

## SECRETARY OF STATE

### RULES CONCERNING CAMPAIGN AND POLITICAL FINANCE

[8 CCR 1505-6]

#### **Rules**

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#### 1. **Definitions**

- 1.1 “Business Activities”. For the purposes of Article XXVIII, Section 3(4)(b)(I) and Rule 4.13 of these rules:
  - a. “Business activities” means any commercial activity involving the sale or exchange of goods or services, whether or not for profit, and any activity conducted for the production of revenue, other than the solicitation of voluntary donations.
  - b. “Cannot engage in business activities,” means that the articles of incorporation and by-laws, either expressly or implicitly, prohibits the corporation from engaging in any business activities.
- 1.2 “Contribution in support of the candidacy” shall include all contributions given directly or indirectly for a specific public office, including those to a person who maintains a candidate committee after an election cycle, but who has not publicly announced an intention to seek election to public office in the next or any subsequent election cycle. [Article XXVIII, Section 2(2)]
- 1.3 “Contribution” does not include an endorsement of a candidate or an issue by any person.
- 1.4 “Corporation”, as used in Article XXVIII only, means a domestic corporation incorporated under and subject to the “Colorado Business Corporation Act”, Articles 101 to 117 of Title 7, C.R.S., a domestic nonprofit corporation incorporated under and subject to Articles 121 to 137 of Title 7, C.R.S., or any corporation incorporated under and subject to the laws of another state or foreign country.

- 1.5 “Foreign Corporation”, as used in Article XXVIII, Section 3(12)(c), means a corporation organized under the laws of another country. The term does not apply to a corporation organized under the laws of another state.
- 1.6 “Issue committee”
- a. “Issue committee” does not include a married couple.
  - b. A person or group of persons is an issue committee only if it meets both of the conditions in Article XXVIII, Section 2(10)(a)(I) and 2(10)(a)(II).
- 1.7 “Person”.
- a. A “natural person” is a human being.
  - b. For the purpose of Article XXVIII, Section 7, “person” shall mean any natural person.
- 1.8 “Per year” means “per calendar year”.
- 1.9 “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 in a political party.
- 1.10 “Publicly announced an intention to seek election to public office or retention of a judicial office” means that a person has made a statement signifying an interest in the office by means of a speech, advertisement, or other communication reported or appearing in public media or in any place accessible to the public. Such statement includes a stated intention to explore the possibility of seeking an office. The registration of a candidate committee shall also constitute a public announcement of an intention to seek election or retention. [Article XXVIII, Section 2 (2)]
- 1.11 A registered agent or a committee or party treasurer for the purposes of Title 1, Article 45, shall be an individual or candidate designated to receive mailings and to address concerns and/or questions regarding the candidate committee, the political committee, the small donor committee, the issue committee, or the political party. [1-45-108(3)(b) and 1-45-109(4)(b)]
- 1.12 “Signature”, for purposes of any report filed electronically with the secretary of state, means the committee’s identification number, and “signing”, means the electronic transmission of the committee’s identification number to the secretary of state with the report being filed.
2. **Committee Registration**
- 2.1 When a committee registration form is received by the secretary of state’s office, an identification number will be assigned and a letter of acknowledgement will be sent to the registered agent on file informing him/her of the identification number. [1-45-108(3) through (6)]
- 2.2 A candidate may serve as the candidate committee’s registered agent or appoint someone to be the registered agent. The candidate and the registered agent shall sign the candidate committee registration form, and only the registered agent or the candidate may sign the contribution and expenditure report. [1-45-108(3)(b)]

