



Notice of Adoption

Office of the Secretary of State
Rules for the Administration of the Colorado Charitable Solicitations Act
8 CCR 1505-9

June 10, 2015

I. Adopted Rule Amendments

As authorized by the Colorado Charitable Solicitations laws¹ and the State Administrative Procedure Act², the Colorado Secretary of State gives notice that the following amendments to the rules for the administration of the Colorado Charitable Solicitations Act³ are adopted on a permanent basis.

The rules were considered at the May 18, 2015 rulemaking hearing in accordance with the State Administrative Procedure Act⁴.

Please note the following formatting key:

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

[Current 8 CCR 1505-9 is amended as follows:]

Amendments to Rule 1.2 concerning the definition of “agent”:

- 1.2 “Agent” means an individual who, by the PRINCIPAL’S written authority, ~~and on the account of the principal,~~ transacts business or manages affairs for the principal, and ~~who is required to render an account of the business or affair~~ PROVIDES AN ACCOUNTING to the principal. ~~“agent”~~ “AGENT” includes “subcontractors.”

Repeal annotation concerning expired Rule 1.17:

¹ Article 16, Title 6 of the Colorado Revised Statutes.

² Section 24-4-103(3)(a), C.R.S. (2014).

³ 8 CCR 1505-9.

⁴ Section 24-4-103(3)(a), C.R.S. (2014).

~~1.17 — [Expired 05/15/2014 per House Bill 14-1123]~~

Renumbering and amendments to Rule 1.18 defining "State Elections Commission":

~~1.18-1.17~~ "State Elections Commission" ~~means,~~ INCLUDES, for the purposes of section 6-16-104(6)(b), C.R.S., the Secretary of State's Campaign and Political Finance Program.

Repeal Rule 1.19 defining "street address" and renumber Rule 1.20:

~~1.19 — "Street Address" has the same meaning as in section 7-90-102(62), C.R.S.~~

~~1.20-1.18~~ "Subcontractor," as used in these rules, includes the agent (but not employee) of a paid solicitor who solicits on behalf of the paid solicitor for the benefit of a charitable organization that contracted with the paid solicitor.

Amendments to Rule 3:

~~3.1 — Upon notice from the Secretary of State that a registration has been denied or is subject to suspension or revocation, the aggrieved party may request a hearing within five calendar days after receipt of notice.~~

~~3.2-3.1~~ Upon receipt of a request for hearing in accordance with section 6-16-111(6)(b), C.R.S., the Secretary of State will set and give notice of the hearing by certified mail within five business days of the receipt. The Secretary will set the hearing no sooner than 20 and no later than 45 ~~calendar~~ days after the mailing of the notice.

~~3.3-3.2~~ The Secretary may, ~~for~~ FOR good cause shown, THE SECRETARY OF STATE MAY continue a proceeding under section 6-15-111(6), C.R.S., and this Rule 3 for a period as brief as practicable and, in no case, for NO more than 15 days.

~~3.4-3.3~~ The Secretary ~~must~~ WILL conduct and conclude all hearings in a timely manner and ~~must~~ WILL take final agency action no later than the tenth day following the hearing.

Amendments to the title of Rule 5.2 concerning amending financial estimates in initial registrations:

5.2 Filing ~~registration~~ amendments TO FINANCIAL ESTIMATES.

Amendments to Rule 5.2.1 concerning amending good faith estimates when organization does not have an IRS extension:

5.2.1 ~~If a~~ A charitable organization ~~does not~~ THAT FAILED TO file a deadline extension with the IRS, ~~a charitable organization that~~ BUT reported estimated financial information on its initial registration STATEMENT must amend its registration STATEMENT ~~with~~ AND PROVIDE its actual financial information by the 15th day of the fifth calendar month after the close of the fiscal year reported on the initial registration statement.

Amendments to Rule 5.2.2 concerning amending good faith estimates when organization has an IRS extension:

5.2.2 ~~If a~~ A charitable organization THAT files a deadline extension with the IRS AND REPORTED ESTIMATED FINANCIAL INFORMATION ON ITS INITIAL REGISTRATION STATEMENT, ~~it must file necessary amendments to~~ AMEND ITS REGISTRATION STATEMENT AND PROVIDE its ACTUAL financial information by the 15th day of the eighth calendar month after the close of ~~each~~ THE fiscal year ~~in which the charitable organization solicited in Colorado~~ REPORTED IN THE INITIAL REGISTRATION STATEMENT.

Amendments to Rule 5.4 and subrule 5.4.1 concerning fines:

5.4 The Secretary may impose a ~~late fee~~ FINE on a charitable organization that fails to timely request an extension.

5.4.1 To avoid incurring ~~late fees~~ FINES, charitable organizations must:

- (a) Replace initial estimated financial information with actual financial information;
- (b) File a registration renewal; or
- (c) File an extension on or before the filing deadline.

