

# Working Draft of Proposed Rules

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

June 21, 2018

### Disclaimer:

The following is a working draft concerning the Rules for the Administration of the Colorado Charitable Solicitations Act. The Secretary values your input and is seeking feedback about the proposed revisions before a formal notice of rulemaking.

Please send your feedback by 5:00 PM on June 27, 2018. Please reference the specific page and line number in your comments. We will consider all comments submitted by this date for inclusion in the official rulemaking draft.

Please note the following formatting key:

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

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1 *8 CCR 1505-9 is repealed and replaced as follows:*

2 **Rule 1. Definitions.**

3 As used in these rules and in the Colorado Charitable Solicitations Act:

4 1.1 “Accounting ~~Period~~ PERIOD” means the time period for keeping records and reporting income and  
5 expenses.

6 1.2 “Agent” means an individual who, by the principal’s written authority, transacts business or  
7 manages affairs for the principal, and provides an accounting to the principal. “Agent” includes  
8 “subcontractors.”

9 1.3 “Authorized ~~Officer~~ OFFICER” means the ~~officer~~ INDIVIDUAL designated by the filing entity to  
10 electronically sign forms on behalf of the organization in accordance with the CCSA. This  
11 ~~Individual~~ INDIVIDUAL must be an officer of a nonprofit corporation, a trustee of a charitable  
12 trust, or a senior manager member of any other entity subject to the filing requirements of the  
13 CCSA.

14 1.4 “Bona fide personal emergency;” ~~as used in these rules means:~~

15 1.4.1 INCLUDES:

- 1 (A) A medical emergency affecting a registrant or member of registrant's immediate  
2 family, including ~~but not limited to~~, incapacitation ~~for medical reasons~~,  
3 hospitalization, accident ~~involvement~~, or death.
- 4 ~~1.4.2~~(B) A practical emergency including extraordinary obstacles out of the  
5 REGISTRANT'S control ~~of the registrant~~ that ~~preclude~~ PREVENTS timely disclosure.  
6 ~~For example:~~ SUCH AS
- 7 (a) ~~The~~ THE loss or unavailability of records or a computer due to fire, flood, or  
8 theft;
- 9 (b) ~~Other compelling reasons beyond the registrant's control.~~
- 10 ~~1.4.3-1.42~~ The following are generally not considered a "bona fide personal emergency:"  
11 EXCLUDES:
- 12 (a) Failure to timely file ~~registration~~ documents due to failure to plan;
- 13 (b) Accounting delays;
- 14 (c) Misunderstanding of applicable disclosure requirements and deadlines;
- 15 (d) Mistakes in electronic filing submission, including incomplete filings resulting in  
16 rejection of the ~~filed~~ document;
- 17 (e) Lack of access to internet or ~~personal~~ computer; and
- 18 (f) Lack of corporate credit card or other means ~~for~~ OF making online payments.
- 19 1.5 "CCSA" means THE Colorado Charitable Solicitations Act codified at Article 16 of Title 6,  
20 C.R.S.
- 21 1.6 "Directly ~~Employed~~ EMPLOYED", as used in section 6-16-103(7)(d), C.R.S., means the charitable  
22 organization controls or directs the means and methods of accomplishing the result of the  
23 individual's work, regardless of whether the individual is employed full-time or part-time, is paid  
24 a salary or on commission, or is called an employee or an agent or independent contractor.
- 25 1.7 ~~"Employer Identification Number" or EIN, also known as a "EIN,"~~ AN EMPLOYER  
26 IDENTIFICATION NUMBER, MEANS THE Federal Tax Identification Number; ~~is~~ used to identify a  
27 business entity.
- 28 1.8 "E-MAIL ADDRESS" IN SECTION 6-16-114(1)(B)(II), C.R.S., MEANS THE E-MAIL ADDRESS  
29 PROVIDED BY AND BELONGING TO AN AUTHORIZED OFFICER DURING THE CREATION OF A  
30 REGISTRANT'S ONLINE ACCOUNT.
- 31 ~~1.8-1.9~~ "Fiscal Year YEAR" means annual accounting period, ~~subject to Rule 1.16.~~
- 32 ~~1.9-1.10~~ "Form of the ~~Applicant's Business~~ APPLICANT'S BUSINESS" means an entity listed in  
33 section 7-90-102, C.R.S., or similar business statutes in other states. ~~"Form of the applicant's~~  
34 ~~business" does not include~~ BUT EXCLUDES the organization's PURPOSE AND tax-exempt status;  
35 such as "501(c)(3)," ~~or the organization's purpose.~~

1 ~~1.10-1.11~~ “Gross Revenue-REVENUE” means the total amount the organization receives from all  
2 sources, regardless of geographic location, during its accounting period, without subtracting costs  
3 or expenses. “Gross revenue” does not include receipt of funds merely as an agent for another,  
4 where the organization collects the funds and delivers them to the principal without asserting a  
5 right to use them or otherwise deriving a benefit from them. ALL REVENUE RECEIVED FROM ANY  
6 SOURCE DURING THE ORGANIZATION’S ACCOUNTING PERIOD, WITHOUT SUBTRACTING COSTS OR  
7 EXPENSES. “GROSS REVENUE” EXCLUDES RECEIPT OF FUNDS BY A PASS-THROUGH AGENT THAT  
8 LACKS THE RIGHT TO USE OR BENEFIT FROM THEM.

9 ~~1.11-1.12~~ “Name or Names under which Charitable Organization Intends to Solicit Contributions”  
10 includes “doing business as,” “also known as,” or trade names. This term includes the name of  
11 donor advised fund that solicits contributions from the public using its own name, unless, in all  
12 written and oral solicitations, the fund clearly identifies itself as a “donor advised fund” of a  
13 specified charitable organization that is either registered with the Secretary of State or exempt  
14 under section 6-16-104(6)(a) through (d), C.R.S.

