of the total amounts of money raised and spent by individual candidates, lists of total amounts raised and spent by all statewide and legislative candidates, and compilations of fundraising and spending across candidates and election cycles.

(e) The secretary of state may promulgate rules necessary for the implementation of this subsection (5). Such rules shall be promulgated in accordance with article 4 of title 24, C.R.S.

(6) (a) The secretary of state shall establish, operate, and maintain a system that enables electronic filing using the internet of the reports required by this article to be filed with the secretary of state's office. In accordance with the provisions of section 24-21-111 (1), C.R.S., the secretary may require any filing under this section to be made by electronic means as determined by the secretary. The 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.

(b) Any person required to file with the secretary of state's office shall use the electronic filing system described in paragraph (a) of this subsection (6) in order to meet the filing requirements of this article, if so required by the secretary in accordance with paragraph (a) of this subsection (6), except insofar as an alternate method of filing may be permitted by the secretary. Where a person uses such electronic filing system to meet the filing requirements of this article, the secretary of state shall acknowledge by electronic means the receipt of such filing.

(7) (Deleted by amendment, L. 2007, p. 1296, § 1, effective July 1, 2007.)

(8) (a) (Deleted by amendment, L. 2007, p. 1296, § 1, effective July 1, 2007.)

(b) (I) (Deleted by amendment, L. 2007, p. 1296, § 1, effective July 1, 2007.)

(II) and (III) (Deleted by amendment, L. 2009, (HB 09-1357), ch. 361, p. 1872, § 2, effective July 1, 2009.)

(c) (I) (Deleted by amendment, L. 2007, p. 1296, § 1, effective July 1, 2007.)

(II) (Deleted by amendment, L. 2009, (HB 09-1357), ch. 361, p. 1872, § 2, effective July 1, 2009.)

(9) Subsection (1) of this section shall not be construed to require the secretary of state to review reports electronically filed by persons beyond the duties specified in section 9 of article XXVIII of the state constitution.

(10) to (12) Repealed.

**Source: Initiated 96:** Entire article R&RE, effective upon proclamation of the Governor, January 15, 1997. **L. 2000:** (4), (5), and (6) amended, p. 125, § 7, effective March 15. **L. 2001:** (1) amended and (7), (8), and (9) added, p. 808, § 2, effective August 8; (6)(b) amended, p. 1111, § 3, effective September 1. **L. 2002:** (1) and (4)(a) amended, p. 1640, § 34, effective June 7. **L. 2003:** (1) and (7)(b) amended, p. 2159, § 4, effective June 3. **L. 2005:** (9) amended, p. 760, § 7, effective June 1. **L. 2007:** (5), (6), (7), (8), and (9) amended, p. 1296, § 1, effective July 1; (2) amended, p. 1983, § 37, effective August 3. **L. 2009:** (1), (5)(a), (6), (8)(b)(II), (8)(b)(III),

(8)(c)(II), and (9) amended and (10) added, (HB 09-1357), ch. 361, p. 1872, § 2, effective July 1. **L. 2010:** (11) added, (SB 10-203), ch. 269, p. 1235, § 5, effective May 25; (4)(b) and (6) amended, (SB 10-041), ch. 151, p. 523, § 3, effective July 1. **L. 2017:** (4)(b) amended and (4)(c) and (12) added, (HB 17-1155), ch. 236, p. 966, § 1, effective August 9. **L. 2018:** IP(1), (1)(a)(I), (2)(a), (4)(a), (4)(b), and (4)(c)(I) amended, (HB 18-1047), ch. 155, p. 1094, § 5, effective April 23. **L. 2019:** (4)(b), (4)(c), (11), and (12) repealed, (SB 19-232), ch. 330, p. 3065, § 3, effective July 1.

**Editor's note:** (1) This section is similar to former § 1-45-104 as it existed prior to 1996.

(2) Subsection (10)(e) provided for the repeal of subsection (10), effective January 1, 2011. (See L. 2009, p. 1872.)

(3) Section 6(1) of chapter 330 (SB 19-232), Session Laws of Colorado 2019, provides that the act changing this section applies to complaints filed with the secretary of state on or after July 1, 2019.

**Cross references:** For the legislative declaration in the 2010 act adding subsection (11), see section 1 of chapter 269, Session Laws of Colorado 2010.

**1-45-110. Candidate affidavit - disclosure statement.** (1) When any individual becomes a candidate, such individual shall certify, by affidavit filed with the appropriate officer within ten days, that the candidate is familiar with the provisions of this article; except that an individual who is a candidate in a special legislative election that filed a candidate affidavit for the preceding general election shall not be required to comply with the provisions of this section, and except that a candidate in a special district election shall file the candidate affidavit or, alternatively, a copy of the candidate's self-nomination and acceptance form or letter submitted in accordance with section 1-13.5-303, if such form or letter contains a statement that the candidate is familiar with the provisions of this article, no later than the date established for certification of the special district's ballot pursuant to section 1-5-203 (3)(a). A candidate in a municipal election may comply with this section by filing a candidate affidavit pursuant to section 31-10-302 (6), C.R.S., if such affidavit contains a statement that the candidate is familiar with the provisions of this article.

(2) (a) Except as provided in paragraph (b) of this subsection, each candidate for the general assembly, governor, lieutenant governor, attorney general, state treasurer, secretary of state, state board of education, regent of the University of Colorado, and district attorney shall file a statement disclosing the information required by section 24-6-202 (2) with the appropriate officer, on a form approved by the secretary of state, within ten days of filing the affidavit required by subsection (1) of this section.

(b) No candidate listed in paragraph (a) of this subsection shall be required to file another disclosure statement if the candidate had already filed such a statement less than ninety days prior to filing the affidavit required by subsection (1) of this section.

(3) If any person fails to file the affidavit or the disclosure statement required by subsection (2) of this section, the designated election official certifying the ballot in accordance with section 1-5-203 (3)(a) shall send a notice to the person by certified mail, return receipt

requested, to the person's mailing address. The notice must state that the person will be disqualified as a candidate if the person fails to file the appropriate document within five business days of the receipt of the notice. If the person fails to file the appropriate document within that time frame, the designated election official shall disqualify the candidate.

(4) Any disclosure statement required by subsection (2) of this section shall be amended no more than thirty days after any termination or acquisition of interests as to which disclosure is required.

(5) If a person is defeated as a candidate or withdraws from the candidacy, that person shall not be required to comply with the provisions of this section after the withdrawal or defeat.

**Source: Initiated 96:** Entire article R&RE, effective upon proclamation of the Governor, January 15, 1997. **L. 99:** (1) amended, p. 1392, § 16, effective June 4. **L. 2002:** (1) amended, p. 1641, § 35, effective June 7. **L. 2010:** (3) amended, (SB 10-041), ch. 151, p. 524, § 4, effective July 1. **L. 2014:** (1) amended, (HB 14-1164), ch. 2, p. 74, § 44, effective February 18. **L. 2018:** (3) amended, (HB 18-1047), ch. 155, p. 1095, § 6, effective April 23.

**Editor's note:** This section is similar to former § 1-45-105 as it existed prior to 1996.

**Cross references:** For the legislative declaration in HB 14-1164, see section 1 of chapter 2, Session Laws of Colorado 2014.

#### **1-45-111. Duties of the secretary of state - enforcement. (Repealed)**

**Source: Initiated 96:** Entire article R&RE, effective upon proclamation of the Governor, January 15, 1997. **L. 2000:** (1)(a.5) added and (1)(b) and (2) amended, p. 126, § 8, effective March 15; (2)(d) added, p. 1725, § 3, effective June 1. **Initiated 2002:** Entire section repealed, effective upon proclamation of the Governor (see editor's note, (2)).

**Editor's note:** (1) This section was similar to former §§ 1-45-113 and 1-45-114 as they existed prior to 1996.

(2) (a) Subsection (4) of section 1 of article V of the state constitution provides that initiated and referred measures shall take effect from and after the official declaration of the vote thereon by the proclamation of the Governor. The measure enacting article XXVIII of the state constitution takes effect upon proclamation of the vote by the Governor. The Governor's proclamation was issued on December 20, 2002. However, section 13 of the measure enacting article XXVIII of the state constitution provides that the effective date of article XXVIII is December 6, 2002.

(b) This section was repealed by an initiated measure that was adopted by the people in the general election held November 5, 2002. Section 12 of article XXVIII provides for the repeal of this section. For the text of the initiative and the vote count, see Session Laws of Colorado 2003, p. 3597.

#### **1-45-111.5. Duties of the secretary of state - enforcement - sanctions - definitions.**

(1) The secretary of state shall 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 this article.

(1.5) (a) Any person who believes that a violation of article XXVIII of the state constitution, the secretary of state's rules concerning campaign and political finance, or this article 45 has occurred may file a written complaint with the secretary of state in accordance with section 1-45-111.7.

(b) Any person who commits a violation of either the secretary of state's rules concerning campaign and political finance or this article that is not specifically listed in article XXVIII of the state constitution shall be subject to any of the sanctions specified in section 10 of article XXVIII of the state constitution or in this section.

(c) In addition to any other penalty authorized by article XXVIII of the state constitution or this article 45, a hearing officer may impose a civil penalty of fifty dollars per day for each day that a report, statement, or other document required to be filed under this article 45 that is not specifically listed in article XXVIII of the state constitution is not filed by the close of business on the day due. Any person who fails to file three or more successive committee registration reports or reports concerning contributions, expenditures, or donations in accordance with the requirements of section 1-45-107.5 shall be subject to a civil penalty of up to five hundred dollars for each day that a report, statement, or other document required to be filed by an independent expenditure committee is not filed by the close of business on the day due. Any person who knowingly and intentionally fails to file three or more reports due under section 1-45-107.5 shall be subject to a civil penalty of up to one thousand dollars per day for each day that the report, statement, or other document is not filed by the close of business on the day due. Imposition of any penalty under this subsection (1.5)(c) shall be subject to all applicable requirements specified in section 10 of article XXVIII of the state constitution governing the imposition of penalties.

(d) In connection with a complaint brought to enforce any requirement of article XXVIII of the state constitution or this article 45, a hearing officer may order disclosure of the source and amount of any undisclosed donations or expenditures.

(e) In connection with any action brought to enforce any provision of article XXVIII of the state constitution or this article 45, the membership lists of a membership organization, a labor organization or, in the case of a publicly held corporation, a list of the shareholders of the corporation, shall not be disclosed by means of discovery or by any other manner.

(f) Any person who is fined up to one thousand dollars per day for a knowing and intentional failure to file under paragraph (c) of this subsection (1.5) shall, if the person has shareholders or members, notify such shareholders or members of the penalty and the adjudicated violations on its publicly accessible website in a prominent manner for not less than one hundred eighty days after the final adjudication. A copy of this notice, with the website address used, shall be filed with the secretary of state and shall be a public record.

(g) The secretary of state has, as a matter of right, the right to intervene in any action pending before the office of administrative courts or the court of appeals that is brought to enforce the provisions of article XXVIII of the state constitution or this article.

(2) A party in any action brought to enforce the provisions of article XXVIII of the state

constitution or of this article 45 is entitled to the recovery of the party's reasonable attorney fees and costs from any attorney or party who has brought or defended the action, either in whole or in part, upon a determination by the hearing officer that the action, or any part thereof, lacked substantial justification or that the action, or any part thereof, was commenced for delay or harassment or if it finds that an attorney or party unnecessarily expanded the proceeding by other improper conduct, including abuses of discovery procedures available under the Colorado rules of civil procedure. Notwithstanding any other provision of this subsection (2), no attorney fees may be awarded under this subsection (2) unless the court or hearing officer, as applicable, has first considered and issued written findings regarding the provisions of section 13-17-102 (5) and (6). Either party in an action in which the hearing officer awarded attorney fees and costs may apply to a district court to convert an award of attorney fees and costs into a district court judgment. Promptly upon the conversion of the award of attorney fees and costs into a district court judgment, the clerk of the district court shall mail notice of the filing of the judgment to the judgment debtor at the address given and shall make a note of the mailing in the docket. The notice must include the name and post-office address of the judgment creditor and the judgment creditor's lawyer, if any, in this state. In addition, the judgment creditor may mail a notice of the filing of the judgment to the judgment debtor and may file proof of mailing with the clerk. Lack of mailing notice of filing by the clerk shall not affect the enforcement proceedings if proof of mailing by the judgment creditor has been filed. For purposes of this subsection (2), "lacked substantial justification" means substantially frivolous, substantially groundless, or substantially vexatious.

(3) Upon a determination by the hearing officer that an issue committee failed to file a report required pursuant to section 1-45-108, the hearing officer shall direct the issue committee to file any such report within ten days containing all required disclosure of any previously unreported contributions or expenditures and may, in addition to any other penalty, impose a penalty not to exceed twenty dollars for each contribution received and expenditure made by the issue committee that was not timely reported.

