

# Colorado Secretary of State



## Campaign and Political Finance [8 CCR 1505-6]

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**Rule 1. Definitions**

- 1.1 “Administrative complaint” means a complaint alleging that one or more violations of Colo. Const. Article XXVIII, Article 45, or Article 46 of Title 1, C.R.S., such other constitutional or statutory provisions that are incorporated or referenced therein, or the rules has occurred and that is filed by the division, or its designee, with a hearing officer.
- 1.2 “Ballot measure” means ballot issue or ballot question.
- 1.3 “Business activities” for purposes of Colo. Const. Article XXVIII:
  - 1.3.1 “Business activities” means providing goods or services that result in income or any other revenue-generating activity not expressly for political purposes.
  - 1.3.2 “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.
- 1.4 “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 committee, and political organization.
- 1.5 “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.
  - 1.5.1 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.
  - 1.5.2 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.

1.5.3 “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.

- 1.6 “Designated filing agent” means any natural person appointed by a committee who is responsible for timely filing campaign finance reports.
- 1.7 “Deputy secretary” means the person appointed by the Secretary of State as the deputy secretary of state pursuant to section 24-21-105, C.R.S., with authority under section 1-45-111.7, C.R.S., or such other person as may be designated by the deputy secretary of state as the deputy secretary’s designee under section 1-45-111.7(1)(b), C.R.S.
- 1.8 “Direct ballot measure expenditure” means a direct ballot issue expenditure or a direct ballot question expenditure.
- 1.9 “Direct spending”, as used in section 1-45-103(7.2), C.R.S., includes both a monetary and non-monetary purchase, payment, distribution, loan, advance, deposit, monetary or non-monetary gift, contract, promise, or agreement to expend funds.
- 1.10 “Division” or “elections division” has the same meaning as in section 1-45-111.7(1)(c), C.R.S., which is commonly known as the Elections Division of the Colorado Department of State.
- 1.11 “Frequent filing schedule” means:
- 1.11.1 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.;

- 1.11.2 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.;
- 1.11.3 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.; and
- 1.11.4 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.
- 1.12 “Funding intermediary”, as used in section 1-45-103(12)(b)(II)(E), C.R.S., means acting as a pass-through for contributions earmarked for an issue committee. A person becomes an intermediary when they accept an earmarked contribution from one person and then make a contribution to an issue committee as directed.
- 1.13 “Independent expenditure committee” has the same meaning as set forth in section 1-45-103(11.5), C.R.S.
- 1.14 “Infrequent filing schedule” means:
- 1.14.1 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.;
- 1.14.2 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.; and
- 1.14.3 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.
- 1.15 “Initial complaint” means a complaint alleging that one or more violations of Colo. Const. Article XXVIII, Article 45 of Title 1, C.R.S., such other constitutional or statutory provisions that are incorporated or referenced therein, or the rules has occurred and that is filed by any person, including the division, with the division pursuant to section 1-45-111.7(2)(a) and (7), C.R.S.

- 1.16 “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.
- 1.17 “Limited liability company” or “LLC” has the same meaning as set forth in section 1-45-103.7(8), C.R.S.
- 1.18 “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.
- 1.19 “Municipal campaign finance matter” as used in section 1-45-111.7(10), 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 measure; and contributions or expenditures made by any person, committee, or group to support or oppose any candidate for municipal office, or municipal ballot measure. Notwithstanding home rule municipalities that have adopted their own campaign finance charter provisions, ordinances, rules or regulations, this definition applies to all municipalities.
- 1.20 “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.
- 1.21 “Organization”, as used in section 1-45-103(12)(b)(II), C.R.S., means a person other than a natural person or two or more natural persons that work together with a particular purpose.
- 1.22 “Per day” means “per calendar day” unless otherwise indicated.
- 1.23 “Per year” means “per calendar year” unless otherwise indicated.
- 1.24 “Political committee” has the same meaning as set forth in Colo. Const. Article XXVIII, Section 2(12), and does not include a married couple.