15 “NAME OR NAMES,” AS USED IN SECTION 6-16-104(2)(A), C.R.S., INCLUDES:

16 1.12.1 “DOING BUSINESS AS,” “ALSO KNOWN AS,” OR TRADE NAMES; AND

17 1.12.2 THE NAME OF ANY DONOR-ADVISED FUND THAT SOLICITS CONTRIBUTIONS FROM THE  
18 PUBLIC USING ITS OWN NAME, UNLESS, IN ALL WRITTEN AND ORAL SOLICITATIONS, THE  
19 FUND CLEARLY IDENTIFIES ITSELF AS A “DONOR-ADVISED FUND” OF A SPECIFIED  
20 CHARITABLE ORGANIZATION THAT IS EITHER REGISTERED WITH THE SECRETARY OF  
21 STATE OR EXEMPT UNDER SECTION 6-16-104(6)(A) THROUGH (D), C.R.S.

22 ~~1.12-1.13~~ “Newly-Formed Charitable Organization” means an organization that has not reached the  
23 15th day of the fifth month following the close of its first fiscal year. In most cases, newly-  
24 formed charitable organizations will file an initial registration statement of estimated financial  
25 information that must be replaced by actual financial information on or before the 15th day of the  
26 fifth month after the close of its first fiscal year.

27 1.14 “PERSON” AS USED IN SECTION 6-16-103(8), C.R.S., INCLUDES THE COLORADO COMBINED  
28 CAMPAIGN

29 ~~1.13-1.15~~ “Person Responsible for Directing and Supervising the Conduct of the Campaign”, in  
30 accordance with section 6-16-104.6(7)(b), C.R.S., includes agents or subcontractors of the paid  
31 solicitor.

32 ~~1.14-1.16~~ “Principal Place of Business” means the street address of the organization’s usual place  
33 of business. “Principal place of business”, as used in these rules, does not include a post office  
34 box or private mailbox.

35 *Current Rules 1.15 is repealed:*

36 ~~1.15~~ “Registered Agent” has the same meaning as in section 7-90-701, C.R.S., except that, if a person  
37 must register under the Charitable Solicitations Act, the person must appoint and continuously  
38 maintain a registered agent, even if the person is not required to do so under section 7-90-701,  
39 C.R.S. A registration document filed in accordance with Article 16 of Title 6, C.R.S., that  
40 requests the name and address of the organization’s registered agent must also include a statement  
41 by the filer that the registered agent consents to the appointment.

1 1.17 "REGISTRANT," AS USED IN THESE RULES, REFERS COLLECTIVELY TO CHARITABLE  
2 ORGANIZATIONS, PROFESSIONAL FUNDRAISING CONSULTANTS, AND PAID SOLICITORS SUBJECT TO  
3 CCSA REQUIREMENTS.

4 ~~1.16~~-1.18 "~~Short Period Registration and Financial Statement~~" "SHORT-PERIOD REGISTRATION AND  
5 FINANCIAL STATEMENT" means a registration and financial statement covering a period of less  
6 than 12 months.

7 ~~1.17~~-1.19 "State Elections Commission" includes, for purposes of section 6-16-104(6)(b), C.R.S.,  
8 the Secretary of State's Campaign and Political Finance Program.

9 ~~1.18~~-1.20 "Subcontractor," ~~as used in these rules,~~ includes the agent but not employee of a paid  
10 solicitor who solicits on behalf of the paid solicitor for the benefit of a charitable organization that  
11 contracted with the paid solicitor.

12 **Rule 2. Electronic Filing**

13 2.1 ~~Documents required or permitted by the CCSA must be filed electronically, in the prescribed~~  
14 ~~format, through the Secretary of State's web-based charities system. Paper filings are void and~~  
15 ~~will not be accepted. REGISTRANTS MUST FILE ALL DOCUMENTS ELECTRONICALLY USING THE~~  
16 ~~SECRETARY OF STATE'S ONLINE SYSTEM.~~

17 2.2 The Secretary of State will issue a unique user identification and password ~~to an individual who~~  
18 ~~requests to complete or file a document in accordance with Article 16 of Title 6, C.R.S., and who~~  
19 ~~agrees to the Secretary's rules~~ for use of the ONLINE system. TO RECEIVE ACCESS, AN INDIVIDUAL  
20 MUST PROVIDE HIS OR HER NAME, VALID EMAIL ADDRESS AND AN EIN. REGISTRANTS MUST  
21 UPDATE THIS INFORMATION PROMPTLY IF IT CHANGES. Filing with the user identification and  
22 password ~~described in this Rule 2~~ will constitute the filer's official signature, in accordance with  
23 section 24-71.3-102(8), C.R.S.

24 *Current Rules 2.2.1, 2.2.2, and 2.3 are repealed:*

25 ~~2.2.1 An individual registering or renewing a registration under Article 16 of Title 6, C.R.S.~~  
26 ~~must have an EIN from the Internal Revenue Service (IRS).~~

27 ~~2.2.2 An individual requesting a user identification and password under Rule 2.2 must provide~~  
28 ~~his or her name, daytime telephone number, valid email address, and EIN, and must~~  
29 ~~update this information promptly when and if it changes.~~

30 ~~2.3 Email addresses provided to the Secretary of State under this Rule 2 are for administrative~~  
31 ~~purposes only and are not considered public records for purposes of the public records law, Part 2~~  
32 ~~of Article 72 of Title 24, C.R.S.~~

33 **Rule 3. Expedited Hearing Deadlines**

34 3.1 ~~Upon receipt of a request for hearing in accordance with section 6-16-111(6)(b), C.R.S., the~~ THE  
35 Secretary of State will set and give notice of the hearing ~~by certified mail within five business~~  
36 SEVEN days of ~~the receipt~~ OF RECEIVING A REQUEST FOR HEARING PER SECTION 6-16-111(6)(B),  
37 C.R.S. The Secretary will set the hearing no sooner than 20 and no later than 45 days after the  
38 mailing of the notice.

1 3.2 For good cause shown, the Secretary of State may continue a proceeding for no more than 15  
2 days.

3 3.3 The Secretary will ~~conduct and conclude all hearings in a timely manner and will take final~~  
4 agency action ~~no later than the tenth day~~ WITHIN TEN DAYS following the hearing.