(4) (a) Upon failure of a witness or party to comply with an administrative subpoena issued in relation to an alleged campaign finance violation pursuant to article XXVIII of the state constitution or this article, the party that requested the administrative subpoena or the issuing agency may petition the district court ex parte with a copy of the petition sent to the subpoenaed witness or party and the administrative law judge by regular mail, for an order directing the witness or party to comply with the administrative subpoena.

(b) If the petition required by paragraph (a) of this subsection (4) shows to the district court's satisfaction that the administrative subpoena was properly served pursuant to rule 4 of the Colorado rules of civil procedure, the district court shall order the subpoenaed witness or party to appear before the district court and show cause why the witness or party should not be ordered to comply with the administrative subpoena. A copy of the petition and the court order shall be served, pursuant to rule 5 of the Colorado rules of civil procedure, on the witness or party at least fifteen days before the date designated for the witness or party to appear before the district court.

(c) At a show cause hearing ordered by the district court pursuant to paragraph (b) of this subsection (4), the court shall review the administrative subpoena and any evidence presented by the parties to determine compliance with the Colorado rules of civil procedure. The subpoenaed witness or party shall bear the burden of showing good cause as to why he or she should not be

ordered to comply with the administrative subpoena.

(d) If the court determines that the subpoenaed witness or party is required to comply with the administrative subpoena:

(I) The district court shall order compliance forthwith and may impose remedial and punitive fines, including attorneys' fees and costs, for the witness's or party's failure to comply with the administrative subpoena; and

(II) The hearing officer shall schedule a hearing on the complaint to occur on a day after the occurrence of the required deposition and such other discovery as may be warranted due to such deposition.

(e) If the subpoenaed witness or party fails to appear at the show cause hearing, the district court may issue a bench warrant for the arrest of the subpoenaed witness or party and may impose other sanctions pursuant to the Colorado rules of civil procedure.

(5) Repealed.

**Source:** **L. 2003:** Entire section added, p. 2160, § 6, effective June 3. **L. 2005:** (2) amended, p. 852, § 4, effective June 1. **L. 2008:** (1.5) added and (2) amended, p. 349, § 1, effective April 10. **L. 2010:** (1.5)(c), (1.5)(d), (1.5)(e), and (1.5)(f) added, (SB 10-203), ch. 269, p. 1236, § 6, effective May 25; (3) added, (HB 10-1370), ch. 270, p. 1242, § 7, effective January 1, 2011. **L. 2011:** (4) added, (HB 11-1117), ch. 35, p. 97, § 1, effective March 21. **L. 2016:** (5) added, (SB 16-106), ch. 290, p. 1175, § 1, effective August 10. **L. 2018:** (1.5)(a) and (2) amended and (1.5)(g) added, (HB 18-1047), ch. 155, p. 1095, § 7, effective April 23. **L. 2019:** (1.5)(a) to (1.5)(e), (2), (3), and (4)(d)(II) amended and (5) repealed, (SB 19-232), ch. 330, p. 3066, § 4, effective July 1.

**Editor's note:** Section 6(1) of chapter 330 (SB 19-232), Session Laws of Colorado 2019, provides that the act changing this section applies to complaints filed with the secretary of state on or after July 1, 2019.

**Cross references:** (1) For the legislative declaration in the 2010 act adding subsections (1.5)(c), (1.5)(d), (1.5)(e), and (1.5)(f), see section 1 of chapter 269, Session Laws of Colorado 2010.

(2) For the legislative declaration in the 2010 act adding subsection (3), see section 1 of chapter 270, Session Laws of Colorado 2010.

**1-45-111.7. Campaign finance complaints - initial review - curing violations - investigation and enforcement - hearings - advisory opinions - document review - collection of debts resulting from campaign finance penalties - definitions.** (1) **Definitions.** As used in this section, unless the context otherwise requires:

(a) "Article XXVIII" means article XXVIII of the state constitution.

(b) "Deputy secretary" means the deputy secretary of state appointed pursuant to section

24-21-105 or the deputy secretary's designee.

(c) "Division" means the division within the office of the secretary responsible for administering the state's laws governing campaign and political finance.

(d) "Hearing officer" means a person authorized to conduct a hearing under section 24-4-105 (3).

(e) "Rules" means the rules of the secretary concerning campaign and political finance.

(f) "Secretary" means the secretary of state or the secretary's designate.

(2) **Filing complaints.** (a) Any person who believes that a violation has occurred of article XXVIII, this article 45, or the rules may file a complaint with the secretary.

(b) A complaint must be filed no later than one hundred eighty days after the date on which the complainant either knew or should have known, by the exercise of reasonable diligence, of the alleged violation.

(c) Any complaint must be filed in writing and signed by the complainant on the form provided by the secretary. The complaint must identify one or more respondents and include the information required to be provided on the form.

(d) Upon receipt of a complaint, the division shall notify the respondent of the complaint by e-mail or by regular mail if e-mail is unavailable.

(e) The division shall forward any complaint made against a candidate for secretary or the secretary to the department of law for the review of the complaint by the attorney general to act on behalf of the division in accordance with applicable requirements of this section.

(3) **Initial review.** (a) The division shall conduct an initial review of a complaint filed under subsection (2) of this section to determine whether the complaint:

(I) Was timely filed under subsection (2)(b) of this section;

(II) Specifically identifies one or more violations of article XXVIII, this article 45, or the rules; and

(III) Alleges sufficient facts to support a factual and legal basis for the violations of law alleged in the complaint.

(b) Within ten business days of receiving a complaint, the division shall take one or more of the actions specified in this subsection (3)(b):

(I) If the division makes an initial determination that the complaint was not timely filed, has not specifically identified one or more violations of article XXVIII, this article 45, or the rules, or does not assert facts sufficient to support a factual or legal basis for an alleged violation, the division shall prepare and file with the deputy secretary a motion to dismiss the complaint.

The deputy secretary shall make a determination on the motion to dismiss within five business days, which must be provided to the complainant and the respondent by e-mail or by regular mail if e-mail is unavailable. If the deputy secretary denies the motion, the division shall determine whether to conduct a review under subsection (3)(b)(II) or (3)(b)(III) of this section. The final determination by the deputy secretary on the motion to dismiss constitutes final agency action and is subject to judicial review by a state district court under section 24-4-106.

(II) If the division makes an initial determination that the complaint alleges one or more curable violations as addressed in subsection (4) of this section, the division shall notify the respondent and provide the respondent an opportunity to cure the violations.

(III) If the division makes an initial determination that the complaint has specifically identified one or more violations of article XXVIII, this article 45, or the rules, and has alleged facts sufficient to support a factual or legal basis for each alleged violation, and that either a factual finding or a legal interpretation is required, the division shall conduct additional review under subsection (5) of this section within thirty days to determine whether to file a complaint with a hearing officer.

**(4) Curing violations.** (a) Upon the division's initial determination that a complaint alleges a failure to file or otherwise disclose required information, or alleges another curable violation, the division shall notify the respondent by e-mail or by regular mail if e-mail is unavailable of the curable deficiencies alleged in the complaint.

(b) The respondent has ten business days from the date the notice is e-mailed or mailed to file an amendment to any relevant report that cures any deficiencies specified in the notice.

(c) The respondent shall provide the division with notice of the respondent's intent to cure on the form provided by the secretary and include a copy of any amendments to any report containing one or more deficiencies.

(d) Upon receipt of the respondent's notice of an intent to cure, the division may ask the respondent to provide additional information and may grant the respondent an extension of time to file an amended notice of intent to cure in order to respond to any such request.

(e) (I) After the period for cure has expired, the division shall determine whether the respondent has cured any violation alleged in the complaint and, if so, whether the respondent has substantially complied with its legal obligations under article XXVIII, this article 45, and the rules in accordance with subsection (4)(f) of this section.

(II) If the division determines that the respondent has substantially complied with its legal obligations, the division shall prepare and file with the deputy secretary a motion to dismiss the complaint. The motion must be accompanied by a draft order specifying the manner in which the respondent has satisfied the factors specified in subsection (4)(f) of this section. The deputy secretary shall make a determination on the motion to dismiss, which must be provided to the complainant and the respondent by e-mail or by regular mail if e-mail is unavailable. If the deputy secretary denies the motion, the division shall determine whether to conduct a review under subsection (3)(b)(II) or (3)(b)(III) of this section. The determination by the deputy secretary under this subsection (4)(e)(II) is final agency action and is subject to judicial review



by a state district court under section 24-4-106.

(III) If the division determines that the respondent has failed to substantially comply under subsection (4)(f) of this section, the division shall conduct an additional review under subsection (5)(a) of this section to determine whether to file the complaint with a hearing officer.

(f) In determining whether an entity substantially complied with its legal obligations under article XXVIII, this article 45, or the rules the division must consider:

(I) The extent of the respondent's noncompliance;

(II) The purpose of the provision violated and whether that purpose was substantially achieved despite the noncompliance; and

(III) Whether the noncompliance may properly be viewed as an intentional attempt to mislead the electorate or election officials.

(g) If the division determines that the respondent failed to cure any alleged deficiency, the division shall conduct an additional review under subsection (5)(a) of this section to determine whether to file a complaint with a hearing officer.

**(5) Investigations and enforcement.** (a) (I) The division shall investigate each complaint that was not dismissed during either its initial review or by means of the cure proceedings in accordance with subsection (3) or (4) of this section to determine whether to file a complaint with a hearing officer. The division may also initiate an investigation under subsection (7)(b) of this section.

(II) For the purpose of an investigation relating to a complaint filed under subsection (2)(a) of this section or an investigation initiated by the division under subsection (7)(b) of this section, the division may request the production of any documents or other tangible things that are believed to be relevant or material to the investigation, and shall establish the relevance and materiality in writing. Notwithstanding any other provision of law, documents or other tangible things provided to the division during the course of an investigation under this subsection (5) are not subject to inspection or copying under the "Colorado Open Records Act", part 2 of article 72 of title 24. Notwithstanding any other provision of law, documents or other tangible things provided to the division during the course of an investigation under this subsection (5) and other materials prepared or assembled to assist the secretary's designee in reaching a decision are work product as defined in section 24-72-202 (6.5)(a) and are not public records subject to inspection under part 2 of article 72 of title 24.

(III) If the division receives a person's membership list or donor list during the course of the division's initial review under subsection (3) of this section, investigation under this subsection (5), or the cure process, including the determination of substantial compliance, as described in subsection (4) of this section, the division shall not disclose such list or the identity of any member or donor to any person. Notwithstanding any other provision of law, any such membership or donor list is not a public record subject to inspection, copying, or any other form of reproduction under part 2 of article 72 of title 24.

(IV) The division shall determine whether it will file a complaint with a hearing officer within thirty days after initiating an investigation. If the division makes a determination that a complaint should not be filed with a hearing officer because there is not sufficient information to support the allegations contained in the complaint or for any other reason, it shall prepare and file with the deputy secretary a motion to dismiss the complaint. The deputy secretary shall make a determination on the motion to dismiss within thirty-five days of the initial determination of the division under this subsection (5)(a)(IV), or the initiation of an investigation by the division under subsection (7)(b) of this section, which must be provided to the complainant and the respondent by e-mail or by regular mail if e-mail is unavailable. If the deputy secretary denies the motion, the division has fourteen business days to file a complaint with a hearing officer under this subsection (5).

(V) If the division files a complaint with a hearing officer under this subsection (5), it is responsible for conducting such discovery as may be necessary for effectively prosecuting the complaint, supplementing or amending the complaint with such additional or alternative claims or allegations as may be supported by the division's investigation, amending the complaint to strike allegations or claims that are not supported by the division's investigation, and in all other respects prosecuting the complaint.

(b) A complainant or any other nonrespondent is not a party to the division's initial review, cure proceedings, investigation, or any proceedings before a hearing officer as described in this section. A complainant may seek permission from the hearing officer to file a brief as an amicus curiae. A person's status as a complainant is not sufficient to establish that he or she may be affected or aggrieved by the secretary's action on the complaint. To the extent this subsection (5)(b) conflicts in any respect with section 24-4-105 or 24-4-106, this subsection (5)(b) controls. A complainant may also seek judicial review by a state district court of a final agency action under section 24-4-106.

(6) **Conduct of hearings.** (a) Any hearing conducted by a hearing officer under this section must be in accordance with section 24-4-105; except that a hearing officer shall schedule a hearing within thirty days of the filing of the complaint, which hearing may be continued upon the motion of any party for up to thirty days or a longer extension of time upon a showing of good cause.

(b) Any initial determination made by a hearing officer must be made in accordance with section 24-4-105 and is subject to review by the deputy secretary. The final agency decision is subject to review under section 24-4-106.

