



May 15, 2015

Honorable Wayne Williams
Secretary of State of Colorado
1700 Broadway, Suite 250
Denver, CO 80290

Re: Notice of Proposed Rulemaking; Campaign and Political Finance, 8 C.C.R. 1505-6.

Dear Secretary Williams:

Colorado Ethics Watch (“Ethics Watch”) is a nonpartisan, nonprofit watchdog group dedicated to ethics, transparency, and clean elections at the state and local level in Colorado. Ethics Watch respectfully submits these comments on the April 15, 2015 Notice of Proposed Rulemaking for Campaign and Political Finance Rules.

Overall, Ethics Watch supports the proposed rules, including the removal of provisions struck down in court decisions and the changes incorporated after the public comment period on the March Working Draft.

Ethics Watch supports the complete deletion of **Former Rules 1.7 and 1.10**, and the proposed revisions to **New Rules 1.9, 1.16, 7.2 and 10.17**, pursuant to the Colorado Court of Appeals decision in *Colorado Ethics Watch, et al. v. Gessler*, 2013 COA 172M. In addition, Ethics Watch supports the removal of **Former Rule 4.1** pursuant to the Colorado Supreme Court decision in *Gessler v. Colorado Common Cause et al.*, 2014 CO 44.

The proposed rules also include revisions to certain provisions in the working draft discussed in the Ethics Watch comments on the working draft. Ethics Watch supports the revisions to **New Rule 1.10 (definition of “limited liability company”), New Rule 10.6 (excessive contributions), and New Rule 14.3 (political parties and local elections)** which appear to remedy the possibly confusing implications of the working draft versions of these rules. Ethics Watch also supports the revised **New Rule 10.17 (Major Contribution Reports)** which no longer includes proposed exemptions to the requirement to file major contribution reports discussed in the working draft.

Ethics Watch recommends clarifying in **New Rule 10.12 (loans to candidates)** to state that loans to candidate committees must be reported. Although loans are included in the Colo. Const. art. XXVIII, § 2(5)(a) definition of “contribution”, the constitution excepts loans from the contribution limits of art. XXVIII § 3. The proposed rules’ deletion of former Rule 10.10.1 could cause confusion as to how and whether or not to report loans on candidate committee reports.

Finally, Ethics Watch supports the revisions made to **Rule 11.1 (electioneering communications disclosure)**. While the working draft deleted former Rule 11.1 in its entirety, the proposed rules clarify that corporations and labor organizations are considered “persons” subject to electioneering communication disclosure requirements. Both the constitutional provision for electioneering communication disclosure at Colo. Const. art. XXVII, § 6 and the statutory requirement for disclosure at C.R.S. § 1-45-108(1)(a)(III) were enacted prior to the U.S. Supreme Court decision in *Citizens United v. FEC*, 558 U.S. 310 (2010). Disclosure of electioneering communications by corporations and labor organizations was not contemplated in these provisions because such spending was banned. In the post-*Citizens United* world, Rule 11.1 provides guidance to corporations and labor organizations that funds must be reported pursuant to C.R.S. § 1-45-108(1)(a)(III).

We appreciate this opportunity to comment in the rulemaking process.

Sincerely,

A handwritten signature in blue ink that reads "Peg Perl". The signature is written in a cursive, flowing style.

Peg Perl
Senior Counsel