5 **Rule 4. Registration**

6 4.1 ALL REGISTRANTS

7 4.1-4.1.1 If the Secretary of State approves an initial or renewal registration statement ~~of a~~  
8 ~~charitable organization, professional fundraising consultant, or paid solicitor,~~ the  
9 Secretary will issue ~~or update the status of a~~ permanent registration number OR UPDATE  
10 THE REGISTRANT'S STATUS AND SEND CONFIRMATION TO THE REGISTRANT'S  
11 AUTHORIZED OFFICER AND ADDRESS OF RECORD. ~~The Secretary will send confirmation to~~  
12 ~~the authorized officer and registered agent containing the organization's name, DBAs,~~  
13 ~~permanent registration number, filing document number, EIN, principal address,~~  
14 ~~document approval date, subsequent renewal due date, the document's signor, and the~~  
15 ~~date it was signed.~~

16 *Current Rule 4.3 is amended and recodified as New Rule 4.1.2:*

17 4.3-4.1.2 ~~The Secretary of State will not provide a registration certificate if the~~  
18 ~~organization's registration—~~A REGISTRANT WILL HAVE GOOD STANDING STATUS IF ITS  
19 REGISTRATION has NOT been denied, suspended, or revoked, WITHDRAWN, OR EXPIRED.  
20 ONLY A REGISTRANT WITH GOOD STANDING STATUS MAY OBTAIN A REGISTRATION  
21 CERTIFICATE VERIFYING THAT STATUS.

22 *Current Rules 4.2 is repealed:*

23 4.2 ~~An individual may verify an organization's registration status and may create a registration~~  
24 ~~certificate by visiting the Secretary's website. The registration certificate will list the~~  
25 ~~organization's registration number, registrant type (charitable organization, paid solicitor, or~~  
26 ~~professional fundraising consultant), registration status along with the date that status was~~  
27 ~~established, and the date (including an extension), by which the organization must renew its~~  
28 ~~registration or replace estimated financial figures with actual financial figures.~~

29 *Current Rule 4.3 is amended and recodified as New Rule 4.1.2 as shown above.*

30 *Current Rules 4.4 and 4.5 are repealed:*

31 4.4 ~~The Secretary of State will list as "good" the registration of a charitable organization,~~  
32 ~~professional fundraising consultant, or paid solicitor once the Secretary approves the registration~~  
33 ~~statement for the most recent fiscal year. The Secretary will also list all approved initial~~  
34 ~~registrations as "good."~~

35 4.5 ~~If a charitable organization, professional fundraising consultant, or paid solicitor misses a filing~~  
36 ~~deadline, the organization status will change to "delinquent" the day after deadline.~~

37 *New Rule 4.2:*

1 4.2 CHARITABLE ORGANIZATIONS

2 *Current Rules 4.6 through 4.9 are amended and recodified as New Rules 4.2.1 through 4.2.4:*

3 ~~4.6~~4.2.1 ~~if~~IF the charitable organization ~~has~~WAS not ~~been~~in existence for an entire  
4 accounting period, changes its accounting period, or merges out of existence or dissolves  
5 before the end of its accounting period, it ~~may have to~~MUST file a short-period  
6 registration and financial statement.

7 ~~4.7~~4.2.2 A charitable organization must use the same accounting period to file registration  
8 documents with the Secretary of State that it uses to maintain financial records internally  
9 and to file IRS Form 990 with the IRS.

10 ~~4.8~~4.2.3 The Secretary of State may require a charitable organization to provide a copy of  
11 the appropriate IRS Form 990 to meet Colorado's reporting requirements.

12 ~~4.9~~4.2.4 If the Secretary of State identifies inconsistencies, between ~~or within the state~~A  
13 CHARITABLE ORGANIZATION'S registration statement and the IRS Form 990, the  
14 Secretary of State may ~~request that~~ REQUIRE the organization TO file an amended IRS  
15 Form 990 with the ~~state~~SECRETARY OF STATE, or otherwise correct the inconsistency, ~~in~~  
16 ~~order~~ to complete the state filing. ~~If the organization does not~~FAILURE TO correct the  
17 inconsistency ~~with the state, the Secretary of State may deny or suspend the~~MAY RESULT  
18 IN DENIAL OR SUSPENSION OF registration in accordance with section 6-16-111(6), C.R.S.

19 *New Rule 4.3:*

20 4.3 PAID SOLICITORS

21 4.3.1 IN ACCORDANCE WITH SECTION 6-16-104.6(4), C.R.S., A PAID SOLICITOR MAY REGISTER  
22 AND PAY A SINGLE FEE ON BEHALF OF ITS AGENTS (INCLUDING SUBCONTRACTORS)  
23 LISTED ON THE PAID SOLICITOR'S REGISTRATION,

24 4.3.2 FOR A SPECIFIC SOLICITATION CAMPAIGN, AN AGENT OR SUBCONTRACTOR NOT  
25 DIRECTLY UNDER CONTRACT TO THE REGISTERED PAID SOLICITOR MUST FILE ITS OWN  
26 REGISTRATION. SEE RULE 11 FOR ADDITIONAL SUBCONTRACTOR REQUIREMENTS.

27 **Rule 5. Filing Deadlines and Extension of Filing Deadlines**

28 *New Rule 5.1:*

29 5.1 CHARITABLE ORGANIZATIONS.

30 *Current Rule 5.5 is amended and recodified as New Rules 5.1.1(a) and (b):*

31 ~~5.5~~(A) If a charitable organization, at the time of initial registration, reports financial  
32 information outside of the most recently completed fiscal year, the Secretary of  
33 State ~~will~~MAY approve the initial registration but the organization must file a  
34 renewal or extension request within five days from the initial registration  
35 approval.

1 (B) If the organization fails to file a renewal or extension within the five day period,  
2 the Secretary ~~will~~MAY mark the organization’s status as “delinquent” and notify  
3 the organization that it must update the information or it will be subject to fines  
4 and possible suspension or revocation.

5 *Current Rule 5.1 is amended and recodified as New Rule 5.1.2:*

6 5.1-5.1.2 ~~Filing a registration~~REGISTRATION renewal and financial report.

7 5.1.1(A) If a charitable organization does not file a deadline extension with the  
8 IRS, the charitable organization must file its registration renewal and a financial  
9 report for the most recent fiscal year by the 15th day of the fifth calendar month  
10 after the close of each fiscal year in which the charitable organization solicited in  
11 Colorado.

12 5.1.2(B) If a charitable organization files a deadline extension with the IRS, the  
13 charitable organization must file its registration renewal and financial report by  
14 the 15th day of the eighth calendar month after the close of each fiscal year in  
15 which the charitable organization solicited in Colorado.