(7) **Document review.** (a) In addition to any other powers and duties it possesses under law, the division may also review any document the secretary receives for filing under article XXVIII, this article 45, or the rules.

(b) In connection with the review of other available information regarding a potential violation under this subsection (7):

(I) If the division determines that a person violated or potentially violated any of the provisions of article XXVIII, this article 45, or the rules, the division shall either notify the person of his or her opportunity to cure the identified deficiencies in accordance with subsection

(4) of this section or notify the person that the division is initiating an investigation under subsection (5) of this section. The division shall send the notification by e-mail or by regular mail if e-mail is unavailable.

(II) If the division initiates an investigation or files a complaint with a hearing officer in connection with its review, the procedures described in subsections (5) and (6) of this section apply.

(c) As used in this subsection (7), "review" means the factual inspection of any document required to be filed with the secretary for campaign finance registration, reporting, or disclosure in order to assess the document's accuracy and completeness and the timeliness of the document's filing.

**(8) Advisory opinions.** (a) Any person seeking guidance on the application of article XXVIII, this article 45, or the rules may request that the secretary issue an advisory opinion regarding that person's specific activity.

(b) The secretary shall determine, at the secretary's discretion, whether to issue an advisory opinion under subsection (8)(a) of this section. In making this determination, the secretary shall consider factors including whether:

(I) The advisory opinion will terminate a controversy or remove one or more uncertainties as to the application of the law to the requestor's situation;

(II) The request involves a subject, question, or issue that concerns a formal or informal matter or investigation currently pending before the secretary or a court; and

(III) The request seeks a ruling on a moot or hypothetical question.

(c) A person may rely on an advisory opinion issued by the secretary as an affirmative defense to any complaint filed under this section.

(d) A refusal by the secretary to issue an advisory opinion does not constitute a final agency action that is subject to appeal.

**(9) Miscellaneous matters - debt collection - municipal complaints.** (a) The secretary may send to the state controller for collection any outstanding debt resulting from a campaign finance penalty that the secretary deems collectible.

(b) Any complaint arising out of a municipal campaign finance matter must be exclusively filed with the clerk of the applicable municipality.

**Source:** L. 2019: Entire section added, (SB 19-232), ch. 330, p. 3059, § 1, effective July 1.

**Editor's note:** Section 6(1) of chapter 330 (SB 19-232), Session Laws of Colorado 2019, provides that the act adding this section applies to complaints filed with the secretary of state on or after July 1, 2019.

**1-45-112. Duties of municipal clerk.** (1) The municipal clerk shall:

(a) Develop a filing and indexing system for their offices consistent with the purposes of this article;

(b) Keep a copy of any report or statement required to be filed by this article for a period of one year from the date of filing. In the case of candidates who were elected, those candidate's reports and filings shall be kept for one year after the candidate leaves office;

(c) Make reports and statements filed under this article available to the public for inspection and copying no later than the end of the next business day after the date of filing. No information copied from such reports and statements shall be sold or used by any person for the purpose of soliciting contributions or for any commercial purpose.

(d) Upon request by the secretary of state, transmit records and statements filed under this article to the secretary of state;

(e) Notify any person under their jurisdiction who has failed to fully comply with the provisions of this article and notify any person if a complaint has been filed with the secretary of state alleging a violation of this article.

(f) Repealed.

(2) The secretary of state shall reimburse the municipal clerk of each municipality at the rate of two dollars per candidate per election to help defray the cost of implementing this article.

**Source: Initiated 96:** Entire article R&RE, effective upon proclamation of the Governor, January 15, 1997. **L. 2008:** (1)(f) repealed, p. 350, § 2, effective April 10. **L. 2009:** IP(1) and (2) amended, (HB 09-1357), ch. 361, p. 1874, § 3, effective July 1.

**Editor's note:** This section is similar to former § 1-45-115 as it existed prior to 1996.

**1-45-112.5. Immunity from liability.** (1) Any individual volunteering his or her time on behalf of a candidate or candidate committee shall be immune from any liability for a fine or penalty imposed pursuant to section 10 (1) of article XXVIII of the state constitution in any proceeding that is based on an act or omission of such volunteer if:

(a) The volunteer was acting in good faith and within the scope of such volunteer's official functions and duties for the candidate or candidate committee; and

(b) The violation was not caused by willful and intentional misconduct by such volunteer.

(2) Subsection (1) of this section shall be administered in a manner that is consistent with section 1 of article XXVIII of the state constitution and with the legislative declaration set forth in section 1-45-102.

(3) Any media outlet shall be immune from civil liability in any court where the media outlet:

(a) Withdraws advertising time reserved by an independent expenditure committee that fails to register in accordance with the requirements of section 1-45-107.5 (3)(a); or

(b) Elects to void an advertising contract and the advertisement:

(I) Is paid for by an independent expenditure committee that fails to register under section 1-45-107.5 (3)(a);

(II) Is paid for by an independent expenditure committee that is registered under section 1-45-107.5 (3)(a) but the committee fails to file a disclosure report under section 1-45-108 (2) through the date of the most recent required report; or

(III) Fails to satisfy the requirements of section 1-45-107.5 (5)(a).

(4) An affected media outlet may void a contract that implicates paragraph (b) of subsection (3) of this section in the sole discretion of the media outlet.

**Source:** L. 2003: Entire section added, p. 2160, § 6, effective June 3. L. 2010: (3) and (4) added, (SB 10-203), ch. 269, p. 1237, § 7, effective May 25.

**Cross references:** For the legislative declaration in the 2010 act adding subsections (3) and (4), see section 1 of chapter 269, Session Laws of Colorado 2010.

### **1-45-113. Sanctions. (Repealed)**

**Source: Initiated 96:** Entire article R&RE, effective upon proclamation of the Governor, January 15, 1997. L. 98: (6) added, p. 633, § 3, effective May 6; (6) added, p. 952, § 4, effective May 27. L. 2000: (1), (2), (3), and (4) amended, p. 127, § 9, effective March 15. L. 2001: (4) amended, p. 1110, § 1, effective September 1. **Initiated 2002:** Entire section repealed, effective upon proclamation of the Governor (see editor's note, (2)).

**Editor's note:** (1) This section was similar to former § 1-45-121 as it existed prior to 1996.

(2) (a) Subsection (4) of section 1 of article V of the state constitution provides that initiated and referred measures shall take effect from and after the official declaration of the vote thereon by the proclamation of the Governor. The measure enacting article XXVIII of the state constitution takes effect upon proclamation of the vote by the Governor. The Governor's proclamation was issued on December 20, 2002. However, section 13 of the measure enacting article XXVIII of the state constitution provides that the effective date of article XXVIII is December 6, 2002.

(b) This section was repealed by an initiated measure that was adopted by the people in the general election held November 5, 2002. Section 12 of article XXVIII provides for the repeal

of this section. For the text of the initiative and the vote count, see Session Laws of Colorado 2003, p. 3609.

**1-45-114. Expenditures - political advertising - rates and charges.** (1) No candidate shall pay to any radio or television station, newspaper, periodical, or other supplier of materials or services a higher charge than that normally required for local commercial customers for comparable use of space, materials, or services. Any such rate shall not be rebated, directly or indirectly.

(2) Any radio or television station, newspaper, or periodical that charges a candidate committee a lower rate for use of space, materials, or services than the rate such station, newspaper, periodical, or supplier charges another candidate committee for the same public office for comparable use of space, materials, or services shall report the difference in such rate as a contribution to the candidate committee that is charged such lower rate pursuant to section 1-45-108.

(3) Nothing in this article shall be construed to prevent an adjustment in rates related to frequency, volume, production costs, and agency fees if such adjustments are offered consistently to other advertisers.

**Source: Initiated 96:** Entire article R&RE, effective upon proclamation of the Governor, January 15, 1997. **L. 2000:** Entire section amended, p. 128, § 10, effective March 15. **L. 2003:** (2) amended, p. 2160, § 5, effective June 3.

**Editor's note:** This section is similar to former § 1-45-118 as it existed prior to 1996.

**1-45-115. Encouraging withdrawal from campaign prohibited.** No person shall offer or give any candidate or candidate committee any money or any other thing of value for the purpose of encouraging the withdrawal of the candidate's candidacy, nor shall any candidate offer to withdraw a candidacy in return for money or any other thing of value.

**Source: Initiated 96:** Entire article R&RE, effective upon proclamation of the Governor, January 15, 1997.

**Editor's note:** This section is similar to former § 1-45-119 as it existed prior to 1996.

**1-45-116. Home rule counties and municipalities.** Any home rule county or municipality may adopt ordinances or charter provisions with respect to its local elections that are more stringent than any of the provisions contained in this act. Any home rule county or municipality which adopts such ordinances or charter provisions shall not be entitled to reimbursement pursuant to subsection 1-45-112 (2). The requirements of article XXVIII of the state constitution and of this article shall not apply to home rule counties or home rule municipalities that have adopted charters, ordinances, or resolutions that address the matters covered by article XXVIII and this article.

**Source: Initiated 96:** Entire article R&RE, effective upon proclamation of the Governor, January 15, 1997. **L. 2003:** Entire section amended, p. 2161, § 7, effective June 3.

**Editor's note:** This section is similar to former § 1-45-120 (1) as it existed prior to 1996.

**1-45-117. State and political subdivisions - limitations on contributions.** (1) (a) (I)

No agency, department, board, division, bureau, commission, or council of the state or any political subdivision of the state shall make any contribution in campaigns involving the nomination, retention, or election of any person to any public office, nor shall any such entity make any donation to any other person for the purpose of making an independent expenditure, nor shall any such entity expend any moneys from any source, or make any contributions, to urge electors to vote in favor of or against any:

(A) Statewide ballot issue that has been submitted for the purpose of having a title designated and fixed pursuant to section 1-40-106 (1) or that has had a title designated and fixed pursuant to that section;

(B) Local ballot issue that has been submitted for the purpose of having a title fixed pursuant to section 31-11-111 or that has had a title fixed pursuant to that section;

(C) Referred measure, as defined in section 1-1-104 (34.5);

(D) Measure for the recall of any officer that has been certified by the appropriate election official for submission to the electors for their approval or rejection.

(II) However, a member or employee of any such agency, department, board, division, bureau, commission, or council may respond to questions about any such issue described in subparagraph (I) of this paragraph (a) if the member, employee, or public entity has not solicited the question. A member or employee of any such agency, department, board, division, bureau, commission, or council who has policy-making responsibilities may expend not more than fifty dollars of public moneys in the form of letters, telephone calls, or other activities incidental to expressing his or her opinion on any such issue described in subparagraph (I) of this paragraph (a).

(b) (I) Nothing in this subsection (1) shall be construed as prohibiting an agency, department, board, division, bureau, commission, or council of the state, or any political subdivision thereof from expending public moneys or making contributions to dispense a factual summary, which shall include arguments both for and against the proposal, on any issue of official concern before the electorate in the jurisdiction. Such summary shall not contain a conclusion or opinion in favor of or against any particular issue. As used herein, an issue of official concern shall be limited to issues that will appear on an election ballot in the jurisdiction.

(II) Nothing in this subsection (1) shall be construed to prevent an elected official from expressing a personal opinion on any issue.

(III) Nothing in this subsection (1) shall be construed as prohibiting an agency, department, board, division, bureau, commission, or council of the state or any political subdivision thereof from:

(A) Passing a resolution or taking a position of advocacy on any issue described in subparagraph (I) of paragraph (a) of this subsection (1); or

(B) Reporting the passage of or distributing such resolution through established, customary means, other than paid advertising, by which information about other proceedings of such agency, department, board, division, bureau, or council of the state or any political subdivision thereof is regularly provided to the public.

(C) Nothing in this subsection (1) shall be construed as prohibiting a member or an employee of an agency, department, board, division, bureau, commission, or council of the state or any political subdivision thereof from expending personal funds, making contributions, or using personal time to urge electors to vote in favor of or against any issue described in subparagraph (l) of paragraph (a) of this subsection (1).

(2) The provisions of subsection (1) of this section shall not apply to:

(a) An official residence furnished or paid for by the state or a political subdivision;

(b) Security officers who are required to accompany a candidate or the candidate's family;

(c) Publicly owned motor vehicles provided for the use of the chief executive of the state or a political subdivision;

(d) Publicly owned aircraft provided for the use of the chief executive of the state or of a political subdivision or the executive's family for security purposes; except that, if such use is, in whole or in part, for campaign purposes, the expenses relating to the campaign shall be reported and reimbursed pursuant to subsection (3) of this section.

(3) If any candidate who is also an incumbent inadvertently or unavoidably makes any expenditure which involves campaign expenses and official expenses, such expenditures shall be deemed a campaign expense only, unless the candidate, not more than ten working days after the such expenditure, files with the appropriate officer such information as the secretary of state may by rule require in order to differentiate between campaign expenses and official expenses. Such information shall be set forth on a form provided by the appropriate officer. In the event that public moneys have been expended for campaign expenses and for official expenses, the candidate shall reimburse the state or political subdivision for the amount of money spent on campaign expenses.