- 1.25 “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.
- 1.26 “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.
- 1.27 “Publicly announced an intention to seek election to public office or retention of a judicial office”, as set forth in Colo. Const. Article XXVIII, Section 2(2), means:
- 1.27.1 Registering a candidate committee; or
- 1.27.2 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.
- 1.28 “Registered agent”, as set forth in sections 1-45-108(3)(b) and 1-45-109(4)(b), C.R.S., 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.
- 1.29 “Respondent” means a person or entity who is the subject of a campaign and political finance complaint.
- 1.30 “Standalone candidate” means a candidate without a committee who does not accept contributions.
- 1.31 “Substantial evidence”, as used in these rules, means evidence that is probative, credible, and competent and of such weight as to be adequate for the division to

accept a fact as true. This standard of proof requires a greater weight of evidence than that which is required for finding “probable cause”.

- 1.32 “Support or oppose”, for the purpose of determining if a person or group of persons is a political committee as defined by Colo. Const. Article XXVIII, Section 2(12)(a), means that the person or group of persons that contributed or made an expenditure did so in coordination with the candidate or candidate committee.
- 1.33 “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’s ending balance on the report filed 35 days after the major election must reflect the committee’s unexpended



balance and that total is reported as the beginning balance on the first report due 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 new candidate committee established by the same candidate for a different public office, subject to the political party contribution limit for the prior office sought. [Colo. Const. Article XXVIII, Section 3, and section 1-45-103.7(12)(b), C.R.S.]

- (A) Funds held in excess of the party limit must be disbursed before the new election cycle in accordance with section 1-45-106(5), C.R.S., and cannot be rolled over.
  - (B) Funds previously designated as unexpended funds from a prior election cycle cannot be transferred to the new committee and must be disbursed as specified in section 1-45-106(1)(a) and (b), C.R.S.
- (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.
- (d) Funds rolled over, up to the political party limit of a new candidate committee, from a candidate's prior candidate committee will have the effect of offsetting how much the candidate may receive in party contributions during that election cycle by the amount of the rollover.

#### 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 Filing of personal financial disclosures

- (a) A candidate who is not an incumbent need not file a personal financial disclosure statement if the candidate filed a full disclosure statement less than 90 days before filing a candidate affidavit.
- (b) If a candidate withdraws their 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 delinquent filing fines that the candidate accrued before withdrawing may be waived by the appropriate filing office.
- (c) An incumbent must file full a personal financial disclosure statement annually. Personal financial disclosure statement update forms are no longer accepted.
- (d) An incumbent seeking re-election need not file a personal financial disclosure statement if the incumbent filed a full disclosure statement less than 30 days before filing a candidate affidavit.
- (e) Any personal financial disclosure statements filed by incumbents more than 30 days before January 10th will not satisfy the requirement to file the annual disclosure statement.
- (f) Personal financial disclosure statements must be amended within 30 days of a substantial change in interest. Amended personal financial disclosure statements must be made on the form provided by the Secretary of State.
- (g) All personal financial disclosure filings required under sections 1-45-110 and 24-6-202, C.R.S., must be filed electronically by 11:59 p.m. MT on the due date and will be publicly available online.

#### 2.4.2 Income and debt ranges for required disclosures:

(a) Ranges for income from any individual source:

- (i) Less than \$999;
- (ii) \$1,000 to \$9,999;
- (iii) \$10,000 to \$24,999;
- (iv) 25,000 to \$49,999;
- (v) \$50,000 to \$74,999;
- (vi) \$75,000 to \$99,999;
- (vii) \$100,000 to \$149,999;
- (viii) \$150,000 to \$199,999;
- (ix) \$200,000 to \$249,999;
- (x) \$250,000 to \$499,999;
- (xi) \$500,000 to \$749,999;
- (xii) \$750,000 to \$999,999;
- (xiii) \$1,000,000 to \$1,499,999;
- (xiv) \$1,500,000 to \$ 1,999,999;
- (xv) \$2,000,000 to \$4,999,999; and
- (xvi) Greater than \$5,000,000.