16 *Current Rule 5.1.3 is repealed. Current Rule 5.3 is amended and recodified as New Rule 5.1.3:*

17 ~~5.1.3 The Secretary of State may request evidence of an extended filing date with the IRS, such~~  
18 ~~as a copy of the IRS Form 8868 or an IRS letter addressed to the organization confirming~~  
19 ~~the extended deadline request.~~

20 ~~5.3-5.1.3~~ A charitable organization may renew its registration, replace initial estimates  
21 with actual financial information, or request an extension no earlier than the close of the  
22 accounting period to which the filing applies.

23 *Current Rule 5.2 is repealed:*

24 ~~5.2 Filing amendments to financial estimates.~~

25 ~~5.2.1 A charitable organization that failed to file a deadline extension with the IRS but reported~~  
26 ~~estimated financial information on its initial registration statement must amend its~~  
27 ~~registration statement and provide its actual financial information by the 15th day of the~~  
28 ~~fifth calendar month after the close of the fiscal year reported on the initial registration~~  
29 ~~statement.~~

30 ~~5.2.2 A charitable organization that files a deadline extension with the IRS and reported~~  
31 ~~estimated financial information on its initial registration statement must amend its~~  
32 ~~registration statement and provide its actual financial information by the 15th day of the~~  
33 ~~eighth calendar month after the close of the fiscal year reported in the initial registration~~  
34 ~~statement.~~

35 *Current Rule 5.8 is amended and recodified as New Rule 5.2*

36 ~~5.8-5.2 The~~FOR A PROFESSIONAL FUNDRAISING CONSULTANT OR PAID SOLICITOR, THE renewal period  
37 ~~for a professional fundraising consultant or paid solicitor~~begins 60 days before the EXPIRATION  
38 DATE OF THE consultant’s or solicitor’s ~~anniversary date.~~REGISTRATION, WHICH IS EITHER:

1           5.2.1    THE DAY AND MONTH THE INITIAL REGISTRATION WAS APPROVED; OR

2           5.2.2    THE DAY AND MONTH THE MOST RECENT REINSTATEMENT WAS APPROVED.

3    *Current Rule 5.3 is amended and recodified as New Rule 5.1.3 as shown above.*

4    *Current Rules 5.9 and 5.10 are amended and recodified under New Rule 5.3:*

5    ~~5.9 — A paid solicitor must file a solicitation notice no later than 15 days before a solicitation campaign~~  
6    ~~starts. Failure to file will result in a fine and possible suspension or revocation.~~

7    5.3    PAID SOLICITORS

8           ~~5.9.1~~5.3.1    For reporting purposes, a solicitation campaigns duration on a solicitation notice  
9                    may not exceed one year.

10          ~~5.9.2~~5.3.2    ~~Prior to~~BEFORE the campaign end date listed on an initial solicitation notice, a  
11                    paid solicitor may amend the initial solicitation notice to extend the campaign duration up  
12                    to one year. After the campaign end date, the paid solicitor must file a new solicitation  
13                    notice.

14          ~~5.10~~5.3.3    A paid solicitor must submit a solicitation campaign financial report on or before  
15                    the 90th day following the campaign end date listed on a solicitation notice. A paid  
16                    solicitor who does not submit a campaign report on or before the deadline may not begin  
17                    a new solicitation campaign or file a new solicitation notice until the SECRETARY OF  
18                    STATE APPROVES THE overdue campaign report ~~is approved by the Secretary of State.~~

19    *Current Rule 5.4 is repealed:*

20    ~~5.4 — The Secretary may impose a fine on a charitable organization that fails to timely request an~~  
21    ~~extension.~~

22          ~~5.4.1 — To avoid incurring fines, charitable organizations must:~~

23                    ~~(a) — Replace initial estimated financial information with actual financial information;~~

24                    ~~(b) — File a registration renewal; or~~

25                    ~~(c) — File an extension on or before the filing deadline.~~

26          ~~5.4.2 — A charitable organization that files an extension with the IRS but is unable to file its~~  
27                    ~~registration renewal or amend its financial information by the 15th day of the eighth~~  
28                    ~~calendar month after its fiscal year may request an additional three month extension on~~  
29                    ~~the Secretary of State's charities registration website.~~

30    *Current Rule 11.1 is amended and recodified as New Rule 5.4:*

31    *New Rule 5.4:*

32    **Rule 11. — Contact Information for Custodians of Books and Records**

1 ~~11.1-5.4~~ If a filing, including a solicitation campaign financial report, calls for the name and  
2 address of a person with custody of books and records, the name must be for a individual and the  
3 address must be a street address of that individual's principal office or usual place of business. If  
4 the individual does not have a principal office address or usual place of business, the address  
5 must be the street address of the individual residence. FOR ANY FILING, INCLUDING  
6 REGISTRATION, THAT REQUIRES THE NAME AND ADDRESS OF A PERSON WITH CUSTODY OF A  
7 REGISTRANT'S RECORDS, THE REGISTRANT MUST INCLUDE:

8 5.4.1 THE NAME OF AN INDIVIDUAL; AND

9 5.4.2 THE INDIVIDUAL'S PRINCIPAL PLACE OF BUSINESS OR, IF THE INDIVIDUAL LACKS A  
10 PRINCIPAL PLACE OF BUSINESS, THE INDIVIDUAL'S RESIDENTIAL STREET ADDRESS.

11 *Current Rule 5.5 is amended and recodified as New Rules 5.1.1(a) and (b) as shown above.*

12 *Current Rules 5.6 and 5.7 are repealed:*

13 ~~5.6~~ A charitable organization may request a deadline extension for renewing a registration or for  
14 filing an amendment to replace estimated with actual financial information. Filing an extension  
15 with the IRS or submitting a copy of the request (such as IRS Form 8868) to the Secretary of  
16 State is not sufficient to extend a filing deadline. The Secretary of State will not consider requests  
17 to waive fines on the grounds that the organization filed for an extension with the IRS but  
18 neglected to file an extension with the Secretary of State.