(4) (a) Any violation of this section shall be subject to the provisions of sections 9 (2) and 10 (1) of article XXVIII of the state constitution or any appropriate order or relief, including an order directing the person making a contribution or expenditure in violation of this section to reimburse the fund of the state or political subdivision, as applicable, from which such moneys were diverted for the amount of the contribution or expenditure, injunctive relief, or a restraining order to enjoin the continuance of the violation.

(b) If a board, commission, or council is found to have made a contribution or expenditure in violation of this section, an individual member of the board, commission, or council who voted in favor of or otherwise authorized the contribution or expenditure may be ordered to reimburse an amount pursuant to subsection (4)(a) of this section as long as the



amount does not exceed the amount ordered to be reimbursed by any other individual of the board, commission, or council who voted in favor or otherwise authorized the contribution or expenditure.

**Source: Initiated 96:** Entire article R&RE, effective upon proclamation of the Governor, January 15, 1997. **L. 2002:** (4) added, p. 280, § 1, effective August 7. **L. 2008:** (4) amended, p. 350, § 3, effective April 10. **L. 2010:** IP(1)(a)(I) amended, (SB 10-203), ch. 269, p. 1237, § 8, effective May 25. **L. 2015:** (4) amended, (HB 15-1074), ch. 89, p. 256, § 1, effective August 5. **L. 2018:** (4)(b) amended, (HB 18-1047), ch. 155, p. 1096, § 8, effective April 23.

**Editor's note:** This section is similar to former § 1-45-116 as it existed prior to 1996.

**Cross references:** For the legislative declaration in the 2010 act amending the introductory portion to subsection (1)(a)(I), see section 1 of chapter 269, Session Laws of Colorado 2010.

**1-45-117.5. Media outlets - political records.** Any media outlet that is subject to the provisions of 47 U.S.C. sec. 315 (e) shall maintain and make available for public inspection such records as the outlet is required to maintain to comply with federal law or rules.

**Source: L. 2010:** Entire section added, (SB 10-203), ch. 269, p. 1231, § 4, effective May 25.

**Cross references:** For the legislative declaration in the 2010 act adding this section, see section 1 of chapter 269, Session Laws of Colorado 2010.

**1-45-118. Severability.** If any provision of this article or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the article which can be given effect without the invalid provision or application, and to this end the provisions of this article are declared to be severable.

**Source: Initiated 96:** Entire article R&RE, effective upon proclamation of the Governor, January 15, 1997.

**Colorado Secretary of State**  
**Rules Concerning Campaign and Political Finance**  
**[8 CCR 1505-6]**

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## Rule 1. Definitions

- 1.1 “Ballot measure” means ballot issue or ballot question.
- 1.2 “Business Activities” for purposes of Colo. Const. Article XXVIII:
  - 1.2.1 “Business activities” means providing goods or services that result in income or any other revenue-generating activity not expressly for political purposes.
  - 1.2.2 “Cannot engage in business activities,” means that the articles of incorporation and bylaws, either expressly or implicitly, prohibit the corporation from engaging in any business activities.

[*McConnell v. Federal Elections Commission*, 540 U.S. 93 (2003)]

- 1.3 “Committee” as used generally in these rules includes candidate committee, political committee, small donor committee, issue committee, small-scale issue committee, independent expenditure committee, political party, and political organization.
- 1.4 “Contribution” has the same meaning as set forth in Colo. Const. article XXVIII, section 2(5)(a), and section 1-45-103(6), C.R.S.
  - 1.4.1 A contribution does not include an endorsement of a candidate or an issue by any person, or include interest earned in an interest-bearing bank account, dividend income from invested committee funds, earned income from commercially reasonable transactions, or transfers of money within a political party.
  - 1.4.2 Volunteer services
    - (a) Time-based services volunteered by an individual are not considered a contribution if the individual receives no direct or indirect compensation for the time volunteered.
    - (b) If an individual volunteers only a portion of his or her time-based services, the volunteered portion is not considered a contribution.
    - (c) Any unpaid services that create a thing of value are not considered a contribution. If volunteer services yield a thing of value, “contribution” only includes the reasonable value of the materials involved, unless the value is de minimis.
  - 1.4.3 “Contribution in support of the candidacy” as outlined in Colo. Const. Article XXVIII, Section 2(2), includes all contributions given directly to, or expenditures or spending coordinated with, a candidate for a specific public office, including those to a person who maintains a candidate committee after an election cycle.
- 1.5 “Designated filing agent” means any natural person appointed by a committee who is responsible for timely filing campaign finance reports.
- 1.6 “Frequent filing schedule” means:
  - 1.6.1 For state and school district director candidates and committees, the filing schedule outlined in sections 1-45-108 (2)(a)(I)(B), (2)(a)(I)(C), (2)(a)(I)(D), and (2)(a)(I)(E), C.R.S.;

- 1.6.2 For a county, municipal, and special district candidate or committee, the filing schedule outlined in section 1-45-108 (2)(a)(II), C.R.S.; and
- 1.6.3 For political committees, small donor committees, independent expenditure committees, and political organizations participating in a regular biennial school election, the filing schedule outlined in sections 1-45-108(2)(a)(I)(C), (2)(a)(I)(D), and (2)(a)(I)(E), C.R.S.
- 1.6.4 For issue committees supporting or opposing a ballot measure that attempts access to or will appear on an upcoming ballot, the filing schedule outlined in sections 1-45-108(1)(a)(I)(B), 1-45-108(2)(a)(I)(C), (2)(a)(I)(D), and (2)(a)(I)(E), C.R.S.
- 1.7 “Independent expenditure committee” has the same meaning as set forth in section 1-45-103(11.5), C.R.S.
- 1.8 “Infrequent filing schedule” means:
  - 1.8.1 For a state and school district director candidate or committee, the quarterly filing schedule outlined in section 1-45-108(2)(a)(I)(A), C.R.S.; and
  - 1.8.2 For a county, municipal, or special district candidate or committee, the annual filing schedule outlined in section 1-45-108(2)(a)(II), C.R.S.
  - 1.8.3 For issue committees supporting or opposing a ballot measure that will not appear on an upcoming ballot, the filing schedule outlined in sections 1-45-108(2)(a)(I)(A) and (2)(a)(II) C.R.S.
- 1.9 “Issue committee” means a person or a group of people that meets both of the conditions in Colo. Const. Article XXVIII, Section 2(10)(a)(I) and 2(10)(a)(II). An “Issue committee” does not include a married couple.
- 1.10 “Limited liability company” or “LLC” has the same meaning as set forth in section 1-45-103.7(8), C.R.S.
- 1.11 “Member”, as used in Colo. Const. Article XXVIII, Sections 2(5)(b), 2(8)(b)(IV), and 2(14)(a) only, means a person who pays membership dues.
- 1.12 “Municipal campaign finance matter” as used in section 1-45-111.7(9)(b), C.R.S., means any campaign finance matter exclusively related to a municipal campaign, including matters involving a candidate for a municipal office; a municipal ballot issue or ballot question; and contributions or expenditures made by any person, committee, or group to support or oppose any candidate for municipal office, or municipal ballot issue or ballot question. This definition is not limited to home rule municipalities that have adopted their own campaign finance rules or regulations, but applies to all municipalities.
- 1.13 “Non-public information” means confidential material in any form that is not available to the general public, including a non-public campaign plan, communications plan, campaign budget, specification of unmet and potentially unmet campaign needs, proposed or actual media buy, list or description of households or voters who will receive or have received materials under a mailing or other distribution program, polling or focus group results, or other proprietary material. “Non-public information,” does not include communications dealing solely with candidate positions on legislative or policy issues.
- 1.14 “Person”, for the purpose of Colo. Const. Article XXVIII, Section 7, means any natural person.

- 1.15 “Per day” means “per calendar day” unless otherwise indicated.
  - 1.16 “Per year” means “per calendar year” unless otherwise indicated.
  - 1.17 “Political committee” has the same meaning as set forth in Colo. Const. Article XXVIII, section 2(12), and does not include a married couple.
  - 1.18 “Principal” as used in section 1-45-105.5, C.R.S., means any person that employs, retains, engages, or uses, with or without compensation, a professional or volunteer lobbyist. A person serving as an officer, employee, member, shareholder, or partner of an organization or business entity that employs, retains, engages, or uses a lobbyist is not considered a principal.
  - 1.19 “Public office” means any office voted for in this state at any election. “Public office” does not include the office of president or vice president of the United States, the office of senator or representative in the Congress of the United States, or any office within a political party.
  - 1.20 “Publicly announced an intention to seek election to public office or retention of a judicial office” means:
    - 1.20.1 Registering a candidate committee; or
    - 1.20.2 Announcing an intention to seek public office or retention of a judicial office through:
      - (a) A speech, advertisement, or other communication reported or appearing in public media; or
      - (b) A statement made in any place accessible to the public; or
      - (c) A statement made in a manner that a reasonable person would expect to become public.
- [Colo. Const. Article XXVIII, Section 2(2)]
- 1.21 “Registered agent” is a natural person or candidate designated to receive mailings, to address concerns and questions regarding a committee, and is responsible for timely filing campaign finance reports. [Sections 1-45-108(3)(b) and 1-45-109(4)(b), C.R.S.]
  - 1.22 “Standalone Candidate” means a candidate without a committee who does not accept contributions.
  - 1.23 “Support or oppose”, for the purpose of Colo. const. Article XXVIII, Section 2(12)(a), means that the entity that contributed or made an expenditure did so in coordination with the candidate or candidate committee. If no such coordination exists, the entity is not a political committee.
  - 1.24 “Transfer” as used in section 1-45-107.5(14), C.R.S., means the disposition of or parting with funds by check, electronic transfer, or other means. It does not include payment to a vendor or payment of a contract for goods or services.

**Rule 2. Candidates and Candidate Committees**

**2.1 Standalone Candidates**

- 2.1.1 A standalone candidate need not register a candidate committee.

2.1.2 A standalone candidate must file disclosure reports for all reporting periods in which he or she makes expenditures. [Sections 1-45-108 and 1-45-109, C.R.S.]

## 2.2 Candidate committees

2.2.1 A candidate may serve as the candidate committee's registered agent or appoint another natural person to be the registered agent. Only the registered agent, the designated filing agent, or the candidate may file the contribution and expenditure report.

2.2.2 Once assigned a candidate committee must follow the frequent filing schedule for the remainder of the year, except as outlined in Rule 17.5.

2.2.3 A candidate committee may accept the contribution limit specified in Colo. Const. Article XXVIII, Section 3(1) and section 1-45-103.7(1.5), C.R.S. for the primary election even if the primary election is canceled under section 1-4-104.5(1), C.R.S. or the candidate is running unopposed.

### 2.2.4 Managing unexpended campaign contributions

(a) A candidate committee must report its unexpended balance as the ending balance 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.

#### (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) and section 1-45-103.7(1.5)(a)(III), C.R.S. (as adjusted by Rule 10.17).
- (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.
- (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) 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 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.]

#### 2.2.5 Disposition of debt in anticipation of committee termination

- (a) A candidate committee must report all contributions received during the election cycle and those contributions are subject to the contribution limit, regardless of debt carried over from a prior election cycle.
- (b) Financial obligations incurred by a candidate committee in an election cycle that are not paid within a commercially reasonable period of time, not to exceed one year after the close of that election cycle, are “contributions” from the person extending credit.

2.3 Candidate affidavits. A candidate required to file with the Secretary of State must file a candidate affidavit electronically using the Secretary of State’s online campaign finance filing system. [Sections 1-45-110(1) and 24-21-111, C.R.S.]

#### 2.4 Personal financial disclosures

2.4.1 A candidate need not file a new personal financial disclosure statement if the candidate filed either a full or amended disclosure statement less than 90 days before filing a candidate affidavit. [Section 1-45-110(2)(a) and (b), C.R.S.]



- 2.4.2 An amended or updated disclosure statement satisfies the full disclosure statement requirement if all required amended statements have been filed since the filing of the full disclosure statement. [Sections 1-45-110 and 24-6-202, C.R.S.]
- 2.4.3 If a candidate withdraws his or her candidacy by submitting appropriate documentation before filing the disclosure statement required in section 1-45-110(2)(a), C.R.S., the candidate need not file a disclosure statement. Any fines that the candidate accrued before withdrawing may be waived by the appropriate filing office.
- 2.4.4 Personal financial disclosures may be submitted by fax or email and are considered timely if received by 11:59 p.m. MT on the date due.
- 2.4.5 A person who sits on a board or committee need not disclose the board or committee membership on a personal finance disclosure if the person does not:
  - (a) Receive compensation; or
  - (b) Individually control board funds.
- 2.5 For special district candidates and committees, election cycle means the period of time beginning thirty-one days following the special district election for the particular office and ending thirty days following the next special district election for that office.