- 2.3 A registered agent resigning from a political committee, issue committee, small donor committee, or political party shall file a letter of resignation with the secretary of state and the committee or party via certified mail. The letter of resignation to the secretary of state shall include the certified mail receipt number sent to the committee or party. In accordance with Rule 3.1, the committee or party shall file an amended committee registration form within five days of such change. [1-45-108(3)(b)]
- 2.4 The purpose or nature of interest of the committee or party shall be included. A candidate committee shall identify the specific elective office sought upon registration. A political committee or small donor committee shall identify the candidates being supported or opposed.
- 2.5 An issue committee may support or oppose more than one issue without having to open numerous campaign accounts and file numerous committee registration forms if the following conditions are met: the specific issues are included on the committee registration form; no generic phraseology is used (i.e.: Support or oppose issues affecting the basic rights of cattle); and the registration form states whether the committee will be supporting or opposing said issues. [Article XXVIII, Section 2(10)(a)(I) and (2)(10)(a)(II)]
- 2.6 Issue committees shall not contribute to political parties, political committees or candidate committees. An issue committee shall not contribute to other issue committees that do not support or oppose issues supported or opposed by the issue committee making the contribution. [Article XXVIII, Section 2(10)(b)]
- 2.7 Political committees shall not contribute to issue committees. In addition, political committees shall not contribute to other political committees that do not support or oppose candidates supported or opposed by the political committee making the contribution. [Article XXVIII, Section 2(12)(a)]
- 2.8 A political committee that is subject to reporting pursuant to both section 1-45-108 and the “Federal Election Commission Act of 1971” may file with the appropriate officer a copy of the registration filed with the federal election commission and, insofar as such registration contains substantially the same information required by subsection (3) of C.R.S. 1-45-108, the political committee shall be considered to have registered with the appropriate officer for purposes of subsection (3) of C.R.S. 1-45-103. The political committee shall not be required to file disclosure reports if copies of the reports required to be filed with the Federal Election Commission pursuant to the “Federal Election Commission Act of 1971”, as amended, are filed with the appropriate officer or are electronically available in the office of the appropriate officer and if such reports include the information required by C.R.S. 1-45-108.
- 2.9 A corporation or labor organization may establish both a political committee and a small donor committee. Each committee is subject to the individual contribution and expenditure limits for that committee. [Article XXVIII, Section 2(14)(b)]
- 2.10 In accordance with the procedures set out in the “State Administrative Procedures Act” (Article 1 or Title 24, Colorado Revised Statutes), the secretary of state may close an inactive committee after two years of non-reporting. [Article XXVIII, Section 2(3), and C.R.S. 24-4-105]

3. **Responsibilities of Candidate Committees, Issue Committees, Political Committees, Small Donor Committees and Political Parties**

- 3.1 Whenever any of the information disclosed on the committee registration form changes, the change must be reported within five days by filing an amended committee registration form with the secretary of state. When filing an amendment to the committee registration form, a new form should be completed that includes any updated information. The form must be signed by the registered agent, and, if for a candidate committee, the candidate must also sign the form. [1-45-108(3)]
- 3.2 Any political committee that has registered with the Federal Election Commission, and filed a copy of the registration filed with the Federal Election Commission with the appropriate officer, may terminate its active status with the appropriate officer if the committee submits a letter of termination. A termination letter may be filed at any time.
- 3.3 A candidate committee that changes elective office sought shall terminate the existing candidate committee and register a new candidate committee not later than ten days after such change. If the new elective office is for a state candidate, then all contributions received shall be subject to contribution limits and restrictions set forth in Article XXVIII, Section 3 for the new office.
- 3.4 A committee may terminate if the following conditions are met: the candidate or committee no longer intends to receive contributions or make expenditures; a zero balance is achieved by having no cash on hand and no outstanding debts or obligations; and the candidate or committee files a termination statement of contributions and expenditures. A termination statement may be filed at any time. [Article XXVIII, Section 2(3) and 1-45-106]
- 3.5 A political committee may change status to a small donor committee without terminating the political committee if the political committee has never accepted contributions over the amount of \$50 per natural person per year.
- 3.6 Unexpended campaign contributions to a candidate committee may be contributed to a candidate committee established by the same candidate for a different public office, subject to the limitations set forth in Article XXVIII, Section 3(3)(e), if the candidate committee making such a contribution is affirmatively closed by the candidate no later than ten days after the date such a contribution is made.
- 3.7 Unexpended campaign contributions to local candidate committees may not be contributed to a state candidate committee.

4. **Disclosure – Contributions and Expenditures**

- 4.1 All committees must keep a record of all contributions. All contributions received of \$20 or more during a reporting period shall be listed individually on the contribution and expenditure report. All other receipts and contributions under \$20 may be reported in total as non-itemized contributions for the reporting period. [1-45-108(1)]
- 4.2 When filing an amended report of contributions and expenditures, a new form shall be completed that includes the cover page of the report of contributions and expenditures, the detailed summary page, and any updated schedules listing only the amended information. [C.R.S. 1-45-109(4)(b)]