19 ~~5.7~~ Professional fundraising consultant or paid solicitor registration is valid for one year. The  
20 fundraising consultant or paid solicitor must annually file a registration renewal by the  
21 anniversary date. The anniversary date is the day and month the initial registration was approved,  
22 or the day and month the most recent reinstatement was approved. Failure to renew a registration  
23 on or before the anniversary date will result in a fine and possible suspension or revocation.

24 *Current Rule 5.8 is amended and recodified as New Rule 5.2 as shown above.*

25 *Current Rules 5.9 and 5.10 are amended and recodified under New Rule 5.3 as shown above.*

26 *Current Rules 5.11 and 5.12 are amended and recodified as New Rules 5.5 and 5.6:*

27 ~~5.11-5.5~~If the deadline for filing a REGISTRANT'S document under the CCSA ~~that is required to be filed by~~  
28 ~~electronic means~~ falls on a Saturday, Sunday, legal holiday, or a day the Secretary of State's  
29 physical office is closed, the deadline will still be on that day.

30 ~~5.12-5.6~~If a registration was filed on February 29, the renewal deadline is February 28 of the following  
31 year.

## 32 **Rule 6. Fines**

33 6.1 ~~The Secretary will assess the following fines:~~ CHARITABLE ORGANIZATION

34 6.1.1 The fine for a charitable organization is ~~\$60-\$100~~ per overdue report ~~and applies to,~~  
35 INCLUDING an overdue ~~renewal and overdue~~ update of estimated financial information.

1           ~~6.1.2~~ The fine for a professional fundraising consultant or paid solicitor is \$200 per overdue  
2           ~~report and applies to an overdue renewal, overdue solicitation notice, and overdue~~  
3           ~~campaign report.~~

4           ~~6.2-6.1.2~~       A-~~THE FINE FOR A~~ charitable organization that, after notification ~~in accordance~~  
5           ~~with section 6-16-114, C.R.S.,~~ continues to solicit contributions ~~prior to~~ BEFORE  
6           ~~registering with the Secretary of State will be fined~~ IS \$300.

7           ~~6.2-1-6.1.3~~     An-~~IN RESPONSE TO A SECRETARY OF STATE INQUIRY, AN~~ exempt charitable  
8           ~~organization, in accordance with section 6-16-104(6)(a) through (d), C.R.S., will not be~~  
9           ~~fined. The charitable organization, however, must respond to the Secretary of State's~~  
10          ~~notice and state~~ MUST INDICATE that it is exempt from ~~the requirement to register~~  
11          REGISTRATION and cite the basis for its exemption.

12          ~~6.2.2-6.1.4~~    If an-~~AN~~ organization is fined for soliciting while unregistered, ~~it~~ must pay BOTH  
13          the fine ~~in addition to~~ AND the regular filing fee.

14          ~~6.2.3-6.1.5~~     If a NONEXEMPT charitable organization ~~that is not exempt~~ solicits contributions  
15          in Colorado before filing its initial registration or reinstating its registration, it must  
16          provide financial reports for the last two fiscal years or for the period of solicitation,  
17          ~~which ever~~ WHICHEVER is shorter.

18    6.2    PAID SOLICITOR

19          6.2.1    THE FINE FOR A PAID SOLICITOR IS \$200 PER OVERDUE SOLICITATION NOTICE AND  
20          OVERDUE CAMPAIGN FINANCIAL REPORT.

21          ~~6.3-6.2.2~~     Paid solicitors-~~THE FINE FOR A PAID SOLICITOR that, after notification, continue~~  
22          CONTINUES to solicit contributions ~~prior to~~ BEFORE registering ~~with the Secretary of~~  
23          State, ~~will be fined~~ IS \$1,000.

24    6.4    WAIVER OF FINE

25          6.4    A ~~charitable organization, professional fundraising consultant, or paid solicitor registered~~  
26          ~~with the Secretary of State or subject to registration under Article 16 of Title 6, C.R.S.,~~ A  
27          REGISTRANT may ask the Secretary OF STATE to reduce or excuse an imposed fine by  
28          SUBMITTING A WRITTEN REQUEST BY letter, email, fax. ~~The Secretary of State may~~  
29          ~~consider excusing or waiving a fine only in the case of a bona fide personal emergency as~~  
30          ~~defined below, or if a timely filing was not possible due to website or administrator~~  
31          ~~errors, or if the organization was not subject to the requirement to register at any time~~  
32          ~~during the period for which it was assessed a fine, and the organization requests to~~  
33          ~~withdraw its registration. The request must include:~~

34          6.4.2    THE SECRETARY MUST RECEIVE THE REQUEST WITHIN THIRTY DAYS OF THE MAILING  
35          DATE OF THE FINE NOTICE.

36          6.4.3    THE REQUEST MUST INCLUDE:

37                ~~6.4.1(A)~~       The name of the charitable organization, professional fundraising  
38                consultant, or paid solicitor;

- 1                   6.4.2-(B)       The request date;
- 2                   6.4.3-(C)       The due date of the delinquently filed registration document(s);
- 3                   6.4.4-(D)       The actual filing date of the delinquently filed registration document(s);

4    *Current Rules 6.4.5 and 6.4.6 are amended and recodified as New Rule 6.4.3(f) 6.4.3(e) as follows:*

5                   6.4.6-(E)       Measures that the charitable organization, professional fundraising  
6                                           consultant, or paid solicitor instituted or plan to institute to avoid future  
7                                           delinquencies, if applicable;

8                   6.4.5-(F)       A ~~brief summary~~-DETAILED EXPLANATION of the reason, circumstance,  
9                                           or other justification ~~for the bona fide personal emergency~~; SUCH AS:

- 10                                       (1)     A BONA FIDE EMERGENCY AS DEFINED IN RULE 1.4;
- 11                                       (2)     A TIMELY FILING WAS NOT POSSIBLE DUE TO WEBSITE OR EMERGENCY  
12                                           ERRORS; OR
- 13                                       (3)     THE ORGANIZATION WAS NOT REQUIRED TO REGISTER DURING THE TIME  
14                                           PERIOD OF FINE ASSESSMENT.