**Rule 3. Political Committees and Small Donor Committees**

- 3.1 A political committee or small donor committee may not make contributions to an issue committee or small-scale issue committee, except to the extent that a contribution is for the purchase of items such as event tickets, merchandise, or services. [Colo. Const. Article XXVIII, Section 2(12)(a)]
- 3.2 A political committee may change its registration to a small donor committee without terminating the political committee if it has never accepted contributions of more than \$50 per natural person per year.
- 3.3 Only the following qualify as a contribution or expenditure made to “support or oppose” a candidate, as those terms are used in the definition of “political committee” in subsection (12) (a) of section 2 of article XXVIII of the Colorado Constitution:
  - 3.3.1 Contribution to the candidate committee: must be a payment, loan, pledge, gift, or advance of money, guarantee of a loan, or the gift or loan of property, made by the political committee and given directly to the candidate committee for the purpose of promoting the candidate’s nomination, retention, recall, or election; or
  - 3.3.2 Expenditure from the political committee: must be coordinated with a candidate committee or political party and be intended to:
    - (a) Support that candidate’s nomination, retention, recall, or election; or
    - (b) Oppose a competing candidate’s nomination, retention, recall, or election.

3.4 Where there is no coordination as described in Rule 3.3, and the aggregate amount of the expenditures is in excess of one thousand dollars, the entity is an independent expenditure committee rather than a political committee. If the person or group meets the registration requirements of an independent expenditure committee, it must register as an independent expenditure committee.

**Rule 4. Issue Committees**

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

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

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

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

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

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

4.4 Small-scale issue committees

4.4.1 A small-scale issue committee may support or oppose more than one ballot measure if the committee registration form states each measure, describes each measure, and states whether the committee supports or opposes the measure.

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

4.4.2 The notification required by section 1-45-108(1.5)(c)(III), C.R.S. must be submitted on the form provided by the Secretary of State.

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

4.4.4 Upon conversion of a small-scale issue committee to an issue committee, the issue committee's first report of contributions and expenditures must reflect the small-scale issue committee's funds on hand as a beginning balance.

4.4.5 A small-scale issue committee may terminate by filing an affirmation indicating the committee has no outstanding debts or obligations and wishes to terminate.

4.4.6 A small-scale issue committee required to register under section 1-45-108(1.5), C.R.S. may register and report as an issue committee at any time.

4.5 For issue committees and small-scale issue committees, the election cycle is a calendar year, beginning January 1 and ending December 31. This rule does not apply to issue committees formed to support or oppose a recall.

**Rule 5. Independent Expenditures and Independent Expenditure Committees**

5.1 An independent expenditure committee must report donations over twenty dollars given for the purpose of making an independent expenditure.

5.1.1 An independent expenditure committee must itemize donations of \$250 or more per year given for the purpose of making an independent expenditure and include the name and address of the donor.

5.1.2 If the committee is unable to gather the information required by section 1-45-107.5(4)(b)(II), or (III), C.R.S., within 30 days after receipt of the donation, the committee must return the donation to the donor no later than the 31st day after receipt.

5.1.3 An independent expenditure committee must itemize independent expenditures made in an aggregate amount of \$1,000 in any one calendar year and include the information required by section 1-45-107.5, C.R.S.

5.2 An independent expenditure committee may not coordinate its campaign-related expenditures with a candidate, candidate committee, or political party. Nothing in these rules limits joint fundraising efforts or the transfer of funds raised through joint fundraising efforts by an independent expenditure committee or other committee as long as each committee pays its allocated share of joint fundraising expenses and no committee participating in the joint fundraising activity receives more than its allocated share of funds raised in accordance with applicable contribution limits.

**Rule 6. Political Parties**

6.1 The appropriate filing officer for a state or county political party is the Secretary of State. [Section 1-45-108(1)(a)(I), C.R.S.]

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 The party must disclose transfers as “other income” in accordance with Rule 10.15.

6.3 Home rule jurisdictions

6.3.1 A political party in a home rule jurisdiction that maintains a separate account in accordance with Rule 14.3 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 14.3, the party may not transfer funds from that account to other county parties or to a state party.

## **Rule 7. Federal PACs and 527 Political Organizations**

### **7.1 Federal PACs**

7.1.1 A Federal PAC that qualifies as a political committee under Colo. Const. Article XXVIII, section 2(12), must register with the Secretary of State's office as a state political committee and follow all requirements for state political committees; except that a Federal PAC is not required to form a separate bank account for the state political committee so long as the funds used for the state political committee can be separately identified. Nothing in this rule requires a Federal PAC to observe Colorado requirements for contributions, expenditures, or other campaign finance activity for federal elections or elections in states other than Colorado.

### **7.2 Political organizations.**

7.2.1 A political organization must file on the frequent filing schedule for a political committee in an even-numbered year, and on the infrequent filing schedule in an odd-numbered year, according to the filing schedules set forth in section 1-45-108(2), C.R.S.

7.2.2 A political organization that receives no contributions and spends less than \$20 during a reporting period is not required to file a disclosure report for that reporting period. [Section 1-45-108.5(1)(b), C.R.S.]

7.2.3 A political organization must file all disclosure reports required by section 1-45-108.5, C.R.S., with the appropriate filing officer. For the purposes of this rule, the appropriate filing officer is the same for political organizations as for political committees.

## **Rule 8. Registering a Committee**

8.1 The committee registration must include the purpose or nature of interest of the committee or party.

8.1.1 A candidate committee must identify the name of the candidate and the public office sought.

8.1.2 A political committee, independent expenditure committee, small donor committee, or political organization must identify the types of candidates it supports or opposes, including party affiliation and, as applicable, office(s) sought or public policy position(s).

8.1.3 An issue committee or small-scale issue committee must identify the ballot measure it will support or oppose, if known. If particular ballot measures are not known, the issue committee or small-scale issue committee must identify the policy position it will support or oppose.

## **Rule 9. Registered Agents**

9.1 The registered agent or a designated filing agent for any committee must sign the committee's registration form and all disclosure reports. For registration forms and reports filed by a candidate or candidate committee, the candidate must sign. For purposes of this requirement, an electronic login will fulfill the signature requirement.

9.2 Resignation of the registered agent

- 9.2.1 A committee may assign a new registered agent by filing an amended committee registration. For a candidate committee, upon resignation of the registered agent the candidate becomes the registered agent until a new agent is assigned. For all other committees, the registered agent's name remains on file until the committee assigns a new registered agent.
- 9.2.2 A committee must file an amended committee registration form within ten days after the resignation of a registered agent or the appointment of a new registered agent. A committee must have an active registered agent at all times. [Section 1-45-108(3)(b), C.R.S.; Rule 12.1]

**Rule 10. Managing Contributions and Expenditures**

10.1 Unexpended campaign contributions.

10.1.1 For purposes of section 1-45-106(1), C.R.S., contributions to a candidate committee become unexpended campaign contributions at the earliest of the following:

- (a) The end of the election cycle; or
- (b) When the candidate withdraws from the political race and intends to terminate his or her candidate committee.

10.1.2 For purposes of section 1-45-106(3), C.R.S., contributions to an issue committee become unexpended contributions at the end of the election cycle in which the committee supported or opposed a ballot measure, or one that attempted access to the ballot. Funds do not become unexpended contributions if the issue committee supports or opposes, or intends to support or oppose, another ballot measure or measures.

10.1.3 Unexpended contributions may not be used for personal purposes except, on or after September 1, 2019, to reimburse a candidate for reasonable and necessary expenses for the care of a child or a dependent as allowed under section 1-45-103.7(6.5), C.R.S.

10.2 Except for independent expenditure committees and small-scale issue committees, committees must report contributions as follows:

10.2.1 Committees must individually list all contributions of \$20 or more received during a reporting period, including names and addresses of the contributors. If a contributor gives \$20 or more in the aggregate during the reporting period, the committee must individually list the contributor on the report, regardless of the amount of each contribution. [Section 1-45-108(1), C.R.S.]

10.2.2 A committee may report all other receipts and contributions less than \$20 in total as non-itemized contributions for the reporting period, except for contributions from an LLC. A committee must itemize all contributions from an LLC, regardless of amount. [Section 1-45-103.7(5)(d), C.R.S.]

10.2.3 Disclosure of occupation and employer

- (a) The requirement to disclose a contributor's or donor's occupation and employer applies only to any one-time contribution or donation, and not to the person's aggregate contributions or donations.
- (b) Except for a committee exercising its right to cure under section 1-45-111.7(4), C.R.S., if a committee does not report required occupation and employer information, and the committee is unable to gather the information within 30 days after receipt of the contribution, the committee must return the contribution to the contributor no later than the 31st day after receipt.

10.3 Except for independent expenditure committees and small-scale issue committees, committees must report expenditures as follows:

- 10.3.1 A committee must list all expenditures of \$20 or more during a reporting period, including the name and address of payees. The committee may report any disbursement not defined as an expenditure to the appropriate officer.
- 10.3.2 A committee must list individual expenditures in amounts less than \$20 that aggregate to total \$20 or more to the same payee during the reporting period.
- 10.3.3 A committee may report all other expenditures less than \$20 during a reporting period in total as non-itemized expenditures.

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

10.4 Date of a contribution or donation.

- 10.4.1 A contribution or donation by check or money order is accepted, at the earliest on the date that it is received or at the latest, on the date that the contribution or donation is deposited into the committee account. If a committee receives a donation by check or money order at least five business days before the end of a reporting period, the committee must deposit the check or money order or return to the contributor before that reporting period closes.
- 10.4.2 A cash contribution or donation is accepted the date the cash is in the committee's possession.
- 10.4.3 A contribution or donation made by credit card, PayPal, or other payment intermediary service is accepted on the date the contributor or donor authorizes the payment, or if unknown, on the date the payment intermediary service electronically transfers the contribution or donation.
- 10.4.4 A non-monetary or in-kind contribution or donation is accepted on the date the committee takes possession of the item, or has the right to possess or use the item.
- 10.4.5 For purposes of section 1-45-105.5, C.R.S., concerning contributions by lobbyists to certain state officers and candidates when legislation is under consideration, a contribution is accepted when the pledge is made or possession of the check is transferred to any person not under the control of the issuer, whichever is sooner.

- 10.4.6 If a committee accepts a contribution or donation from a joint account and the contributor or donor is not specified, the committee may apportion the entire amount to the joint account who signed the check or determine how to apportion the contribution or donation between joint account holders. If the committee apportions a contribution or donation between joint account holders, the committee must notify each joint account holder of the apportionment.
- 10.4.7 Any other contribution or donation is accepted on the date its received.
- 10.5 A committee must maintain all financial records for 180 days after any general election cycle in which the committee received contributions. If a complaint is filed against the committee, the committee must maintain financial records until final disposition of the complaint and any consequent litigation. The committee must maintain covered organization and LLC affirmations for one year after the end of the election cycle.
- 10.6 If a committee receives a contribution in excess of the contribution limit, the committee must return the excess to the contributor within ten days of receipt or within three days after receiving notification from the appropriate filing office, whichever is sooner, and will not be held liable.
- 10.7 A committee may accept contributions in cryptocurrency, up to the acceptable limit for a cash or coin contribution. The amount of the contribution is the value of the cryptocurrency at the time of the contribution. The committee must report any gain or loss after the contribution as other income or receipts.
- 10.8 Contributions by anonymous contributor
- 10.8.1 A committee may not keep anonymous contributions of \$20 or more.
- 10.8.2 Anonymous contributions are contributions where the identity of the contributor or other required reporting information is unknown.
- 10.8.3 A committee must donate an anonymous contribution of \$20 or more to a charitable organization recognized by the Internal Revenue Service, or transmit the contribution to the State Treasurer within 30 days after receipt.
- 10.9 Reporting contributions and loans:
- 10.9.1 If a candidate does not accept voluntary spending limits, the candidate may make unlimited contributions from his or her personal funds to his or her candidate committee.
- 10.9.2 A candidate who accepts voluntary spending limits may make a loan to his or her candidate committee in any amount, so long as the unpaid balance of any loan does not exceed the contribution limit in Colo. Const. Article XXVIII, Sections 3 and 4(2) at any time.
- 10.10 If all candidates who declined voluntary spending limits have withdrawn from the race or lost in the primary election, a candidate who accepted voluntary spending limits may not continue to accept contributions double the standard limits.