(b) Ranges of debt:

- (i) Less than \$1,000;
- (ii) \$1,000 to \$9,999;
- (iii) \$10,000 to \$24,999;

- (iv) 25,000 to \$49,999;
- (v) \$50,000 to \$74,999;
- (vi) \$75,000 to \$99,999;
- (vii) \$100,000 to \$149,999;
- (viii) \$150,000 to \$199,999;
- (ix) \$200,000 to \$249,999;
- (x) \$250,000 to \$499,999;
- (xi) \$500,000 to \$749,999;
- (xii) \$750,000 to \$999,999;
- (xvi) \$1,000,000 to \$1,499,000;
- (xvii) \$1,500,000 to \$1,999,999; and
- (xviii) Greater than \$2,000,000.

#### 2.4.3 Failure to file

- (a) Any person can file a complaint under section 1-45-111.7, C.R.S., concerning the completeness, accuracy, or timeliness of a candidate's, including an incumbent who is also a candidate, personal financial disclosure filed in accordance with a candidate affidavit.
- (b) In the event a complaint concerning the completeness, accuracy, or timeliness of an incumbent's personal financial disclosure is filed with the Department when such incumbent is not a candidate, the Department will transmit the complaint to the appropriate body for considering such complaints as is designated under section 24-6-202(8), C.R.S. The Department will notify both the complainant and the incumbent of the transfer of the complaint. Upon such transfer, the Department will take no further action on the complaint unless or until the public body that received the transfer refers the matter back to the Department.

- (c) If a complaint is filed under section 1-45-111.7, C.R.S., alleging that the candidate's personal financial disclosure was inaccurate or an amended disclosure was not accurate or timely filed, the division may consider the following responses from the candidate, without limitation, in determining whether the personal financial disclosure or amendment meets statutory requirements:
  - (1) Documentation refuting the allegation of inaccuracy or incompleteness, including without limitation, for example:
    - (A) Federal tax returns;
    - (B) Banking, investment, or other financial statements;
    - (C) Deeds of trust or other property records;
    - (D) A financial manager's or auditor's certified statement of the candidate's financial holdings; or
    - (E) Other independently verifiable documentary evidence; or
  - (2) A signed affirmation under penalty of perjury from the candidate attesting that the allegation of inaccuracy or incompleteness is not true and the substance of the personal financial disclosure, including amendments, is complete and accurate.
- (d) If there is evidence of willful behavior outlined in section 24-6-202(7), C.R.S., such complaint may be referred to the applicable law enforcement without prejudice to the division's concurrent investigation of the matter and the pursuit of civil or administrative penalties independent of any criminal sanction.
- (e) If a person subject to a complaint related to a personal financial disclosure under section 1-45-110(2), C.R.S., meets the criteria of section 1-45-110(5), C.R.S., and is defeated or withdraws from the candidacy, that person will not be required to file, supplement, or correct a personal financial disclosure after the election but may still be subject to a complaint and potential monetary penalty.

- 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 A statewide issue committee must file reports of contributions and expenditures for all of the activity that qualifies it as an issue committee under section 1-45-103(12), C.R.S.

- 4.4 Major purpose standard

4.4.1 For an organization supporting or opposing a non-statewide ballot measure, a major purpose of the organization as that phrase is used in Colo. Const. Article XXVIII, Section 2(10)(a), is determined based on the consideration of:

- (a) The organization's specifically identified objectives in its organizational documents at the time it is established or as such documents are later amended; or
- (b) The organization's demonstrated pattern of conduct, as reflected through the following non-exclusive set of factors, including:
  - (1) The scope of the issues addressed in the organization's print and electronic publications;
  - (2) The length of time the organization had existed;
  - (3) The organization's original purpose;
  - (4) The organization's organizational structure;



- (5) The various issues in which the organization had been involved; and
- (6) The amount of money the organization had spent on the issue in question in relation to its annual budget.