15                   6.4.7-(G)       The basis for claiming an exemption, if applicable; and

16                   6.4.8-(H)       ~~Other~~-ANY OTHER relevant information, ~~such as a detailed description of~~  
17                                           ~~the website error that prevented filing the registration document on time.~~

18    ~~6.5 — If the charitable organization, professional fundraising consultant, or paid solicitor asks the~~  
19    ~~Secretary to reduce or excuse a fine, the Secretary’s staff will conduct an investigation and notify~~  
20    ~~the charitable organization, professional fundraising consultant, or paid solicitor registrant of the~~  
21    ~~decision.~~

22    ~~6.5.1 — The Secretary of State must receive waiver requests no later than 30 days after the date~~  
23    ~~the penalty notification was mailed.~~

24    ~~6.6-6.4.4       The Secretary of State will issue decisions depending on individual facts and~~  
25    ~~circumstances. The criteria considered are the establishment of a bona fide personal~~  
26    ~~emergency or the demonstration of a website error that made it impossible to file a~~  
27    ~~required registration document. If uncertain, the Secretary may also consider the~~  
28    ~~frequency of requests to excuse or reduce fines within a two year period, and the~~  
29    ~~registrant’s demonstration of commitment to fulfill the requirements of Colorado’s laws~~  
30    ~~concerning charitable solicitations. THE SECRETARY OF STATE MAY ALSO CONSIDER THE~~  
31    ~~FREQUENCY OF REQUESTS TO EXCUSE OR REDUCE FINES WITHIN A THREE-YEAR PERIOD~~  
32    ~~AND ANY PAST CCSA VIOLATIONS.~~

33    ~~6.7-6.4.5       If payment is not received~~-IF THE SECRETARY OF STATE DOES NOT RECEIVE  
34    ~~PAYMENT by the 90<sup>th</sup>-60<sup>th</sup> day following the day the organization was notified of a~~  
35    ~~penalty~~-DATE OF THE FINE NOTICE, the Secretary of State will forward the penalty to the  
36    ~~State’s Central Collection Agency.~~

1 **Rule 7. Suspensions and Revocations**

2 7.1 ~~No charitable organization, paid solicitor, or professional fundraising consultant~~ A REGISTRANT  
3 may NOT solicit contributions, provide consulting services in connection with a solicitation  
4 campaign, file a solicitation notice, or conduct a solicitation campaign in Colorado while  
5 suspended or revoked.

6 7.2 If the Secretary of State does not receive an overdue ~~registration or renewal, an overdue~~  
7 solicitation campaign financial report, or a request for a hearing from a delinquent ~~charitable~~  
8 ~~organization, professional fundraising consultant, or paid solicitor~~ REGISTRANT by the 60th day  
9 after the deadline or a deadline extension granted by Secretary of State, ~~the registration will be~~  
10 ~~suspended~~ THE SECRETARY OF STATE MAY INITIATE SUSPENSION PROCEEDINGS.

11 **Rule 8. Withdrawing AND REINSTATING a Registration**

12 8.1 WITHDRAWAL

13 8.1-8.1.1 A ~~charitable organization, professional fundraising consultant, or paid solicitor~~  
14 REGISTRANT may REQUEST TO withdraw its registration by notifying the Secretary of  
15 State. ~~Upon approving such a request, the Secretary of State will list the registration~~  
16 ~~status as withdrawn.~~

17 *Current Rule 8.4 is recodified as New Rule 8.1.2:*

18 8.4-8.1.2 A newly-formed charitable organization may withdraw its registration  
19 unconditionally if it determines that it registered by mistake.

20 8.1.3 THE SECRETARY OF STATE WILL NOT APPROVE A WITHDRAWAL REQUEST UNLESS AND  
21 UNTIL:

22 8.2(A) A ~~charitable organization, professional fundraising consultant, or paid solicitor~~  
23 ~~that fails to timely file a document must either pay the outstanding fine or obtain~~  
24 ~~a waiver as described in Rule 6.5 before the Secretary of State will approve a~~  
25 ~~registration withdrawal.~~ A REGISTRANT PAYS ANY AND ALL OUTSTANDING FINES  
26 OR OBTAINS A WAIVER UNDER RULE 6.4;

27 8.3(B) A charitable organization ~~may not withdraw its registration unless it files a final~~  
28 ~~renewal and~~ FILES ITS FINAL financial report for the most recent fiscal year that it  
29 was subject to the CCSA, ~~unless it is a newly formed charitable organization.~~

30 (D) A PAID SOLICITOR FILES A SOLICITATION CAMPAIGN FINANCIAL REPORT FOR  
31 EVERY SOLICITATION CAMPAIGN FOR WHICH THE PAID SOLICITOR FILED A  
32 SOLICITATION NOTICE AND A SOLICITATION NOTICE FOR EVERY SOLICITATION  
33 CAMPAIGN CONDUCTED IN COLORADO.

34 8.3.1 ~~If a charitable organization solicited contributions in Colorado during its fiscal year, and~~  
35 ~~it was not exempt under section 6-16-104(6), C.R.S., it must file a renewal and financial~~  
36 ~~report for that fiscal year before registration withdrawal.~~

1           ~~8.3.2-8.1.4~~     If an organization is terminating, it may file a short-period ~~registration renewal~~  
2                           and financial statement covering the final fiscal year up to the date of dissolution or  
3                           termination.

4     *Current Rule 8.4 is recodified as New Rule 8.1.2 as shown above.*

5     ~~8.5~~ — A paid solicitor may not withdraw its registration unless the paid solicitor files a registration  
6           renewal for the most recent fiscal year that it was subject to the CCSA, a solicitation campaign  
7           financial report for every solicitation campaign for which the paid solicitor has filed a solicitation  
8           notice, and solicitation notice for every solicitation campaign conducted by the paid solicitor in  
9           Colorado.

10    ~~8.6~~ — A professional fundraising consultant may not withdraw its registration unless the professional  
11           fundraising consultant files a registration renewal for the most recent fiscal year in which it was  
12           subject to the CCSA.

13    *Current Rule 9 is amended and recodified under New Rule 8.*

14    **Rule 9. Reinstating a Suspended or Withdrawn Registration**

15    ~~9.1~~ — A charitable organization, professional fundraising consultant, or paid solicitor may reinstate a  
16           suspended or withdrawn registration.