- 10.11 Cost-sharing by candidates. Each candidate committee that shares the cost of brochures, office space, or other overhead must pay its proportionate share of the cost within 30 days of the expenditure. The reimbursing committee must report the payment as an expenditure and the reimbursed committee must report it as a returned expenditure. A committee need not report discounts resulting from shared expenses as contributions.
- 10.12 Reimbursement of expenditures – payments by credit card or payment intermediary service
- 10.12.1 A committee must report a reimbursement of \$20 or more and include the purpose, payee, and amount of the reimbursement.
- 10.12.2 For the purpose of reporting, simply disclosing that a payment was made to a credit card company or a payment intermediary service such as PayPal is not adequate. The committee must itemize all payments of \$20 or more made with a credit card or through a payment intermediary service, including the name and address of the original payee, amount, original date of expenditure, and purpose of the expenditure.
- 10.12.3 An immediate reimbursement for committee expenses is not a contribution.
- [Section 1-45-108(1)(e), C.R.S.]
- 10.13 Loans to a candidate committee
- 10.13.1 Financial institution loans to a candidate committee under Colo. Const. Article XXVIII, Section 3(8) may not be forgiven.
- 10.13.2 Candidate loans to his or her committee
- (a) A candidate may make an interest-free loan to his or her candidate committee. Any foregone interest is not a contribution to the committee.
- (b) A committee must report the interest repaid for a loan made under Colo. Const. Article XXVIII, Section 3(8) as an expenditure.
- (c) A candidate may forgive a loan he or she loaned to his or her own committee. The amount of unpaid debt forgiven by the candidate remains a contribution and is not considered a returned contribution.
- 10.14 A committee may deposit committee money in more than one financial institution. [Colo. Const. Article XXVIII, Section 3(9)]
- 10.15 Other income
- 10.15.1 A committee may invest its funds in any type of account or instrument of a government regulated financial institution.
- 10.15.2 A committee must disclose all interest or dividends earned on its bank account, earned income from a commercially reasonable transaction, or transfers of money within a political party as other income on the committee's reports. These other receipts are not subject to contribution limits.



- 10.16 Disclosure of contributions by limited liability companies (LLCs) [Section 1-45-103.7(5), (6), (7), and (8), C.R.S.]
- 10.16.1 The affirmation must include the occupation and employer of any member attributed with contributing \$100 or more.
- 10.16.2 The affirmation provided by an LLC under section 1-45-103.7, C.R.S., must include the name and address of each LLC member, the amount attributed to each member, and, if more than \$100 is attributed to a member, the occupation and employer of that member. When reporting the contribution, the committee must select the “LLC” contributor type and include the name and address of the LLC, the name and address of each member, and the amount attributed to each member. Attribution is determined by the pro-rata share of ownership.
- 10.16.3 A committee must return any contribution received from an LLC that does not comply with the affirmation requirements in section 1-45-103.7, C.R.S., and this rule to the contributor within 30 days.
- 10.16.4 A committee must itemize each contribution received from an LLC on disclosure reports, regardless of the dollar amount.
- 10.16.5 Any contribution from an LLC counts against contribution limits for both the individual members to whom the contribution is attributed and the LLC itself. [Colo. Const. Article XXVIII, Section 3(9)]. An LLC may not make a contribution that exceeds the limit for a “person” established in Colo. Const. Article XXVIII, Section 3, as adjusted by Rule 10, regardless of the amount attributed to each individual member.
- 10.17 Current adjusted limits
- 10.17.1 Adjusted limits made in the first quarter of 2019 and effective until the next adjustment is made in 2023:
- (a) There is no adjustment to the contribution limits on individual donations to small donor committees outlined in Article XXVIII, Section 2(14).
  - (b) The aggregate limits on contributions from any person for a primary or a general election, described in Colo. Const. Article XXVIII, Section 3(1), are adjusted as follows:
    - (1) \$625 to any one:
      - (A) Governor candidate committee for the primary election, and Governor and Governor and Lieutenant Governor candidate committee, as joint candidates under section 1-1-104, C.R.S., or any successor section, for the general election;
      - (B) Secretary of State, State Treasurer, or Attorney General candidate committee.
    - (2) There is no adjustment to the limits on contributions to any one State Senate, State House of Representatives, State Board of Education, Regent of the University of Colorado, or any District Attorney candidate committee.

- (c) The aggregate limits on contributions from a small donor committee for a primary or a general election, described in Colo. Const. Article XXVIII, Section 3(2), are adjusted as follows:
  - (1) \$6,750 to any one:
    - (A) Governor candidate committee for the primary election, and Governor and Lieutenant Governor candidate committee, as joint candidates under section 1-1-104, C.R.S., or any successor section, for the general election;
    - (B) Secretary of State, State Treasurer, or Attorney General candidate committee; and
  - (2) \$2,675 to any one State Senate, State House of Representatives, State Board of Education, Regent of the University of Colorado, or any District Attorney candidate committee.
- (d) The aggregate limits on contributions from any person to a political party, described in Colo. Const. Article XXVIII, Section 3(3)(a), are adjusted as follows:
  - (1) \$4,025 per year at the state, county, district, and local level combined; and
  - (2) Of such, no more than \$3,350 at the state level.
- (e) The aggregate limits on contributions from a small donor committee to a political party, described in Colo. Const. Article XXVIII, Section 3(3)(b), are adjusted as follows:
  - (1) \$20,325 per year at the state, county, district, and local level combined; and
  - (2) Of such, no more than \$16,925 at the state level.
- (f) The aggregate limits on pro-rata contributions or dues made to political committees, described in Colo. Const. Article XXVIII, Section 3(5), are adjusted to \$625 per house of representatives election cycle.
- (g) The aggregate limits on contributions to a county candidate as defined in section 1-45-103.7(1.5)(a)(I), C.R.S. are as follows:
  - (1) \$1,250 for a primary or a general election from any person other than a small donor committee or a political party;
  - (2) \$12,500 for a primary or a general election from any small donor committee; and
  - (3) \$22,125 for the election cycle from a political party.
- (h) This table contains the contribution limits listed in subsections (a)-(g).

Contributor:

Recipient	Natural Person	Person, other than a natural person	Political committee	Small donor committee	Political party
Political committee	\$625 per election cycle	\$625 per election cycle	\$625 per election cycle	\$625 per election cycle	\$625 per election cycle
Small donor committee	\$50 per year	Prohibited	Prohibited	Prohibited	Prohibited
Governor (governor & lt. governor)	\$625 per election cycle*	\$625 per election cycle*	\$625 per election cycle*	\$6,750 per election cycle*	\$679,025 per election cycle
Secretary of state, state treasurer, attorney general	\$625 per election cycle*	\$625 per election cycle*	\$625 per election cycle*	\$6,750 per election cycle*	\$135,775 per election cycle
State senate	\$200 per election cycle*	\$200 per election cycle*	\$200 per election cycle*	\$2,675 per election cycle*	\$24,425 per election cycle
State house of representatives, state board of education, regent of the University of Colorado, district attorney	\$200 per election cycle*	\$200 per election cycle*	\$200 per election cycle*	\$2,675 per election cycle*	\$17,625 per election cycle
Political party	\$4,025 (\$3,350 at the state level) per year	\$4,025 (\$3,350 at the state level) per year	\$4,025 (\$3,350 at the state level) per year	\$20,325 (\$16,925 at the state level) per year	Transfers within a party may be made without limitation.
County candidate	\$1,250 per election cycle*	\$1,250 per election cycle*	\$1,250 per election cycle*	\$12,500 per election cycle*	\$22,125 per election cycle

\* A candidate may accept the contribution limit for both the primary election and the general election.

- (i) The voluntary spending limits for a candidate described in Colo. Const. Article XXVIII, Section 4(1), are adjusted as follows:

- (1) The spending limit for Governor, and Governor and Lieutenant Governor as joint candidates under section 1-1-104, C.R.S., or any successor section is adjusted to \$3,395,275.
- (2) The spending limit for a candidate for Secretary of State, Attorney General, or Treasurer is adjusted to \$679,025.
- (3) The spending limit for a candidate for State Senate is adjusted to \$122,200.
- (4) The spending limit for a candidate for State House of Representatives, State Board of Education, Regent of the University of Colorado, or any District Attorney is adjusted to \$88,225.

Candidate	Voluntary Spending Limit
Governor, and Governor and Lieutenant Governor as joint candidates	\$3,395,275
Secretary of State, Attorney General, or State Treasurer	\$679,025
State Senate	\$122,200
State House of Representatives, State Board of Education, Regent of the University of Colorado, or District Attorney	\$88,225

10.18 Major Contributor Reports.

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

10.18.2 Small-scale issue committees are not required to file major contributor reports under section 1-45-108(2.5), C.R.S.

**Rule 11. Electioneering Communications**

11.1 As used in section 1-45-108(1)(a)(III), C.R.S., the term person includes a corporation or labor organization.

11.2 Any person who expends \$1,000 or more per calendar year on electioneering communication or regular biennial school electioneering communication must include the method of communication on the electioneering report.

11.3 Persons making electioneering communications or regular biennial school electioneering communications must maintain all financial records for 180 days after the general election or regular biennial school election, as applicable. If a complaint is filed against the person making electioneering communications or regular biennial school electioneering communications, the person must maintain financial records until final disposition of the complaint and any resulting litigation.

11.4 Electioneering communication reports must include the name of the candidate(s) unambiguously referred to in the electioneering communication or regular biennial school electioneering communication. [Colo. Const. Article XXVIII, Section 2(7)(a)(I)]

11.5 A committee need not file electioneering communication reports separate from regularly filed disclosure reports if the expenditure or spending subject to Colo. Const. Article XXVIII, Section 6 is identified as an electioneering communication or regular biennial school electioneering communication. The disclosure of electioneering communication expenditures or spending on a regularly filed report must include the name of the candidate(s) referred to in the communication.

#### **Rule 12. Changing or Closing a Committee**

12.1 A committee must report any change to its committee registration statement to the appropriate filing officer within ten days. [Section 1-45-108(3), C.R.S.]

12.2 A candidate seeking a different public office must terminate his or her existing candidate committee and register a new candidate committee within ten days. See Rule 2.2.

12.3 A committee may file a termination report terminating the committee if the following conditions are met:

12.3.1 The committee no longer intends to receive contributions or make expenditures;

12.3.2 The committee's TRACER account has a zero balance, indicating it has no cash or assets on hand and there are no outstanding debts, penalties, or obligations;

12.3.3 A committee may dispose of assets remaining in its possession before termination in the same manner as allowed for unexpended contributions; and

12.3.4 The committee has no pending campaign and political finance complaints or related proceedings pending before the elections division or any court.

12.4 Administrative committee terminations. The appropriate officer may terminate a standalone candidate or committee if the standalone candidate or committee fails to file any required reports for six consecutive reporting periods or 18 months, whichever is shorter, or files "zero" reports or reports with no activity for the same time period in accordance with the procedures set out in the State Administrative Procedure Act. [Colo. Const. Article XXVIII, Section 2(3), and section 24-4-105, C.R.S.]

12.5 If the appropriate filing office receives verifiable information in writing that the candidate is deceased, the appropriate filing office may immediately terminate the candidate's candidate committee.

#### **Rule 13. Corporations and Membership Organizations**

13.1 A corporation or labor organization may establish a political committee, an independent expenditure committee, and a small donor committee. Each committee is subject to the applicable individual contribution and expenditure limits for that committee. A corporation or labor organization may pay for the costs of establishing, administering, and soliciting funds from its own employees or members. [Colo. Const. Article XXVIII, Sections 2(5)(b) and 2(14)(b)]

13.2 Transferring membership dues to a small donor committee, independent expenditure committee, and political committee.

- 13.2.1 A membership organization transferring a portion of a member's dues to a small donor committee, independent expenditure committee, or political committee must provide the respective committee with the member's name, address, amount of dues transferred, and the date of the dues transfer.
- 13.2.2 Each small donor committee, independent expenditure committee, and political committee must keep records of all contributions or donations received in the form of membership dues including the name, address, and amount of the dues transferred. [Section 1-45-108(1)(a)(I), C.R.S.]
- 13.2.3 Each small donor committee and political committee must itemize and report the name and address of each person contributing \$20 or more in a reporting period, including but not limited to contributions in the form of membership dues transferred by a membership organization to the committee. [Colo. Const. Article XXVIII, Section 2(14)(a); section 1-45-108(1)(a), C.R.S.]
- 13.2.4 On each disclosure report, the candidate or registered agent of a committee must certify and declare, under penalty of perjury, that to the best of his or her knowledge or belief all contributions or donations received in a reporting period, including contributions or donations received in the form of membership dues transferred by a membership organization, are from permissible sources. [Colo. Const. Article XXVIII, Section 3]

#### **Rule 14. Local Offices and Home Rule**

- 14.1 The requirements of Colo. Const. Article XXVIII and of Article 45 of Title 1, C.R.S., do not apply to home rule counties or home rule municipalities that have adopted charters, ordinances, or resolutions that address any of the matters covered by Colo. Const. Article XXVIII or Article 45 of Title 1. Nothing precludes a home rule municipality from adopting or using Colo. Const. Article XXVIII and of Article 45 of Title 1, C.R.S., for their compliance and enforcement.
- 14.2 During the legislative session, a lobbyist may not contribute to a member of the General Assembly who is a candidate for any state or local office, including any office in a home rule municipality that has adopted charters, ordinances, or resolutions that address any of the matters covered by Colo. Const. Article XXVIII or Article 45 of Title 1.
- 14.3 A political party may establish a separate account for contributions and expenditures made by the party, for the purpose of supporting the party's home rule county or municipal candidates. Contributions to and expenditures from such account do not count against party limits or reported under Colo. Const. Article XXVIII or Article 45 of Title 1, C.R.S.