[*Cerbo v. Protect Colo. Jobs, Inc.*, 240 P.3d 495, (Colo. App. 2010)]

4.4.2 For an organization supporting or opposing a statewide ballot measure, a major purpose as outlined in section 1-45-103(12)(b), C.R.S., is determined as follows:

- (a) The organization's specifically identified objectives in its organizational documents at the time it is established or as such documents are later amended; or
- (b) The organization's demonstrated pattern of conduct which is evidenced by its spending. Specifically,
  - (1) During the current and two preceding years, did the organization:
    - (A) Make contributions to a single statewide issue committee or make direct ballot measure expenditures in support of or opposition to one statewide ballot measure that, combined, exceeded 20% of the organization's total spending (in any location and for any reason) during the current and two preceding years; or
    - (B) Make contributions to more than one statewide issue committee or make direct ballot measure expenditures in support of more than one statewide ballot measure that combined exceeded 30% of the organization's total spending (in any location and for any reason) during the current and two preceding years; or

- (2) Does the organization have a pattern of conduct as acting as a funding intermediary by making earmarked contributions to an issue committee.

4.4.3 For campaign and political finance complaints involving whether the respondent is an organization that has a major purpose of supporting or opposing one or more ballot measures, a rebuttable presumption that the organization met the standard for having a major purpose under section 1-45-103(12)(b), C.R.S., is created if:

- (a) A campaign and political finance complaint has been filed and the division initially determines that the complaint alleges a potential violation in which the respondent may have a major purpose of supporting or opposing one or more ballot measures; and
- (b) The respondent fails to provide substantial evidence, as defined in Rule 1.31, that they have not met the major purpose standard.

4.4.4 This presumption will be considered sufficient information to support the filing of an administrative complaint with a hearing officer under section 1-45-111.7(5), C.R.S. The presumption of meeting the major purpose standard can be rebutted by the respondent during the administrative hearing process. The presumption of meeting the major purpose standard no longer applies once the respondent has appeared and answered an administrative complaint in a hearing before a hearing officer. See 8 CCR 1505-3, Rule 3, for additional information regarding the administrative hearing process.

4.5 Termination. An issue committee may file a termination report at any time if the following conditions are met:

- 4.5.1 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 measure; and
- 4.5.2 The committee's TRACER account reflects no cash on hand and no outstanding debts, obligations, or penalties.

4.6 Small-scale issue committees

- 4.6.1 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)]

- 4.6.2 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.
- 4.6.3 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.
- 4.6.4 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.
- 4.6.5 A small-scale issue committee may terminate by filing an affirmation indicating the committee has no outstanding debts or obligations and wishes to terminate.
- 4.6.6 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.
- 4.7 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 \$20 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 Except for a committee exercising its right to cure under section 1-45-111.7(4), C.R.S., 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.
- 5.1.4 An independent expenditure committee must list all expenditures of \$250 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.
- 5.1.5 An independent expenditure committee must list individual expenditures in amounts of less than \$250 that aggregate to total of \$250 or more to the same payee during the reporting period.
- 5.1.6 An independent expenditure committee may report all other expenditures of less than \$250 during a reporting period, in total, as non-itemized expenditures.
- 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.

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, and the offices they seek and, as applicable, 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 to reimburse a candidate or incumbent for reasonable and necessary expenses for the care of a child or a dependent as allowed under sections 1-45-103.7(6.5) and 1-45-106(1)(b)(VI), 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.
- (c) The requirement under section 1-45-108, C.R.S., to disclose a contributor's or donor's occupation and employer applies only to a contributor who is a natural person.

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

10.11.1 Each candidate, standalone candidate, and candidate committee that shares any cost or expense including brochures, communications, advertisements, office space, or other overhead must pay its proportionate share of the cost within 30 days of the date the cost was incurred. The committee or candidate that made the expense must report the entire amount as an expenditure. The committee or candidate reimbursing for the expense must reimburse within 30 days and report their portion of the expense as an expenditure, and the reimbursed committee or candidate must report reimbursement payments as a returned expenditure.

10.11.2 A committee nor candidate need not report discounts resulting from shared expenses as contributions given by a vendor or others on a purchase solely because more than one committee is cost-sharing with another committee.

10.11.3 If a “paid for by” disclaimer is needed for any shared communication, the names of all of the committees or candidates must be included on the communication.