Amendment to Rule 5.5 concerning fines:

5.5 If a charitable organization, at the time of initial registration, reports financial information outside of the most recently completed fiscal year, the Secretary of State will approve the initial registration but the organization must file a renewal or extension request within five days from the initial registration approval. If the organization fails to file a renewal or extension within the five day period, the Secretary will mark the organization's status as "delinquent" and notify the organization that it must update the information or it will be subject to ~~late fees~~ FINES and possible suspension OR REVOCATION.

Amendment to Rule 5.6 concerning charitable organizations requesting deadline extensions:

5.6 A charitable organization may request a deadline extension for renewing a registration or for filing an amendment to replace estimated with actual financial information. ~~This option is not available to professional fundraising consultants or paid solicitors. The organization must file the extension request electronically on the Secretary of State's website.~~ Filing an extension with the IRS or submitting a copy of the request (such as IRS Form 8868) to the Secretary of State is not sufficient to extend a filing deadline. The Secretary of State will not consider requests to waive ~~late filing fees~~ FINES on the grounds that the organization filed for an extension with the IRS but neglected to file an extension with the Secretary of State.

Amendment to Rule 5.7 concerning fines for professional fundraising consultants and paid solicitors:

- 5.7 Professional fundraising consultant or paid solicitor registration is valid for one year. The fundraising consultant or paid solicitor ~~may~~**MUST** annually ~~renew registration by filing~~ FILE a registration renewal by the anniversary date. The anniversary date ~~each year will be~~ IS the day and month the initial registration was approved, or the day and month the most recent reinstatement was approved. ~~A professional fundraising consultant or paid solicitor who fails~~ FAILURE to renew a registration on or before the anniversary date is ~~subject to a late fee~~ WILL RESULT IN A FINE AND POSSIBLE SUSPENSION OR REVOCATION.

Amendments to Rule 5.9 concerning paid solicitors:

- 5.9 A paid solicitor must file a ~~completed~~ solicitation notice no later than 15 days before a solicitation campaign starts. Failure to file will ~~subject the paid solicitor to a late fee and up to~~ RESULT IN A FINE AND POSSIBLE SUSPENSION OR revocation.

Amendments to Rule 6.1 and its subrules 6.1.1 and 6.1.2 concerning fines for registrants:

- 6.1 The Secretary will assess a ~~late fee if a charitable organization, professional fundraising consultant, or paid solicitor who fails to properly renew or update a registration, file a solicitation notice, or file a financial report of a solicitation campaign after being sent at least two notices. The Secretary will assess the late fee for an overdue solicitation campaign financial report against the paid solicitor and not the charitable organization in accordance with section 6-16-114, C.R.S.~~ THE FOLLOWING FINES:

6.1.1 The ~~late fee~~ FINE for a charitable organization is \$60 per overdue report AND APPLIES TO AN OVERDUE RENEWAL AND OVERDUE UPDATE OF ESTIMATED FINANCIAL INFORMATION.

6.1.2 The ~~late fee~~ FINE for a professional fundraising consultant or paid solicitor is \$200 per overdue report and applies to an overdue renewal~~or~~, OVERDUE SOLICITATION NOTICE, AND overdue campaign report.

Repeal Rule 6.1.3:

~~6.1.3 If a charitable organization, professional fundraising consultant, or paid solicitor is assessed a late fee, the late fee is in addition to the regular filing fee.~~

Repeal Rule 6.1.4:

~~6.1.4 To become compliant, and to avoid additional late fees or other possible penalties, a charitable organization, professional fundraising consultant, or paid solicitor must file all past due documents in sequence from oldest to newest.~~

Amendments to Rule 8.2 concerning fines and waivers for registrants:

- 8.2 A charitable organization, professional fundraising consultant, or paid solicitor that ~~incurs a late fee for failure~~ FAILS to TIMELY file a document ~~on time~~ must either pay the

outstanding ~~late fee~~-FINE or obtain a waiver of ~~late fee~~ as described in Rule ~~6~~,6.5 before the Secretary of State will approve a registration withdrawal.

Amendments to Rule 9.2.2 concerning fines for organizations not exemption from registration:

9.2.2 ~~If the~~AN organization THAT was not exempt from registration for all fiscal years since its registration was withdrawn, ~~it must pay any applicable late fees for all years during which it was delinquent or suspended and retroactively renew its registration~~FILE A RENEWAL FOR EACH FISCAL YEAR THAT IT WAS SUBJECT TO THE CCSA REGISTRATION REQUIREMENT AND PAY ALL APPLICABLE FINES.

Rules 9.3 and 9.4 concerning fines for suspended registrants are consolidated into Rule 9.3 and amended:

9.3 REINSTATEMENT REQUIREMENTS

9.3.1 ~~Before reinstatement, a~~A suspended charitable organization, professional fundraising consultant, or paid solicitor must:

- (A) ~~correct~~CURE the deficiency for which it was suspended,; and;
- (B) ~~if it was subject to the registration requirements of the CCSA during the suspension period, it must retroactively renew its registration and pay~~PAY ALL applicable ~~late fees~~-FINES for all years ~~during which~~THAT it was ~~delinquent or suspended~~ AND SUBJECT TO CCSA REGISTRATION REQUIREMENTS.