#### **Rule 15. Recall Elections**

- 15.1 The recall election cycle begins on the date the recall petition is approved for circulation by the designated election official and ends on the last day of the final reporting period following the date of the recall election as defined in Rule 15.2.2.
  - 15.1.1 If a recall petition is determined to be insufficient, the recall election cycle ends 25 days after the time for protest and final disposition of any protest or appeal of such determination.
  - 15.1.2 If a recall election is canceled for any other reason, the recall election cycle ends 25 days after the deadline for filing the recall election petition, or 25 days after the event that caused the designated election official to cancel the election, whichever is later.

- 15.1.3 If a recall election is canceled, all committees that were participating in the recall election except small-scale issue committees must file a report five days after the end of the recall election cycle. The reporting period begins on the first day following the last day of the reporting period for the previous report. If there was no previous report, the reporting period begins on the date the committee registered. The reporting period ends on the last day of the election cycle.
- 15.2 Except for issue committees and small-scale issue committees, committees participating in a recall election must file reports on the fifth day of every month until disclosure under section 1-45-108(2.7), C.R.S. and Rule 15.5 begins.
- 15.2.1 The initial reporting period for committees formed for the purpose of the recall election begins on the date the committee registers with the appropriate filing office.
- 15.2.2 Subsequent reporting periods for a committee participating in the recall election begin on the first day of each month and end on the last day of that month, except that the final reporting period ends 25 days following the date the recall election was held.
- 15.2.3 All other committees whose original formation was not for the purpose of supporting or opposing a recall measure must notify the appropriate officer within ten days after deciding to support or oppose a recall or support or oppose a successor candidate. Once notified, the appropriate officer will place the committee on the recall filing calendar until the end of the recall election cycle.
- 15.3 The incumbent in a recall election is not a candidate for the successor election and may open an issue committee or small-scale issue committee to oppose the recall. The incumbent may not use his or her candidate committee to oppose the recall.
- 15.4 The aggregate contribution limits specified for a general election in Colo. Const. Article XXVIII, Section 3, as adjusted by these Rules, apply to the recall election with respect to each successor candidate.
- 15.5 A committee supporting or opposing a candidate in a recall election must file disclosure reports:
- 15.5.1 14 days before the recall election;
- 15.5.2 Seven days before the recall election; and
- 15.5.3 30 days after the recall election.
- [Section 1-45-108 (2.7), C.R.S.]
- 15.6 Under Colo. Const. Article XXVIII, Section 2(3), a successor candidate must terminate any other active candidate committee for the candidate and open a new candidate committee for the purpose of running in the recall election. Transfer of funds from a previously active candidate committee are subject to Rule 2.2.4.
- 15.7 An issue committee remaining open at the end of the recall election cycle must file reports according to the infrequent filing schedule in Rule 17.2.3(b).

## Rule 16. Special Districts

- 16.1 A special district designated election official or director candidate must file a copy of the self-nomination and acceptance form described in Rule 16.2 with the Secretary of State no later than 60 days before the special district election. This rule does not apply if the special district cancels the election.
- 16.2 Self-nomination and acceptance forms and affidavits of intent to be a write-in candidate.
- 16.2.1 The self-nomination and acceptance form and letter, and affidavits of intent to be a write-in candidate must include the following information:
- (a) The candidate's full name;
  - (b) The name of the special district and the special district director office sought;
  - (c) The date of the election;
  - (d) The county in which the district court that authorized the creation of the special district is located;
  - (e) The candidate's residence and mailing addresses;
  - (f) The candidate's telephone number;
  - (g) The candidate's email address;
  - (h) The date on which the form, letter, or affidavit was filed by the candidate;
  - (i) The candidate's signature; and
  - (j) The signature of a registered elector acting as a witness.

[Sections 1-45-110, 1-13.5-303, C.R.S.]

- 16.3 A special district candidate is not required to file disclosure reports if:
- 16.3.1 The special district candidate affidavit, the 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 \$200 in the aggregate during the election cycle, however, if I do so, I will thereafter register and file all disclosure reports required under the Fair Campaign Practices Act;" and
- 16.3.2 The candidate does not accept contributions or make expenditures exceeding \$200 in the aggregate during the election cycle.

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



## **Rule 17. Filing Calendars and Reporting periods**

- 17.1 A committee other than a political organization or small-scale issue committee must file a disclosure report for every reporting period, even if the committee has no activity to report during the reporting period.
- 17.2 Filing schedules.
- 17.2.1 A candidate committee files on:
- (a) A frequent filing schedule during the year in which the office to which candidate seeks to be elected is up for election.
  - (b) An infrequent filing schedule during any year in which the office to which candidate seeks to be elected is not up for election.
  - (c) For purposes of this rule, the office to which the candidate seeks to be elected is the office named in the candidate's most recent candidate affidavit.
- 17.2.2 A political committee, small donor committee, political party, independent expenditure committee, or political organization files on:
- (a) A frequent filing schedule during any year in which a general election occurs and, if participating in a regular biennial school election, in any year in which a biennial school election occurs.
  - (b) An infrequent filing schedule during any year in which no general election occurs, except if the committee is participating in a regular biennial school election.
- 17.2.3 An issue committee files on:
- (a) A frequent filing schedule during any year in which an issue that the committee supports or opposes appears on, or seeks access to, the ballot.
  - (b) An infrequent filing schedule during any year in which the committee does not support or oppose any issues appearing on, or which seek access to, any ballot.
- 17.2.4 An issue committee must notify the appropriate filing office within ten days after deciding that it will support or oppose a ballot measure on an upcoming ballot.
- (a) Once an issue committee notifies the appropriate filing office of its active status under this Rule, the appropriate filing office will place the committee on a frequent filing schedule.
  - (b) Once an issue committee has declared its committee filing status as frequent or infrequent in a particular year, the committee must follow the appropriate filing schedule for the remainder of that election cycle, except that an inactive committee may change its status to active at any time.

### 17.3 Report periods

- 17.3.1 The reporting period for any report begins on the first day following the last day of the reporting period for the previous report. The reporting period for any report, except a quarterly report or post-election report, closes five calendar days before the date that the report is due.
- 17.3.2 Quarterly reporting periods close on the last day of the month. The report is due on or before April 15th, July 15th, October 15th, and January 15th following each calendar quarter. If the filing deadline falls on a Saturday, Sunday, or legal holiday, the filing deadline is the next business day. [Section 1-45-108(2)(a), C.R.S.]
- 17.3.3 Monthly reports are due on the first calendar day of the following month. If the filing deadline falls on a Saturday, Sunday, or legal holiday, the filing deadline is the next business day. When the filing deadline for a monthly report approximates the filing deadline for a biweekly report, no separate monthly report must be filed, and the biweekly report serves as the monthly report. [Section 1-45-108(2)(a) and (c), C.R.S.]
- 17.3.4 Except in the case of a recall election, the post-election reporting period closes on the last day of the calendar month in which the election was held. The report is due on the 30th day following the election. If the filing deadline falls on a Saturday, Sunday, or legal holiday, the filing deadline is the next business day. [Section 1-45-108(2)(a), C.R.S.]

### 17.4 Special district reporting.

#### 17.4.1 Reports relating to special district elections are due:

- (a) On the 21st day before;
- (b) On the Friday before; and
- (c) On the 30th day after the date of the regular election.

[Section 1-45-109(1)(a)(II) and (1)(c), C.R.S.]

### 17.5 Reports for former officeholders, persons not elected to office, and term-limited office holders

#### 17.5.1 Annual reporting

- (a) A candidate committee for a candidate not elected to office, who was formerly in office, or who is term-limited may submit a written request to file only an annual report for each calendar year.
  - (1) Statewide and school district candidate committees must file an annual report not later than January 15th of the following year.
  - (2) All other candidate committees must file an annual report on the first day of the month in which the anniversary of the major election occurs, in accordance with section 1-45-108(2)(a)(II), C.R.S.
- (b) A change in the balance of funds resulting solely from the accrual of interest or dividends to the account and/or the automatic deduction of periodic service fees does not subject a candidate

committee to the reporting requirements of section 1-45-108, C.R.S. At a minimum, a candidate committee must file an annual report as set forth in subsection (a) of this Rule.

[Sections 1-45-108(2)(c) and (2)(d), C.R.S.]

17.5.2 The exemption in section 1-45-108(2)(d), C.R.S., applies only to reports where the entire reporting period occurs after the election in which the candidate's name appeared on the ballot.

17.6 Any filing related to a municipal campaign finance matter must be filed with the municipal clerk.

#### **Rule 18. Late Filing Penalties and Waiver Process**

18.1 Requests for waiver or reduction of campaign finance penalties

18.1.1 Requests for waiver or reduction of campaign finance penalties due to late or missing filing penalties imposed under Colo. Const. Article xxviii, Section 10(2):

- (a) The filer should provide an explanation that includes all relevant factors relating to the delinquency and any mitigating circumstances, including measures taken to avoid future delinquencies.
- (b) Before the appropriate officer will consider a request, the report must be filed, and a request including the required information must be submitted.
- (c) The appropriate filing office will not consider a waiver request after a penalty has been paid.

18.1.2 Requests for waiver or reduction of campaign finance penalties due to late or missing filings imposed under Colo. Const. Article XXVIII, Section 10(2) must be considered by the appropriate officer according to the following rules:

Scenario - applied in numerical order (i.e. if #1 doesn't apply, move to #2)		Result
#1	A waiver is requested and establishes good cause that made timely filing impracticable (For example, was in the hospital, got in a car accident, was stranded by a blizzard, etc.). The event or events that made timely filing impracticable must occur within a reasonable time of the date on which the report was filed.	Waive penalty in full. A waiver will be granted without consideration of previous delinquencies.
#2	A waiver is requested but does not present circumstances that made timely filing impracticable (For example, forgot, was out of town, electronic calendar crashed), and:	
	(a) Filer had contributions and/or expenditures during the reporting period. The penalty imposed is \$100 or more.	<p>First delinquency in 24 months: The penalty will be reduced to \$50.</p> <p>Second delinquency in 24 months: The penalty will be reduced by 50%.</p> <p>Third (or subsequent) delinquency in 24 months: A reduction in penalty will not be granted.</p> <p>Penalties imposed under this Section are capped at the higher of the contributions or expenditures made during the reporting period. If a delinquency is found to be willful, the penalty cap may be increased to two to five times the higher of the contributions or expenditures made during the reporting period.</p> <p>For purposes of this analysis, previous delinquencies exclude those for which a waiver under scenario #1 was granted.</p>
	(b) Filer has no activity (contributions OR expenditures) during the reporting period and the committee balance is zero. The penalty imposed is \$100 or more.	The penalty will be reduced to \$50.

Scenario - applied in numerical order (i.e. if #1 doesn't apply, move to #2)	Result
<p>(c) Filer has a fund balance greater than zero and filer has no activity (contributions OR expenditures) during the reporting period. The penalty imposed is \$100 or more.</p>	<p>First delinquency in 24 months: The penalty will be reduced to \$50.</p> <p>Second delinquency in 24 months: The penalty will be reduced by 50%, subject to a cap of 10% of the fund balance (but not less than \$100).</p> <p>Third (or subsequent) delinquency in 24 months: The penalty is capped at 10% of the fund balance, and a minimum penalty of \$100 will be imposed.</p> <p>If a delinquency is found to be willful, the penalty cap may be increased to 20% to 50% of the fund balance.</p> <p>For purposes of this analysis, previous delinquencies exclude those for which a waiver under scenario #1 was granted.</p>
<p>(d) Filer seeks to terminate active status, has a fund balance of \$1,000 or less, and has no activity (contributions OR expenditures) during the reporting period(s) in question.</p>	<p>Penalties are subject to a cap equal to the total amount of the filer's fund balance as of the date on which the delinquent report was filed, if the committee is promptly terminated.</p>
<p>#3 A waiver is requested, but submitted more than 30 days after the date of penalty imposition. For purposes of this analysis, a filer has 30 days after the date on which the final notice of penalty imposition is issued following the filing of the delinquent report. Until an outstanding report is filed, penalties continue to accrue at a rate of \$50 per day and no request for waiver will be considered.</p>	<p>A request will not be considered unless good cause has been shown for failure to meet the 30-day waiver filing requirement.</p>

18.1.3 The appropriate officer may consider any additional factors that establish good cause or may otherwise be relevant to the request for waiver or reduction of campaign finance penalties for late or missing filings. In considering a request, the appropriate officer may request additional information, including but not limited to financial or other records maintained by the filer.