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 2023 and effective until the next adjustment is made in 2027:
- (a) There is no adjustment to the contribution limits on individual donations to small donor committees outlined in Colo. Const. 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) \$725 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.
- (2) \$225 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) \$7,825 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) \$3,100 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) \$4,675 per year at the state, county, district, and local level combined; and
- (2) Of such, no more than \$3,875 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) \$23,600 per year at the state, county, district, and local level combined; and
  - (2) Of such, no more than \$19,650 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 \$725 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) \$1,425 for a primary or a general election from any person other than a small donor committee or a political party;
  - (2) \$14,400 for a primary or a general election from any small donor committee; and
  - (3) \$25,475 for the election cycle from a political party.
- (h) The aggregate limits on contributions to candidates for school district director are as follows:
  - (1) \$2,500 per election cycle from any person other than a small donor committee; and
  - (2) \$25,000 per election cycle from any small donor committee.
- (i) This table contains the contribution limits listed in subsections (a)-(h).

Recipient:	Contributor:				
	Natural Person	Person, other than a natural person	Political committee	Small donor committee	Political party
Political committee	\$725 per election cycle	\$725 per election cycle	\$725 per election cycle	\$725 per election cycle	\$725 per election cycle
Small donor committee	\$50 per year	Prohibited	Prohibited	Prohibited	Prohibited
Governor (governor & lt. governor)	\$725 per election cycle*	\$725 per election cycle*	\$725 per election cycle*	\$7,825 per election cycle*	\$789,060 per election cycle
Secretary of state, state treasurer, attorney general	\$725 per election cycle*	\$725 per election cycle*	\$725 per election cycle*	\$7,825 per election cycle*	\$157,805 per election cycle
State senate	\$225 per election cycle*	\$225 per election cycle*	\$225 per election cycle*	\$3,100 per election cycle*	\$28,395 per election cycle
State house of representatives, state board of education, regent of the University of Colorado, district attorney	\$225 per election cycle*	\$225 per election cycle*	\$225 per election cycle*	\$3,100 per election cycle*	\$20,500 per election cycle



Recipient:	Contributor:				
	Natural Person	Person, other than a natural person	Political committee	Small donor committee	Political party
Political party	\$4,675 (\$3,875 at the state level) per year	\$4,675 (\$3,875 at the state level) per year	\$4,675 (\$3,875 at the state level) per year	\$23,600 (\$19,650 at the state level) per year	Transfers within a party may be made without limitation.
County candidate	\$1,425 per election cycle*	\$1,425 per election cycle*	\$1,425 per election cycle*	\$14,400 per election cycle*	\$25,475 per election cycle
School district director	\$2,500 per election cycle	\$2,500 per election cycle	\$2,500 per election cycle	\$25,000 per election cycle	\$2,500 per election cycle

\* A candidate may accept the contribution limit for both the primary election and the general election.

- (j) 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 \$3,945,300.
  - (2) The spending limit for a candidate for Secretary of State, Attorney General, or Treasurer is adjusted to \$789,025.

- (3) The spending limit for a candidate for State Senate is adjusted to \$141,975.
- (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 \$102,500.

Candidate	Voluntary Spending Limit
Governor, and Governor and Lieutenant Governor as joint candidates	\$3,945,300
Secretary of State, Attorney General, or State Treasurer	\$789,025
State Senate	\$141,975
State House of Representatives, State Board of Education, Regent of the University of Colorado, or District Attorney	\$102,500

#### 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.

#### 10.19 Reporting a direct ballot measure expenditure

10.19.1 The disclosure report required by section 1-45-108(1)(a)(VI), C.R.S.

- (a) The aggregate of \$5,000 in direct ballot measure expenditures can be met with expenditures of any amount.
- (b) Once a person makes \$5,000 in direct ballot measure expenditures in the aggregate within a calendar year, each additional expenditure of \$1,000 or more must be reported.