- 4.3 Contributions – when counted.
- a. A contribution is considered made or received as of the date that it is accepted by the committee or party. In the case of a contribution by check, the date accepted is the date that the check is deposited into the committee’s or party’s account.
  - b. However, for purposes of section 1-45-105.5, concerning contributions by lobbyists to certain state officers and candidates when legislation is under consideration, a contribution is considered made or promised when possession of the check is transferred to any person not under the control of the issuer.
- 4.4 All committees must keep a record of all expenditures. All expenditures made of \$20 or more during a reporting period shall be listed individually on the contribution and expenditure report. All other expenditures under \$20 during a reporting period may be reported in total as non-itemized expenditures. [1-45-108(1)]
- 4.5 All loans received by a committee or party must be reported continuously until repaid. [Article XXVIII, Section 3(8)]
- 4.6 Contributions by candidate – voluntary spending limits.
- a. Contributions to a candidate’s own committee by a candidate who does not accept voluntary spending limits shall not be subject to the contribution limits of Article XXVIII, Section 3.
  - b. Contributions to a candidate’s own committee by a candidate who does accept voluntary spending limits shall be counted toward the limit on political party contributions set forth in Article XXVIII, Section 3(3)(d), and Section 4(2).
- 4.7 Pursuant to the decision of the United States Supreme Court in the case of *Buckley v. American Constitutional Law Foundation, Inc.*, 520 U.S. 182, 119 S.Ct., 636 (1999), an issue committee that makes an expenditure of \$20 or more in payment to a petition circulator is not required to disclose the name of the paid circulator. Instead, it is sufficient to list “payment to petition circulator” and the date and amount of the payment. [1-40-121(1)]
- 4.8 Candidate committees may share expenditures for costs of brochures, offices, office equipment, etc. if each candidate committee pays for its proportionate cost of the expense. If one candidate committee pays the entire cost, the reimbursement by the other candidate committee(s) shall be made within thirty (30) days. Such reimbursement is not a “contribution” from one committee to the other; it shall be reported as an expenditure by the reimbursing committee and as a returned expenditure by the reimbursed committee. If sharing expenditures results in a price discount based on volume or quantity, such discount shall not be considered a “contribution”.
- 4.9 Any contributions received in excess of contribution limits shall be returned to the contributor within thirty (30) days.
- 4.10 If occupation and employer information as required by Article XXVIII, Section 7 is not provided, and the committee is unable to gather the information within 30 days after receipt of the contribution, the contribution shall be returned to the contributor no later than the 31<sup>st</sup> day after receipt.

- 4.11 The following rules relate to Article XXVIII, Section 3(3)(e), concerning the counting and reporting of unexpended campaign contributions retained for use in a subsequent election cycle.
- a. A candidate committee shall not list such retained amounts expressly on disclosure reports as “contributions from a political party” or as contributions from any specific political party.
  - b. If the amount retained is less than the limit on contributions from a political party specified in Section 3(3)(d), then the total of all political party contributions to the candidate committee during the subsequent election cycle shall not exceed the difference between the amount retained and the limit on political party contributions. At such time as the total amount of all political party contributions to the candidate committee during the subsequent election cycle equals or exceeds the difference between the retained amount and the limit on political party contributions, then any subsequent or additional contribution by a political party to the candidate committee during the subsequent election cycle shall constitute a violation of Section 3(3)(d).
- 4.12 For purposes of complying with the requirement of Article XXVIII, Section 5, that a notice of independent expenditure include “a detailed description of the use of such independent expenditure”, such notice is sufficient if it includes an identification of the payee of the expenditure, the medium used for the communication, the date or dates for broadcast, delivery, or publication of the communication, and either the complete written text or transcript of the communication produced by the expenditure or a summary of the major points contained within the communication.
- 4.13 Article XXVIII, Section 6(2), concerning funding by corporations and labor organizations for electioneering communications, shall not apply to any corporation that:
- a. Was formed for the purpose of promoting political ideas and cannot engage in business activities;
  - b. Has no shareholders with a claim on its assets or other income; and
  - c. Was not established by, and does not accept contributions from business corporations or labor organizations.
- 4.14 A candidate who does not accept contributions but who expends money for campaign purposes shall file disclosure reports in accordance with sections 1-45-108 and 1-45-109.
- 4.15 Membership dues transferred to small donor committees
- a. Membership organizations transferring a portion of a member’s dues to a small donor committee shall provide the small donor committee with the member’s name, address, amount of dues transferred, and the date of the dues transfer.
  - b. A small donor committee shall keep records of all contributions received in the form of membership dues transferred by a membership organization to the small donor committee. Such records shall include each contributing member’s name, address, and amount of the dues transferred. [C.R.S. 1-45-108(1)(a)(I)]

- c. A small donor committee shall itemize and report the name and address of each person who has contributed \$20 or more in a reporting period, including but not limited to contributions received in the form of membership dues transferred by a membership organization to the small donor committee. [C.R.S. 1-45-108(1)(a)]

