



Notice of Permanent Adoption

Office of the Secretary of State
Rules Concerning Campaign and Political Finance
8 CCR 1505-6

July 11, 2018

I. Adopted Rule Amendments

As authorized by the Colorado Constitution¹, Colorado campaign finance law², and the State Administrative Procedure Act³, the Colorado Secretary of State gives notice that the following amendments to rules concerning campaign and political finance⁴ are permanently adopted.

The rules were considered at the July 2, 2018 rulemaking hearing in accordance with the State Administrative Procedure Act⁵.

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 1505-6 is amended as follows:]

Amendments to Rule 1.4 concerning the definition of contribution:

1.4 “Contribution” has the same meaning as set forth in Colo. Const. article XXVIII, section ~~2(5)(e)~~2(5)(B), and section 1-45-103(6), C.R.S.

1.4.1 A contribution does not include an endorsement of a candidate or an issue by any person, or include interest earned in an interest-bearing bank account, dividend income from invested committee funds, earned income from commercially reasonable transactions, or transfers of money within a political party.

¹ Article XXVIII, Section 9(1)(b) of the Colorado Constitution.

² Article 45 of Title 1, C.R.S. (2017).

³ Section 24-4-103(3)(a), C.R.S. (2017).

⁴ 8 CCR 1505-6.

⁵ Section 24-4-103(3)(a), C.R.S. (2017).

1.4.1-1.4.2 ~~Services provided without compensation by individuals volunteering their time as outlined in Colo. Const. article XXVIII, section 2(5)(b), VOLUNTEER SERVICES~~

- (A) ~~includes time-based~~ TIME-BASED services volunteered by an individual as a member of any firm, association, or other business entity, including a corporation 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 ~~exempted~~ 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.

[Not shown: renumber Rule 1.4.2 to 1.4.3].

Amendments to Rule 1.6.1 concerning the definition of frequent filing schedule:

1.6 “Frequent filing schedule” means:

- 1.6.1 For state AND SCHOOL DISTRICT DIRECTOR candidates and committees, the filing schedule outlined in sections 1-45-108 (2)(a)(I)(B), (2)(a)(I)(C), (2)(a)(I)(D), and (2)(a)(I)(E), C.R.S.;

[No amendments to Current Rules 1.6.2 and 1.6.3]

Amendments to Rule 1.7 concerning the definition of independent expenditure committee:

- 1.7 “Independent expenditure committee” has the same meaning as set forth in section 1-45-103(11.5), C.R.S. An ~~Independent~~ INDEPENDENT expenditure committee ~~differs from a political committee in that an independent expenditure committee may not directly contribute to a candidate committee or political party and 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.

Amendments to Rule 1.8.1 concerning the definition of infrequent filing schedule:

1.8 “Infrequent filing schedule” means:

- 1.8.1 For a state AND SCHOOL DISTRICT DIRECTOR candidate or committee, the quarterly filing schedule outlined in section 1-45-108(2)(a)(I)(A), C.R.S.; and

[No amendments to Current Rule 1.8.2]

New Rule 1.17 concerning lobbyist principals:

- 1.17 “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.

[Not shown: renumbering Rule 1.17 to 1.18.]

Amendments to Rule 1.18 concerning the definition of public announcement:

- ~~1.18~~-1.19 “Publicly announced an intention to seek election to public office or retention of a judicial office” means:

~~1.18.1~~-1.19.1 Registering a candidate committee; or

~~1.18.2~~-1.19.2 ~~A person has made a statement signifying an interest in, or exploring the possibility of seeking the;~~ ANNOUNCING AN INTENTION TO SEEK PUBLIC OFFICE OR RETENTION OF A JUDICIAL OFFICE THROUGH:

~~1.18.3~~ The statement is made by means of

(A) ~~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; ~~and~~ OR

~~1.18.4~~ (C) A STATEMENT MADE IN A MANNER THAT ~~A~~-A reasonable person would expect the statement to become public.

[Colo. Const. Article XXVIII, Section 2(2)]

[Not shown: renumbering of Rules 1.19 through 1.21.]