- (c) A single direct ballot measure expenditure of less than \$1,000 does not need to be reported.
- (d) Direct ballot measure expenditure disclosure reports must be filed within 48 hours of when the direct spending occurs or when a contractual agreement is made.
- (e) Expenditures by an issue committee are not direct ballot measure expenditures and should be reported in accordance with Rule 10.3 and section 1-45-108(1), C.R.S.

10.19.2 Each direct ballot measure expenditure disclosure must include:

- (a) The name and address of the payor;
- (b) The name and address of payee;
- (c) The name of the original source of the funds, if the direct ballot measure expenditure was paid with earmarked funds;
- (d) The amount of the direct ballot measure expenditure;
- (e) The date of the direct ballot measure expenditure;
- (f) The purpose for which the direct ballot measure expenditure was made, including the ballot measure and whether the direct ballot measure expenditure was in support or opposition of the ballot measure; and
- (g) An affirmation signed by an authorized representative on a form provided by the Department or appropriate officer that the filer does not meet the definition of an issue committee and only used permissible sources for the expenditure.

10.20 Earmarked contributions

- 10.20.1 A contribution will be considered earmarked if it includes or is accompanied by a direction or instruction which results in all or any part of a contribution or expenditure being made to, or expended on behalf of, a candidate, committee, or ballot measure.

10.20.2 Disclosure reports of earmarked contributions must include the original source of the funds as well as conduits, funding intermediaries, or other persons involved in the transaction.

10.20.3 Recipients of earmarked contributions must disclose the original source of the contribution and the person who made the contribution.

## **Rule 11. Electioneering Communications**

- 11.1 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.
- 11.2 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.
- 11.3 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)]
- 11.4 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;
  - 12.3.4 The committee has no pending campaign and political finance complaints or related proceedings pending before the elections division or any court; and
  - 12.3.5 In addition to the requirements outlined in this Rule 12.3, candidate committees must terminate within:
    - (a) One year after the election, if the candidate was not elected; or
    - (b) One year after an elected candidate leaves office.
- [Sections 1-45-103.7(12)(a)(I) and (II), C.R.S.]
- 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.]

#### 17.4 Reports for former officeholders, persons not elected to office, and term-limited office holders

##### 17.4.1 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.]

17.4.2 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.

17.5 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:	

Scenario - applied in numerical order (i.e. if #1 doesn't apply, move to #2)		Result
	(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
	(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>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>
	(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.	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.



Scenario - applied in numerical order (i.e. if #1 doesn't apply, move to #2)		Result
#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.	A request will not be considered unless good cause has been shown for failure to meet the 30-day waiver filing requirement.

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.

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. "Paid for by" 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 "paid for by" 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 “paid for by” 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 “paid for by” 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 initial complaints**

23.1.1 Campaign and political 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 must meet the plausibility pleadings standard by presenting a plausible basis, based on concrete, non-conclusory allegations of particularized facts, to support the allegations that a potential campaign and political finance violation occurred. The plausibility of an allegation is determined while accepting as true the concrete, non-conclusory assertions of fact upon which the allegation is based.

23.1.4 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.

23.1.5 Violations stemming from late or missing filings that have had a late filing penalty assigned or the assigned penalty has been waived under Rule 18 are not subject to additional monetary penalties under Rule 23.4 for the late filing violation.

23.1.6 A respondent that fails to preserve potentially relevant information or records concerning its contributions or expenditures or otherwise reportable activity upon receipt of a complaint may be subject to an adverse inference establishing that the information or records that were not preserved after receipt of a complaint would otherwise establish the disputed fact. This adverse inference is subject to the equitable principles applicable under the common law spoliation doctrine.

## 23.2 Referral of municipal complaints

23.2.1 A municipal complaint may not be directly filed with the division and must be reviewed by the municipal clerk as required by section 1-46-111.7(10)(a)-(b), C.R.S., before being referred to the division.