~~9.4~~9.3.2 ~~Before reinstatement, a~~A paid solicitor must file solicitation notices and campaign reports and pay all applicable ~~late fees~~-FINES for solicitation campaigns conducted ~~while registration was suspended~~DURING SUSPENSION.

II. Basis, Purpose, and Specific Statutory Authority

A Statement of Basis, Purpose, and Specific Statutory Authority follows this notice and is incorporated by reference.

III. Effective Date of Adopted Rules

These new and amended rules will become permanently effective on **December 17, 2015**.⁵

⁵ Section 24-4-103(5), C.R.S. (2014).

Dated this 10th day of June, 2015,

A handwritten signature in black ink, appearing to read 'Suzanne Staiert', written over a horizontal line.

Suzanne Staiert
Deputy Secretary of State

For

Wayne W. Williams
Colorado Secretary of State



Statement of Basis, Purpose, and Specific Statutory Authority

Office of the Secretary of State Rules for the Administration of the Colorado Charitable Solicitations Act 8 CCR 1505-9

June 10, 2015

I. Basis and Purpose

This statement explains amendments to the Colorado Secretary of State's rules¹ for the administration of the Colorado Charitable Solicitations Act. The amendments are intended to ensure uniform and proper administration, implementation, and enforcement of Colorado Charitable Solicitations laws² as follows:

- Amendments to Rule 1.2 clarify the definition of "agent".
- The annotation to expired Rule 1.17 is repealed as unnecessary.
- Rule 1.18 is renumbered as Rule 1.17 and amended to clarify the definition of "State Elections Commission".
- Rule 1.19 is repealed as unnecessary.
- Rule 1.20 is renumbered as Rule 1.18.
- Rule 3.1 is repealed as unnecessary.
- Rule 3.2 is renumbered as Rule 3.1. The word "calendar" is removed solely to harmonize this rule with the other rules which use "day" to mean "calendar day" by default. The default meaning of "day" renders the addition of the word "calendar" unnecessary.
- Rule 3.3 is renumbered as Rule 3.2. Amendments to Rule 3.2 simplify language.
- Rule 3.4 is renumbered as Rule 3.3. Amendments to Rule 3.3 simplify language.

¹ 8 CCR 1505-9.

² Article 16, Title 6 of the Colorado Revised Statutes.

- Amendments to the title of Rule 5.2 clarify that it concerns amendments to financial estimates.
- Amendments to Rule 5.2.1 clarify language requiring organizations without an IRS extension to amend good faith estimates.
- Amendments to Rule 5.2.2 clarify language requiring organizations with an IRS extension to amend good faith estimates.
- Amendments to Rules 5.4, subrule 5.4.1, and 5.5 revise terminology concerning fines and clarify language.
- Amendments to Rule 5.6 revise terminology concerning fines and remove unnecessary language.
- Amendments to Rule 5.7 simplify language and clarify the possible result of a professional fundraising consultant's or paid solicitor's failure to renew a registration.
- Amendments to Rule 5.9 simplify language and clarify the possible result of a paid solicitor's failure to file a solicitation notice.
- Amendments to Rule 6.1 and its subrules 6.1.1 and 6.1.2 revise terminology concerning fines and clarify when the Secretary will impose fines on registrants.
- Rule 6.1.3 is duplicative of statute and repealed as unnecessary.
- Rule 6.1.4 is repealed as unnecessary.
- Amendments to Rule 8.2 revise terminology concerning fines and correct a rule citation.
- Amendments to Rule 9.2.2 concerning withdrawn non-exempt organizations simplify language, and clarify reinstatement requirements.
- Rules 9.3 and 9.4 concerning reinstatement requirements for suspended registrants are consolidated into Rule 9.3. Amendments simplify language and revise terminology concerning fines.
- Non-substantive revisions to simplify or clarify words and phrases, renumber rules, and other technical revisions as is necessary for consistency with Department rulemaking format and style.

On March 25, 2015, the Secretary issued a request for public comment to help our office develop preliminary draft rules. The comments we received in anticipation of rulemaking are available online at: http://www.sos.state.co.us/pubs/rule_making/CCSARuleComments.html. Additional comments received during the formal rulemaking are available online at:

http://www.sos.state.co.us/pubs/rule_making/hearings/2015/CharitableRulesHearing20150518.html. All comments are incorporated into the official rulemaking record.

II. Statutory Rulemaking Authority

- Section 6-16-110.5(3)(a) and (e), C.R.S. (2014) which provides that the Secretary of State may promulgate rules as needed for the effective implementation of the Colorado Charitable Solicitations Act (Article 16, Title 6 of the Colorado Revised Statutes), including rules providing for the extension of filing deadlines and setting fines for noncompliance.
- Section 6-16-111(6)(b), C.R.S. (2014) which authorizes the Secretary to promulgate rules to provide for expedited deadlines for hearings.
- Section 6-16-114, C.R.S. (2014) which authorizes the Secretary to set fines by rule.