5. **Filing Dates and Reporting Periods**

- 5.1 Quarterly reporting periods close on the last day of the month. The report shall be filed on or before April 15<sup>th</sup>, July 15<sup>th</sup>, October 15<sup>th</sup> and January 15<sup>th</sup> - following each calendar quarter. If the filing deadline falls on a Saturday, Sunday, or legal holiday, the filing deadline is the next business day. [1-45-108(2)(a)]
- 5.2 Monthly reporting periods close five calendar days prior to the last day of the month. The report shall be filed on or before 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 shall be filed, and the biweekly report shall serve as the monthly report. [1-45-108(2)(a) and (c)]
- 5.3 The reporting period for biweekly reports required by section 1-45-108(2)(a)(I)(B) and (D) closes on the Wednesday preceding the due date. If the filing deadline falls on a Saturday, Sunday, or legal holiday, the filing deadline is the next business day. [1-45-108(2)(a)]
- 5.4 The post-election reporting period closes on the last day of the calendar month in which the election was held. The report shall be filed on or before the 30<sup>th</sup> day following the election. If the filing deadline falls on a Saturday, Sunday, or legal holiday, the filing deadline is the next business day. [1-45-108(2)(a)]
- 5.5 Reports filed electronically.
  - a. Reports filed electronically are due two days after the due date for reports filed manually, after taking into account any extension of the due date of a manually filed report because the filing deadline falls on a Saturday, Sunday, or legal holiday. If the filing deadline for a report filed electronically falls on a Saturday, Sunday, or legal holiday, the deadline is not extended to the next business day. Reports filed electronically before midnight shall be considered filed on that day.
  - b. If the electronic filing system is unavailable for filing for a total of more than one hour after 4:00 p.m. on the due date for electronically filed reports, the secretary of state may extend the due date for an additional day. [1-45-108(2.3), 1-45-109(6)]
- 5.6 The reporting period for any quarterly, monthly, or biweekly report begins on the first day following the last day of the reporting period for the previous report filed with the secretary of state. [1-45-108(2)(c)]
- 5.7 Special district elections.
  - a. For reports relating to special district elections that are required to be filed with the county clerk and recorder, reports shall be required only on the 21<sup>st</sup> day prior to, and on the Friday prior to, and on the 30<sup>th</sup> day after the date of the regular election.

- b. Reports relating to special district elections that are required to be filed with the secretary of state shall be subject to quarterly, monthly, and biweekly reporting as provided in section 1-45-108(2)(a)(I) if the major elections for such special district occur on the date of the general election. If the major elections for such special district occur at any other time, then reports shall be required only on the 21<sup>st</sup> day prior to, on the Friday prior to, and on the 30<sup>th</sup> day after the date of the regular election.
- 5.8 The reporting period for any report that is required to be filed with the county clerk and recorder shall close five calendar days prior to the date that the report is due.
  - 5.9 For purposes of section 1-45-108(2)(d), which exempts a candidate committee for a former officeholder or person not elected to office from reporting if there is no change in the balance of funds maintained by such committee and if certain other conditions are met, 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 such candidate committee to the reporting requirements of section 1-45-108, except that such candidate committee shall file an annual report for each calendar year not later than January 15<sup>th</sup> of the following year. Candidate committees that choose this option must notify, in writing, the appropriate filing officer of their intent. [1-45-108(2)(c) and (2)(d)]
  - 5.10 If a required report is not filed by 11:59 PM on the due date for electronic filing, then the daily penalty imposed pursuant to Article XXVIII, Section 10(2)(a) shall begin on the day following the due date for reports filed manually.
  - 5.11 County political party organizations shall file required reports pursuant to section 1-45-108 (2)(a)(II) with the county clerk and recorder for their jurisdiction. State political party organizations shall file required reports pursuant to section 1-45-108 with the secretary of state.