23.2.2 A municipal complaint may be referred to the division to process and investigate if the complaint meets all of the following conditions:

- (a) A complaint meets the grounds for referral:
  - (1) For statutory and home rule municipalities, the complaint involves an actual or potential conflict for the municipal clerk or the clerk's staff; or
  - (2) For statutory municipalities, the municipality has not adopted a campaign and political finance complaint and hearing process;
- (b) A local ordinance meeting the conditions in section 1-45-111.7(10)(d), C.R.S., and this rule's subsection (c) specifically allows complaints to be referred to the division due to a conflict or because there is no local enforcement process; and
- (c) The municipality has adopted the ordinance and provided a copy to the Department 180 days or more prior to the municipal election at issue in the complaint. Once a copy of the ordinance has been provided to the Department, another copy does not need to be provided for additional complaints unless amended or updated.

23.2.3 A municipal complaint referred to the division must include:

- (a) The underlying complaint and any documents attached to the complaint;
- (b) A municipal complaint cover sheet, available on the Secretary of State's website, with all the required information provided;
- (c) The name and contact information for a person within the municipal clerk's office who will assist the division with any questions during the processing of the complaint;
- (d) A copy of the local ordinance that allows referral; and



- (e) Any relevant campaign and political finance filings, documents, copies of applicable local law, communications with complainant or respondent related to the complaint, determination of the conflict, evidence of the initial review conducted under section 1-45-111.7(10), C.R.S., or other documents relevant to the complaint.

#### 23.2.4 Timeliness

- (a) A municipal complaint must be referred to the division within 14 business days of receipt by the municipality and will be processed and reviewed according to the provisions of subsections 1-45-111.7(3)-(10), C.R.S.
- (b) For processing deadlines under section 1-45-111.7, C.R.S., the division will process the complaint based on the date the complaint was received by the division from the municipal clerk.
- (c) Unless local law provides for a different date, a municipal complaint must be filed no later than 180 days after the date on which the complainant either knew or should have known, by the exercise of reasonable diligence, of the alleged violation. The determination of timeliness is calculated from the date the complaint is filed with the municipality.

23.2.5 The division may reject a referral of a municipal complaint if the clerk did not conduct an initial review as provided in section 1-45-111.7, C.R.S., the complaint was not referred to the division within 14 business days, or the municipality did not have an ordinance in place that allowed referral or otherwise met referral requirements.

23.2.6 The division has no jurisdiction to consider an allegation against a municipality or a municipal clerk that the municipality or clerk improperly failed to refer a municipal campaign finance complaint to the Department. Such claims, if any, may be pursued against the municipality or the clerk in the District Court where the municipality is located pursuant to Rule 106(4) of the Colorado Rules of Civil Procedure. The Department has no liability to a complainant or any other person for the failure of a municipality or a municipal clerk to refer a municipal campaign finance complaint to the Department.

### 23.3 Documents related to complaints.

23.3.1 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 administrative complaint filed by the elections division with a hearing officer will be publicly available at the time the document is provided to the respondent.

23.3.2 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.

23.3.3 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, or prosecute a complaint, including any appeal, as applicable.

### 23.4 Settlement of complaints and fine structure for violations

23.4.1 After an administrative complaint has been filed with a hearing officer, under 8 CCR 1505-3, Rule 3, the elections division may enter into a settlement agreement with the respondent.

23.4.2 In assessing a fine amount or approving a settlement, the deputy secretary of state or a hearing officer, as applicable, will consider all of the following factors:

- (a) Specific fine amounts outlined in Rule 23.4.3;
- (b) Any appropriate specific action in Rule 23.4.4;
- (c) Whether Rule 18 late filing penalties have been issued and if a waiver was granted;
- (d) Sanctions available under section 1-45-111.5, C.R.S.; and
- (e) The mitigating and aggravating factors, including those listed in Rule 23.4.5, to increase or decrease the monetary fine or terms.