Amendments to Rule 2.2.2 through 2.2.4 concerning candidate committees:

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) 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

[No changes to Rules 2.2.4(a)-(b)]

(c) Candidates seeking election to a different office

- (1) A candidate committee may transfer funds to a candidate committee established by the same candidate for a different public office, subject to the political party contribution limit, ~~only if the new office sought has contribution limits that are equal to or greater than the current office, or the new office sought has no contribution limits~~ FOR THE NEW OFFICE SOUGHT. [Colo. Const. Article XXVIII, Section 3]
- (2) CONTRIBUTIONS FROM PERSONS OR COMMITTEES MADE TO THE PRIOR CANDIDATE COMMITTEE DO NOT APPLY TOWARD THE CONTRIBUTION LIMITS FOR THE NEW CANDIDATE COMMITTEE.
- ~~(2)~~(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.
- ~~(3)~~(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.

Rule 2.2.4(d)(1)(A): cross reference update:

- (A) A political party, in an amount not to exceed the limit in Colo. Const. Article XXVIII Section 3(3) (as adjusted by ~~Rule 10.16~~ 10.17);

Amendments to Rule 2.4.3 concerning personal financial disclosures:

- 2.4.3 If a candidate withdraws his or her candidacy by submitting appropriate documentation before filing the disclosure statement required in section 1-45-110(2)(a), C.R.S., the candidate need not file a disclosure statement. Any fines that the candidate accrued before withdrawing ~~will remain in effect~~ MAY BE WAIVED BY THE SECRETARY OF STATE.

Repeal of Rule 4.5 concerning issue committees:

~~4.5 — A matter becomes a ballot measure requiring a committee to register as an issue committee or small-scale issue committee under section 1-45-108(7)(a)(I), C.R.S., after a title has been designated and fixed and any motion for rehearing has been heard.~~

4.6-4.5 For issue committees and small-scale issue committees, the election cycle is a calendar year, beginning January 1 and ending December 31. This rule does not apply to issue committees formed to support or oppose a recall.

Rule 6.2.2, cross reference update:

6.2.2 The party must disclose transfers as “other income” in accordance with Rule ~~10.14~~ 10.15.

Amendments to Rule 10.3 concerning expenditures:

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 ~~made and obligations entered into by a committee~~ 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 ~~made and obligations entered into~~ 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 ~~made and obligations entered into~~ less than \$20 during a reporting period in total as non-itemized expenditures.

[Section 1-45-108(1), C.R.S.]

New Rule 10.7 concerning contributions:

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.

~~10.7-10.8~~ Contributions by anonymous contributor

~~10.7-1-10.8.1~~ A committee may not keep anonymous contributions of \$20 or more.

~~10.7-2-10.8.2~~ Anonymous contributions are contributions where the identity of the contributor or other required reporting information is unknown.

~~10.7-3-10.8.3~~ 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.

[Not shown: renumbering Rules 10.8 through 10.17 to 10.9 through 10.18]

Repeal of Rule 14.4 concerning home rule jurisdictions:

~~14.4~~ Section 1-45-117, C.R.S., applies to home rule counties or home rule municipalities.

Amendments to Rule 17.5 concerning filing calendars and reporting periods:

17.5 Reports for former officeholders ~~or~~, persons not elected to office, AND TERM-LIMITED OFFICE HOLDERS

17.5.1 Annual reporting

- (a) A candidate committee for a candidate not elected to office, ~~or~~ 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 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.]

Amendments to Rule 18.1 concerning penalty waivers:

18.1.1 A request for waiver or reduction of campaign finance penalties imposed under Colo. Const. Article XXVIII, Section 10(2) must state the reason for the delinquency.

- (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) ~~Payment of the penalty for which a waiver has been requested voids the request.~~ THE SECRETARY OF STATE WILL NOT CONSIDER A WAIVER REQUEST AFTER A PENALTY HAS BEEN PAID.

Repeal of Rule 18.1.4 concerning penalty waivers:

~~18.1.4 For waiver requests that apply to more than one penalty, the guidelines will be applied separately to each penalty in chronological order using the single request as the basis for each.~~

~~18.1.5-18.1.4~~ 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 ~~alleged~~-PRESENTED in the original request for reduction or waiver.