6. **Violations and Complaints**

- 6.1 If the appropriate officer, as defined in Section 2(1) of Article XXVIII, discovers a possible violation of Article XXVIII or Title 1, Article 45, and no complaint alleging such violation has been filed with the secretary of state pursuant to Article XXVIII, Section 9(2)(a), then the appropriate officer shall:
  - a. Provide the person believed to have committed the violation with written notice of the facts or conduct that constitute the possible violation, and
  - b. Allow seven business days to correct the violation or to submit written statements explaining the reasons that support a conclusion that a violation was not committed.
- 6.2 If, within the time allotted pursuant to Rule 6.1, the person fails to correct the violation or to offer a satisfactory explanation, then the appropriate officer may file a complaint pursuant to Article XXVIII, Section 9(2)(a).
- 6.3 A written complaint filed with the secretary of state pursuant to Article XXVIII, Section 9(2)(a) shall include the following: the name, address, and signature of the complainant; the name and address of each respondent alleged to have committed a violation; and the particulars of the violation. A complaint may be submitted by fax or electronic mail if a signed original is received by the secretary of state no later than five calendar days thereafter. If the complaint is complete, the secretary of state shall promptly transmit the complaint to the Division of



Administrative Hearings in the Department of Personnel and Administration for the consideration by an administrative law judge, which will notify the respondents of the filing of the complaint and which will issue all other appropriate notices to the parties. [Article XXVIII, Section 9(2)(a)]

7. **Applicability of Constitutional and Statutory Provisions to Local Offices and Home Rule Elections**

- 7.1 The requirements of Article XXVIII of the State Constitution and of Article 45 of Title 1, Colorado Revised Statutes, shall 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 Article XXVIII or Title 1, Article 45.
- 7.2 The provisions of Section 3(4) of Article XXVIII of the State Constitution relating to contributions and expenditures of corporations and labor unions apply to elections to every state and local public office, except local public offices in home rule counties or home rule municipalities that have adopted charters, ordinances, or resolutions that address any of the matters covered by Article XXVIII or Title 1, Article 45.
- 7.3 The provisions of section 1-45-105.5, relating to a prohibition on lobbyist contributions to members of the General Assembly during legislative sessions, apply to members of the General Assembly who are candidates for any state or local office, including any office in home rule municipalities that have adopted charters, ordinances, or resolutions that address any of the matters covered by Article XXVIII or Title 1, Article 45.
- 7.4 A political party, as defined in Section 2(13) of Article XXVIII of the State Constitution, at the level of a home rule county or home rule municipality that has adopted a charter, ordinance, or resolution that addresses any of the matters covered by Article XXVIII or Title 1, Article 45, may establish a separate account that is used solely for contributions made to the party, and expenditures made by the party, for the purpose of supporting the party's county or municipal candidates for offices within the county or municipality. Contributions to and expenditures from such account shall not be included for purposes of any limitations or reporting contained in Article XXVIII or Title 1, Article 45.

8. **Candidate Affidavits from Special District Director Candidates**

- 8.1 The special district designated election official or, as applicable, the presiding officer or the secretary of the board of directors, under section 32-1-804.3(5), C.R.S., shall provide to the county clerk and recorder of the county in which the district court having jurisdiction over the special district pursuant to section 32-1-303, C.R.S., is located. Either a list of the board of director candidates, or the self-nomination and acceptance forms and letters, and affidavits of intent to be a write-in candidate, within ten days of their filing with the designated election official, presiding officer, or secretary as applicable.
- 8.2 If a candidate for a special district office fails to file a candidate affidavit, or the filed self-nomination and acceptance form or letter, or the affidavit of intent to be a write-in candidate does not contain the statement required by section 1-45-110(1), C.R.S., the county clerk and recorder shall mail the special district a copy of the notification to the candidate regarding pending disqualification sent pursuant to section 1-45-111(3).

8.3 The clerk and recorder's receipt of the self-nomination and acceptance form or letter or the affidavit of intent to be a write-in candidate shall be deemed to be filed by the candidate; provided, however, that nothing in this rule shall be deemed or construed to impose any duty on a designated election official, presiding officer, or secretary to file any document on behalf of any candidate or to relieve any candidate of any obligation to file any document required by the fair campaign practices act, article XXVIII, or other law.

**9. Electioneering Communications**

9.1 All entities must keep a record of all contributions received for electioneering communications. All contributions received, including non-monetary contributions, of two hundred and fifty dollars or more, during a reporting period shall be listed individually on the electioneering report. [Article XXVIII, Sec. 6(1)]

9.2 All entities must keep a record of all expenditures made for electioneering communications. All expenditures of one thousand dollars or more per calendar year including name, address and method of communication, shall be listed individually on the electioneering report. [Article XXVIII, Sec. 6(1)]

9.3 The name of the candidate(s) unambiguously referred to in the electioneering communication shall be included in the electioneering report. [Article XXVIII, Sec. 2(7)(I)]

9.4 The unexpended balance shall be reported as the ending balance throughout the election cycle. Unexpended balances from the final report filed thirty days after the applicable election shall be reported as the beginning balance in the next election cycle.

10.3 **Expired 01/31/2006**