17    8.2     REINSTATEMENT

18           ~~9.2-8.2.1~~     A—AN EXPIRED OR withdrawn charity may ~~reinstate by filing a registration~~  
19                           renewal and completing MUST COMPLETE the following requirements TO REINSTATE ITS  
20                           REGISTRATION:

21                   (A)     FILE A REINSTATEMENT FORM, AND WITH RESPECT TO EACH FISCAL YEAR SINCE  
22                           THE CHARITY’S REGISTRATION EXPIRED OR WAS WITHDRAWN, CERTIFYING  
23                           WHETHER IT WAS REQUIRED TO BE REGISTERED UNDER THE CCSA;

24                   (B)     FILE A FINANCIAL FORM FOR EACH FISCAL YEAR THE CHARITY SHOULD HAVE  
25                           BEEN REGISTERED UNDER THE CCSA, UP TO A MAXIMUM OF THE PAST THREE  
26                           CONSECUTIVE FISCAL YEARS;

27                   (C)     FILE A FINANCIAL FORM FOR THE MOST RECENT FISCAL YEAR; AND

28                   (D)     PAY ALL APPLICABLE FEES AND FINES.

29    ~~9.2.1~~ — If the organization was exempt from registration for each fiscal year since its registration  
30           was withdrawn, it must submit a statement to that effect to the Secretary of State. In  
31           addition, the organization must file a financial statement containing actual financial  
32           information for the most recently concluded fiscal year. If it is not possible to file  
33           financial information for the most recent fiscal year at the time of reinstatement, the  
34           organization must file a registration and financial statement for the prior fiscal year and  
35           file an extension of the renewal deadline for the most recent fiscal year.

1 ~~9.2.2~~ An organization that was not exempt from registration for all fiscal years since its  
2 registration was withdrawn must file a renewal for each fiscal year that it was subject to  
3 the CCSA registration requirement and pay all applicable fines.

4 ~~9.3~~ Reinstatement requirements.

5 8.2.2 AN EXPIRED OR WITHDRAWN PAID SOLICITOR OR PROFESSIONAL FUNDRAISING CONSULT  
6 MUST COMPLETE THE FOLLOWING REQUIREMENTS TO REINSTATE ITS REGISTRATION:

7 (A) FILE A REINSTATEMENT FORM, AND WITH RESPECT TO EACH YEAR SINCE THE  
8 PAID SOLICITOR'S OR PROFESSIONAL FUNDRAISING CONSULTANT'S  
9 REGISTRATION EXPIRED OR WAS WITHDRAWN, CERTIFYING AS TO WHETHER IT  
10 WAS REQUIRED TO BE REGISTERED UNDER THE CCSA;

11 (B) PAY ALL APPLICABLE FEES AND FINES; AND

12 *Current Rule 9.4 is amended and recodified as New Rule 8.2.2(c):*

13 9.4(C) ~~Before reinstatement, a paid solicitor must file solicitation notices and campaign~~  
14 ~~reports and pay all applicable late fees for solicitation campaigns conducted~~  
15 ~~while registration was suspended.~~ FOR PAID SOLICITORS, FILE SOLICITATION  
16 NOTICES AND CAMPAIGN REPORTS AND PAY ALL APPLICABLE FINES FOR  
17 SOLICITATION CAMPAIGNS CONDUCTED IN COLORADO WHILE ITS REGISTRATION  
18 WAS EXPIRED OR WITHDRAWN.

19 *Current Rule 9.3.2 is amended and recodified as New Rule 8.2.3:*

20 ~~9.3.2~~ 8.2.3 A paid solicitor must file solicitation notices and campaign reports and pay all  
21 applicable fines for solicitation campaigns conducted during suspension.

22 *Current Rule 9.3.1 is amended and recodified as New Rule 8.2.4:*

23 ~~9.3.1~~ 8.2.4 A suspended charitable organization, professional fundraising consultant, or paid  
24 solicitor must: (a) ~~Cure the deficiency;~~ and (b) ~~Pay all applicable fines for all~~  
25 ~~years that it was suspended and subject to CCSA registration requirements.~~ ALL  
26 SUSPENDED REGISTRANTS MUST CURE ALL DEFICIENCIES, PAY ALL APPLICABLE FINES,  
27 AND SATISFY ANY OTHER OBLIGATIONS THAT MAY BE REQUIRED AS THE OUTCOME OF  
28 ANY ADJUDICATORY PROCEEDINGS UNDER THE STATE ADMINISTRATIVE PROCEDURE  
29 ACT (ARTICLE 4, TITLE 24, C.R.S.)

30 *Current Rule 9.4 is amended and recodified as New Rule 8.2.2(c) as shown above.*

31 ~~Rule 10-~~ **RULE 9. Application of Registration Requirements to Internet Solicitation**

32 ~~10.1-9.1~~ As used in this Rule ~~10-9~~:

33 ~~10.1-1-9.1.1~~ "An ~~interactive~~ INTERACTIVE website" means a website that permits a  
34 contributor to make a contribution or purchase a product in connection with a charitable  
35 solicitation electronically, such as by submitting credit card information or by authorizing  
36 an electronic funds transfer. Interactive websites include sites through which a donor may

1 complete a financial transaction online even if completion requires the use of linked or  
2 redirected sites. Such a website is interactive regardless of whether donors actually use it.

3  
4 ~~10.1.3-9.1.2~~ “~~To receive~~ RECEIVES contributions from Colorado on a repeated and ongoing  
5 ~~basis or a substantial basis~~” means receiving contributions within the entity’s fiscal year  
6 that are sufficient to establish the regular or significant (as opposed to rare, isolated, or  
7 insubstantial) nature of those contributions.

8 (A) An entity receives contributions on a repeated and ongoing basis if it receives at  
9 least 50 online contributions during a fiscal year.

10 (B) An entity receives substantial contributions if it receives the lesser of \$25,000 or  
11 1% of its total contributions in online contributions during a fiscal year.

12 ~~10.1.2-9.1.3~~ “~~To specifically target~~ SPECIFICALLY TARGETS persons physically located in  
13 Colorado for solicitation” means ~~either~~:

14 (a) To include on a website a reference to soliciting contributions from Colorado; or

15 (b) To otherwise appeal to residents of Colorado, such as by advertising or sending  
16 messages to persons located in Colorado (electronically or otherwise) when the  
17 entity knows or reasonably should know the recipient is physically located in  
18 Colorado. Charities operating on a purely local basis, or within a limited  
19 geographic area, do not target states outside their operating area, if their web site  
20 makes clear in context that their fundraising focus is limited to that area even if  
21 they receive contributions from outside that area on less than a repeated and  
22 ongoing basis or on a substantial basis.