[Not shown: renumbering Rules 18.1.6 through 18.1.8 to 18.1.5 through 18.1.7]

Amendments to Rule 18.4 concerning collections:

~~18.4-18.3~~ If the Secretary of State sends an invoice to the state Controller for the collection of a debt in accordance with Colo. Const. Article XXVIII, Section 10 (2) (d), the state Controller may not attempt to collect or collect the debt from a non-candidate registered agent or designated filing agent of a committee. THE SECRETARY OF STATE MAY SEND TO THE STATE CONTROLLER FOR COLLECTION ANY OUTSTANDING DEBT RESULTING FROM A CAMPAIGN FINANCE PENALTY THAT THE SECRETARY DEEMS COLLECTIBLE.

New Rule 18.4 concerning complaints:

18.4 COMPLAINTS CONCERNING MUNICIPAL CAMPAIGN FINANCE MATTERS MUST BE FILED WITH THE MUNICIPAL CLERK.

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 twenty days after publication in the Colorado Register.⁶

Dated this 11th day of July, 2018,



Suzanne Staiert
Deputy Secretary of State

For

Wayne W. Williams
Colorado Secretary of State

⁶ Section 24-4-103(5), C.R.S. (2017).



Statement of Basis, Purpose, and Specific Statutory Authority

Office of the Secretary of State Rules Concerning Campaign and Political Finance 8 CCR 1505-6

July 11, 2018

I. Basis and Purpose

This statement explains amendments to the Colorado Secretary of State rules concerning campaign and political finance.¹ The amendments are intended to ensure uniform and proper administration, implementation, and enforcement of Colorado campaign finance law² as follows:

- Amendments to Rule 1.4 to establish uniformity in the administration of current law.
- Amendments to Rule 1.6.1 to ensure proper administration of HB 18-1047.
- Amendments to Rule 1.7 to ensure proper administration of HB 18-1047.
- Amendments to Rule 1.8.1 to ensure proper administration of HB 18-1047.
- New Rule 1.17 to establish uniformity in the administration of current law.
- Renumbering of Rules 1.18 through 1.21.
- Amendments to Rule 1.19 (formerly Rule 1.18) to establish uniformity in the administration of current law.
- Amendments to Rule 2.2.2 to establish uniformity in the administration of current law.
- Amendments to Rule 2.2.3 to establish uniformity in the administration of current law.
- Amendments to Rule 2.2.4 to establish uniformity in the administration of current law.

¹ 8 CCR 1505-CCR 6.

² Article 45 of Title 1, C.R.S. (2017).

- Amendments to Rule 2.4.3 to establish uniformity in the administration of current law.
- Repeal Rule 4.5 as duplicative of statute.
- Renumbering of Rule 4.6.
- Amendments to Rule 10.3 to ensure proper administration of HB 18-1047.
- New Rule 10.7 to establish uniformity in the administration of current law.
- Renumbering of Rule 10.7.
- Repeal of Rule 14.4 to establish uniformity in the administration of current law.
- Amendments to Rule 17.5 to establish uniformity in the administration of current law.
- Amendments to Rule 18.1.1 to establish uniformity in the administration of current law.
- Repeal Rule 18.1.4 to establish uniformity in the administration of current law.
- Amendments to Rule 18.1.4 (formerly Rule 18.1.5) to clarify language.
- New Rule 18.4 to establish uniformity in the administration of current law.

Other changes to rules not specifically listed are non-substantive and necessary for consistency with Department rulemaking format and style. Cross-references in rules are also corrected or updated.

On May 16, 2018, 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: www.sos.state.co.us/pubs/rule_making/CPFRuleComments.html and are incorporated into the official rulemaking record.

II. Rulemaking Authority

- Article XXVIII, Section 8 of the Colorado Constitution, which requires the Secretary of State to “promulgate rules related to filing in accordance with article 4 of title 24, C.R.S.”
- Article XXVIII, Section 9(1)(b) of the Colorado Constitution, which requires the Secretary of State to “[p]romulgate such rules, in accordance with article 4 of title 24, C.R.S., or any successor section, as may be necessary to administer and enforce any provision of [Article XVIII of the Colorado State Constitution].”

- Section 1-1-107(2)(a), C.R.S., (2017), which authorizes the Secretary of State “[t]o promulgate, publish, and distribute...such rules as the secretary of state finds necessary for the proper administration and enforcement of the election laws.”