18.1.4 Filers may request that the appropriate officer reconsider a request for waiver or reduction of campaign finance penalties. A filer must submit, in writing any request for reconsideration within 30 days of the date

on which the waiver decision was mailed. The filer must present additional material facts that are significantly different than those presented in the original request for reduction or waiver.

- 18.1.5 The appropriate officer will respond to requests for waiver or reduction of campaign finance penalties within 60 days. Failure to respond within 60 days, however, will not constitute an approval of the request.
- 18.1.6 When reduced, penalties are rounded to the highest \$25. The appropriate officer will not reduce a penalty to an amount less than \$25, unless a full waiver has been granted.
- 18.1.7 When applying Rule 18.1.2(2)(d), all outstanding penalties must be considered.

#### **Rule 19. Electronic Filing**

- 19.1 All disclosure reports filed with the Secretary of State under Colo. Const. Article XXVIII and Article 45 of Title 1, C.R.S., must be filed electronically on the Secretary of State’s Tracer system, except as provided in Rule 19.2. Paper reports will not be accepted. This rule does not apply to personal financial disclosure reports required by section 1-45-110, C.R.S.
- 19.2 In accordance with section 24-21-111, C.R.S., reports are not required to be filed electronically in either of the following circumstances:
  - 19.2.1 The Secretary of State has granted an exception to the electronic filing requirement after written application based on hardship or other good cause shown.
    - (a) All applications for an exception must include a brief statement of the hardship or good cause. The Secretary of State must receive the application at least 15 calendar days before the applicable filing deadline, unless the exception is based on emergency circumstance. For applications made under emergency circumstances after the deadline, the nature of the emergency must be described in the application.
    - (b) The filing of an application for exception based on emergency circumstances does not delay any reporting deadlines. If a penalty is imposed for failure to file a report on the date due, the penalty may be set aside or reduced in accordance with Colo. Const. Article XXVIII, Section 10(2).
    - (c) The Secretary of State will review and respond in writing to all applications for an exception within three business days.
  - 19.2.2 The report is filed using the Secretary of State’s Electronic Data Interface (EDI) upon approval of the Secretary of State.
- 19.3 For the purpose of section 1-45-109(2)(a), C.R.S., “close of business” for electronic filing means 11:59 p.m. MT.
- 19.4 If the electronic filing system is unavailable for a total of more than one hour on the due date for filing a report, the Secretary of State may extend the due date for an additional day. [Sections 1-45-108(2.3) and 1-45-109(6), C.R.S.]

## **Rule 20. Redaction of Sensitive Information**

- 20.1 Any person who believes their safety or the safety of an immediate family member may be in jeopardy as a result of information disclosed on any campaign finance registration or report, personal financial disclosure, or gift and honoraria report filed with the Secretary of State, may apply to the Secretary of State to redact sensitive personal information from the online versions of such report(s).
- 20.1.1 The Secretary of State, upon a finding of good cause, may redact the minimum amount of sensitive information necessary to protect the safety of such person or his or her immediate family.
- 20.1.2 If the Secretary of State redacts sensitive information disclosed on a campaign finance report, the original unredacted report remains a public record under Article 72 of Title 24 C.R.S.
- 20.2 Applications for redaction of sensitive information must be submitted in writing and include the requestor's name, the identified entry(s) of concern, a justification for the application, and the committee to whom the contribution(s) was made or expenditure(s) received.
- 20.3 Applications for redaction of sensitive personal information are not subject to disclosure under the Colorado Open Records Act. [Section 24-72-201 et. seq., C.R.S.]

## **Rule 21. Coordination**

- 21.1 "Coordination". Expenditures or spending are coordinated with a candidate committee or political party if:
- 21.1.1 A person makes an expenditure or engages in spending at the request, suggestion, or direction of, in consultation with, or under the control of that candidate committee or political party; or
- 21.1.2 An independent expenditure or electioneering communication is created, produced, or distributed:
- (a) After one or more substantial discussion(s) between the candidate or political party and the person making the expenditure or engaging in the spending,
- (1) In which the person making the expenditure or engaging in the spending received non-public information about the candidate or political party's plans, projects, activities, or needs; and
- (2) The information is material to the creation, production, or dissemination of an independent expenditure or electioneering communication; or
- (b) By a common consultant who provides, or has provided during the election cycle, professional services to the candidate committee or political party as well as to the person making the expenditure or engaging in the spending; and
- (1) In which the person making the expenditure or engaging in the spending received non-public information about the candidate or political party's plans, projects, activities, or needs; and
- (2) The information is material to the creation, production, or dissemination of an independent expenditure or electioneering communication.

21.1.3 This rule does not apply to an attorney, accountant, bookkeeper, or registered agent who provides services within the scope of his or her profession.

21.1.4 If a candidate committee or political party and the person making the expenditure or engaging in spending use a common consultant, an independent expenditure or electioneering communication is not coordinated if the consultant places effective barriers (i.e., “firewalls”) to the transmission of non-public information between:

- (a) The candidate committee or political party; and
- (b) The person making an independent expenditure or engaging in spending. Physical or technological barriers include appropriate security measures, and must be set forth in a written policy that is distributed to all affected agents, employees, board members, directors, officers, and consultants. A firewall is not effective if non-public material information is nonetheless directly or indirectly transmitted to the person making an expenditure or engaging in spending.

21.1.5 For purposes of this Rule:

- (a) Candidate committee or political party includes any agent, employee, board member, director, or officer of that candidate committee or political party.
- (b) The person making the expenditure or engaging in the spending includes any agent, employee, board member, director, or officer of the person making the expenditure or engaging in the spending.

## 21.2 Pre-candidacy coordination

21.2.1 For purposes of section 1-45-103.7(11)(a), C.R.S., a person actively solicits funds for an independent expenditure committee with the intent of benefitting his or her future candidacy when the person:

- (a) Organizes, directs, or plans a fundraising event for the independent expenditure committee; or asks for, encourages, or suggests a donation to the independent expenditure committee; and
- (b) Knows or reasonably should know that the independent expenditure committee will support the person’s future candidacy.

## Rule 22. Disclaimer Statements

22.1 Disclaimer requirement for nonbroadcast communications, including online communications.

22.1.1 Under section 1-45-107.5(5)(c), C.R.S., nonbroadcast communications must contain a clear and conspicuous disclaimer that is clearly readable, printed in text that is no less than 15 percent of the size of the largest font used in the communication, or at least eight-point font, and includes:

- (a) The name of the person that paid for the communication;
- (b) In the case of an independent expenditure, a statement that the communication is not authorized by any candidate; and



- (c) A natural person who is the registered agent if the person identified in subsection (a) above is not a natural person.

- 22.1.2 These requirements do not apply to bumper stickers, pins, buttons, pens, and similar small items upon which the disclaimer cannot be reasonably printed.
- 22.1.3 If the size, format, or display requirements of an electronic or online communication make it impracticable to include a disclaimer statement on the communication, the disclaimer statement must be available by means of a direct link from the communication to the web page or application screen containing the statement.
  - (a) The information provided in the direct link are subject to all of the size and content requirements in Rule 22.1.1.
  - (b) The information provided in the direct link must be clearly and conspicuously displayed, and must be immediately apparent on the screen without receiving or viewing any additional material.
  - (c) If the communication is a direct or indirect electronic message to a person, including but not limited to a text message, only the initial communication must contain the direct link.
  - (d) For purposes of this Rule, it is impracticable to include a disclaimer statement if it would severely interfere with the ability to convey the intended message.

**Rule 23. Complaints filed under section 1-45-111.7, C.R.S.**

**23.1 Filing Complaints**

- 23.1.1 Campaign finance complaints must be filed in writing and can be submitted by hardcopy or electronically. electronic signatures are permitted for any complaint documentation that requires a signature by complaint, respondent, or the elections division.
- 23.1.2 A complaint must identify both a respondent and a complainant. Anonymous complaints or complaints that fail to identify a complainant and respondent may be rejected and not reviewed by the elections division.
- 23.1.3 Complaints that stem from a common set of operative facts as a pending complaint will be consolidated when practicable. When consolidation is not practicable and the outcome of the initial case will be determinative of the later case, a complaint will be stayed until a final agency decision issues on the initial complaint and any appeals are resolved.
- 23.1.4 Violations stemming from late or missing filings that have been waived or are pending a waiver decision under Rule 18 are not subject to the complaint process outlined in section 1-45-111.7, C.R.S.

**23.2 Documents related to complaints.**

- 23.2.1 The original complaint, notice of initial review, motion to dismiss, an order issued by the Secretary of State's Office, final agency decision, and any complaint filed by the elections division with a hearing officer will be publicly available at the time the elections division provides the document to the respondent.

23.2.2 The elections division may redact any document that it will otherwise make available pursuant to this rule if such redaction is necessary to protect any personal private information or personally identifiable information, is not relevant or material to the determination, or is otherwise required under the Colorado Open Records Act.

23.2.3 Any document the elections division receives under section 1-45-111.7(5)(a)(III), C.R.S. will not be retained after the time necessary to review, investigate, prosecute a complaint, or any appeal, as applicable.

### 23.3 Settlement of complaints and fine structure for violations

23.3.1 After a complaint has been filed with a hearing officer the elections division may enter into a settlement agreement with the respondent.

23.3.2 In reaching a settlement and fine amount, the deputy secretary of state or a hearing officer will consider all of the following factors:

- (a) Specific fine amounts outlined in Rule 23.3.3; and
- (b) Any appropriate specific action in Rule 23.3.4; and
- (c) The mitigating and aggravating factors in Rule 23.3.5 to increase or decrease the monetary fine or terms.

#### 23.3.3 Fine amounts

- (a) Failure to register a committee
  - (1) Amount of contributions or donations accepted or expenditures made while out of compliance, outlined below:
    - (A) Less than \$1,000 fine is at least \$150;
    - (B) Between \$1,001 and up to \$5,000 fine is at least \$300; or
    - (C) Greater than \$5,000 the fine of at least \$300 plus at least 10 percent of total amount of the contributions and expenditures made.
- (b) Failure to file complete and accurate reports
  - (1) Failure to file complete and accurate reports is a \$100 fine per report plus 5 percent of the activity not accurately or completely reported;
  - (2) Failure to file, or file an accurate, candidate affidavit
    - (A) If affidavit is submitted within 14 days of registration deadline the fine is at least \$50; or
    - (B) If affidavit is submitted after 14 days post deadline, the fine is at least \$100.
- (c) Prohibited contributions, donations, and expenditures

- (1) For accepting a prohibited contribution including accepting an amount that exceeds a contribution limit or making prohibited expenditures, the fine is at least \$100 and 10 percent of the prohibited activity;
- (2) Prohibited use of unspent campaign funds and exceeding voluntary contribution limits
  - (A) A fine of at least \$250 per violation; and
  - (B) A fine that is up to 25 percent of the amount of the prohibited activity.
- (d) Disclaimer and electioneering communications
  - (1) If noncompliant communication is mitigated prior to the election: a fine of at least 5 percent cost of the noncompliant communication including cost to broadcast; or
  - (2) If noncompliant communication is not mitigated prior to the election: a fine of at least 10 percent of the cost of the communication including cost to broadcast.
- (e) Other violations of campaign and political finance rules and regulations will be assessed penalties based on the circumstances of the violations and factors outlined in Rule 23.3.4.

#### 23.3.4 Specific Action(s)

- (a) In addition to monetary fines the deputy secretary of state or assignee may seek a specific action(s) from the respondent. Specific actions may include:
  - (1) Registering as a committee or candidate in TRACER;
  - (2) Return or donation of prohibited contribution or disgorgement of the value of the improper conduct;
  - (3) Filing or amending disclosure reports;
  - (4) Inclusion or correction of disclaimer on the communication; or
  - (5) Other specific performance or terms that may be warranted.

#### 23.3.5 The elections division may also consider the follow mitigating and aggravating factors:

- (a) Nature and extent of the violation;
- (b) Timing of the violation (including proximity to the election);
- (c) Ability or effort to mitigate the violation;
- (d) Evidence of an intentional act or a pattern or practice of misconduct;
- (e) Extent to which the harm cause by the violation or the value of the violation cannot be reasonably calculated; or

- (f) Other aggravating or mitigating factors may be taken into consideration in reaching a just and equitable outcome.