## 23.4.3 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 affidavits, disclosures, contributions, expenditures, or other finance 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 an accurate candidate affidavit
    - (A) If the affidavit is submitted within 14 days of registration deadline, the fine is at least \$50; or
    - (B) If the affidavit is submitted after 14 days post deadline, the fine is at least \$100.
  - (3) Failure to file an accurate or complete initial, updated, or amended personal financial disclosure as required under section 1-45-110, C.R.S., which includes content required by section 24-6-202(2), C.R.S.
    - (A) If the personal financial disclosure is filed or corrected within 14 days of the applicable filing due date, the fine is at least \$50;

- (B) If the personal financial disclosure is filed or corrected prior to the filing of any complaint alleging an insufficient filing of a personal financial disclosure, so long as the disclosure is submitted at least 30 days prior to the first election in which the candidate is running, the fine is at least \$100;
  - (C) If the personal financial disclosure is filed or corrected after the filing of any complaint alleging an insufficient filing of a personal financial disclosure, so long as the disclosure is submitted at least 30 days prior to the first election in which the candidate is running, the fine is at least \$250;
  - (D) If the personal financial disclosure is filed or corrected fewer than 30 days before the election in which the candidate is running, the fine is at least \$500;
  - (E) If the candidate or incumbent is defeated or withdraws and the personal financial disclosure was not corrected, the fine will be at least \$500; or
  - (F) If the personal financial disclosure is corrected after the election, and the respondent was not defeated or did not withdraw, the fine is at least \$1,000.
- (4) Failure to file an initial disclosure report or an annual update as required under section 24-6-202, C.R.S.
- (A) If the disclosure report is filed within 14 days of due date, the fine is at least \$50;
  - (B) If the disclosure report is filed within 28 days of due date, the fine is at least \$100;
  - (C) If the disclosure report is filed more than 28 days late but at least 30 days prior to an election in which the official is running, the fine is at least \$500; or

- (D) If the disclosure report is filed after an election in which the official is running, the fine is at least \$1,000.
- (5) Filing an inaccurate or incomplete personal financial disclosure or failure to correct an inaccurate or incomplete personal financial disclosure could result in criminal and civil penalties under section 24-6-202(7), C.R.S.
- (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;
  - (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; or
  - (3) For failure to include a compliant disclosure statement for a deepfake communication, the penalties are outlined under section 1-45-111.5(1.5)(c.5), C.R.S.
- (e) Violations by the state or a political subdivision under section 1-45-117, C.R.S.

- (1) If the violation is cured before the election but there was no substantial compliance, the fine will be at least \$500;
  - (2) If the violation is not cured before the election, the fine will be at least \$1,000; or
  - (3) If the amount of funds improperly used is ascertainable, the fine will be at least three times the amount of the improperly used funds.
- (f) 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 23.4.4.

#### 23.4.4 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.

#### 23.4.5 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 caused 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.

**Rule 24. Procedural Rules for Hearings under section 1-45-111.7, C.R.S.**

[Reserved.]

**Rule 25. Deepfake Communications**

**25.1 Deepfake communications**

25.1.1 Deepfakes must involve a candidate as that term is defined in section 1-46-102(2), C.R.S., which includes current federal, state, and local officeholders in Colorado, and candidates for federal, state, and local offices on the ballot in Colorado, and must be disseminated to an audience that includes Colorado electors.

25.1.2 There is a rebuttable presumption that the alleged deepfake communication was created, edited, or modified using generative A.I. if:

- (a) A campaign and political finance complaint has been filed and the division initially determines under section 1-45-111.7(3), C.R.S., that the complaint alleges a potential violation of section 1-46-103(1), C.R.S.; and
- (b) The respondent fails to provide substantial evidence, as defined in Rule 1.31, regarding how the communication was created or modified.

25.1.3 This presumption will be considered sufficient information to support the filing of an administrative complaint with a hearing officer under section 1-45-111.7(5), C.R.S. The presumption that a communication was created, edited, or modified using generative A.I. can be rebutted by the respondent during the administrative complaint process. The presumption

no longer applies once the respondent has appeared and answered an administrative complaint in a hearing before a hearing officer.

## 25.2 Disclosure statements

25.2.1 A deepfake communication must include a disclosure statement that meets the requirements of subsections 1-46-103(2), (3)(b) and (3)(d), C.R.S. Substantial compliance with these statutory provisions may be found to be compliant.

25.2.2 If a communication is required to have a “paid for by” disclaimer under section 1-45-108.3, C.R.S., the communication must include both a “paid for by” disclaimer and a deepfake disclosure statement.