23 ~~10.1.4-9.2~~ An entity that solicits Colorado residents via e-mail will be treated the same as one that  
24 solicits Colorado residents via telephone or direct mail.

25 ~~10.2-9.3~~ An entity ~~domiciled~~ WITH A PRINCIPAL PLACE OF BUSINESS in Colorado ~~and using~~ THAT USES the  
26 internet to conduct charitable solicitations in Colorado must register with the Secretary of State,  
27 unless it is exempt from the registration requirements ~~in accordance with~~ PER section 6-16-  
28 104(6), C.R.S., regardless of whether the solicitation methods are passive or interactive and  
29 regardless of whether the internet solicitation methods are maintained by itself or another entity  
30 with which it contracts, or whether it conducts solicitations in any other manner.

31 ~~10.2.1~~ An entity is ~~domiciled within Colorado if its principal place of business is in Colorado.~~

32 ~~10.3-9.4~~ An entity ~~domiciled~~ WITH A PRINCIPAL PLACE OF BUSINESS outside of Colorado must register  
33 with the Secretary of State, unless it is exempt ~~in accordance with~~ PER section 6-16-104(6),  
34 C.R.S., if:

35 ~~10.3.1-9.4.1~~ Its ~~non-Internet~~ NON-INTERNET activities are sufficient to require registration in  
36 Colorado, or

37 ~~10.3.2-9.4.2~~ ~~If the~~ THE entity solicits contributions through an interactive website and the  
38 entity either:

- 1 (a) Specifically targets persons physically located in Colorado for solicitation, or  
2 (b) Receives contributions from Colorado on a repeated and ongoing basis or a  
3 substantial basis through its website; or

4 ~~10.3.39.4.3~~ The entity solicits contributions through a ~~site that is not interactive~~ NON-  
5 INTERACTIVE SITE, but either specifically invites further offline activity to complete a  
6 contribution, or establishes other contacts with Colorado, such as sending e-mail  
7 messages or other communications that promote the website; and

- 8 (a) Specifically targets persons physically located in Colorado for solicitation, or  
9 (b) Receives contributions from Colorado on a repeated and ongoing basis or a  
10 substantial basis through its website.

11 ~~10.4.9.5~~ Solicitations for the sale of a product or service that include a representation that some portion of  
12 the price is devoted to a charitable organization or charitable purpose (~~often referred to as~~  
13 ~~“commercial coventuring” or “cause marketing” and ALSO CALLED “CAUSE MARKETING” OR~~  
14 ~~“COMMERCIAL COVENTURING,” AS defined in section 6-16-103(3), C.R.S., as a “charitable sales~~  
15 ~~promotion”~~) are governed by the same standards outlined in this Rule ~~10-9~~ and in accordance  
16 with section 6-16-104(1), C.R.S.

17 ~~10.5.9.6~~ Nothing in this Rule ~~10-9~~ is intended to limit or expand upon the exception to the definition of a  
18 ~~paid solicitor~~ “PAID SOLICITOR” listed in section 6-16-103(7)(f), C.R.S., which states that a  
19 person whose only responsibility in connection with a charitable contribution is to provide a  
20 merchant account to process credit card payments using the internet is not considered a paid  
21 solicitor.

22 *Current Rule 11 is amended and recodified in New Rule 5.4 as shown above.*

23 *Current Rule 12 is repealed:*

24 **Rule 12. ~~PAID SOLICITOR REGISTRATION~~**

25 ~~12.1 In accordance with section 6-16-104.6(4), C.R.S., a paid solicitor may register and pay a single~~  
26 ~~fee on behalf of its agents (including subcontractors) listed on the paid solicitor’s registration.~~

27 ~~12.2 For a specific solicitation campaign, agent or subcontractor not directly under contract to the~~  
28 ~~registered paid solicitor must file its own registration.~~

29 ~~12.3 As referenced in section 6-16-104.6(2), C.R.S., and in Rule 13.2.1, a copy of a contract provided~~  
30 ~~to a charitable organization or the Secretary of State must be the most recent complete version of~~  
31 ~~the agreement signed by an authorized official of the charitable organization and by the paid~~  
32 ~~solicitor, and it must include the original agreement and all addenda.~~

33 **Rule 13. RULE 10. SUBCONTRACTORS TO PAID SOLICITORS**

34 ~~13.1-10.1~~ Filing Requirements

35 ~~13.1.1-10.1.1~~ A-THE SECRETARY OF STATE WILL TREAT THE subcontractor operating under a  
36 contract with a registered paid solicitor ~~in connection with the paid solicitor’s work on~~

1 ~~behalf of a charitable organization~~ to solicit CHARITABLE contributions ~~will be treated as~~  
2 an agent of that paid solicitor and THE SUBCONTRACTOR is not required to register. The  
3 paid solicitor must file all solicitation notices and campaign reports and ensure that the  
4 subcontractor provides written confirmation of contribution statements and makes all the  
5 required oral disclosures that apply to paid solicitors in sections 6-16-105 and 6-16-105.3,  
6 C.R.S., respectively.

7 ~~13.1.2~~ 10.1.2 A subcontractor who makes an oral solicitation regarding a charitable  
8 contribution to a person by a telephone call received in Colorado must state their own  
9 first and last name and ~~state~~ that they are calling on behalf of the registered paid solicitor.

10 ~~13.1.3~~ 10.1.3 An agent (but not an employee) of a subcontractor operating under a contract  
11 with that subcontractor to solicit contributions must register separately.

12 ~~13.2~~ 10.2 Authorization to Solicit

13 ~~13.2.1~~ 10.2.1 A subcontractor must operate under a written contract with a registered paid  
14 solicitor and the contract must be provided to the Secretary of State upon request in  
15 accordance with section 6-16-104.6(2), C.R.S.

16 ~~13.2.2~~ 10.2.2 A subcontractor must keep records in accordance with section 6-16-109, C.R.S.,  
17 and must furnish the originals or copies to the paid solicitor AND, UPON REQUEST, TO THE  
18 SECRETARY OF STATE.