

Colorado Campaign and Political Finance Manual



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BERNIE BUESCHER
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Using the Campaign and Political Finance (CPF) Manual

This manual provides guidelines and helpful tips for proper compliance with the law. It is also a very useful guide to conducting research. You may wish to begin at the end – with the Appendix – and read Article XXVIII, CPF/FCPA (Campaign and Political Finance/Fair Campaign Practices Act) statutes, and the Rules Concerning Campaign and Political Finance.

In this manual, the Colorado Constitution may be referred to as the Constitution, or we may refer just to Article XXVIII (also known as Amendment 27). Title 1 Article 45 of the Colorado Revised Statutes (C. R.S.) may be referred to simply as C.R.S., and “Rule” refers to the Rules Concerning Campaign and Political Finance. TRACER refers to the Secretary of State’s online campaign finance filing system, accessible at <http://tracer.sos.colorado.gov>.

REMEMBER: You must read Article XXVIII of the Colorado Constitution; Colorado Revised Statute (C.R.S.) Title 1, Article 45 and the accompanying Rules Concerning Campaign and Political Finance to fully understand Colorado Campaign and Political Finance procedures and requirements.

NOTICE

This manual was created for reference and training purposes only and should not be used as a substitute for legal advice and actual knowledge of the campaign finance laws and regulations.

A NOTE ABOUT HOME RULE

Home ruled counties and municipalities (those that have adopted their own charter and local ordinances) may not be subject to state campaign finance law. If you are a candidate in a home rule county or municipal election, please consult the county or municipal offices for information about applicable campaign finance laws. Statutory counties and municipalities are subject to state campaign finance law.

Contacting the Campaign Finance Support Team

Phone: (303) 894-2200 ext. 6383
Email: cpfhelp@sos.state.co.us
Fax: (303) 869-4861
Address: 1700 Broadway Suite 200
Denver, CO 80290
Web: www.sos.state.co.us
TRACER: <http://tracer.sos.colorado.gov>

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References: Article XXVIII, Colorado Constitution; Title 1 Article 45, C.R.S.; and Rules Concerning Campaign and Political Finance Reference 1

PART ONE:

Candidates and Candidate Committees

BECOMING A CANDIDATE

You become a candidate when you publicly announce your intent to run for office *and thereafter* receive a contribution or make an expenditure in support of your candidacy.

Public announcement includes, but is not limited to, making a statement signifying an interest in a public office by means of a speech, advertisement, or other communication reported to or appearing in public media or any place that is accessible to the public. This also includes a stated intention to explore the possibility of seeking an office and/or the registration of a candidate committee.

Documents and Where to File

Once you become a candidate for public office, you must file a *candidate affidavit* with the appropriate filing office within 10 days of your public announcement that you will seek election or retention. The affidavit must be notarized. A *personal financial disclosure statement* is required to be filed for state candidates, except for Regional Transportation District (RTD) candidate, within 10 days of filing the candidate affidavit.

If you are running for state office, including Attorney General, CU Regent, District Attorney, Governor, Secretary of State, State Board of Education, State House of Representatives, State Senate, and Treasurer for the State of Colorado, you must file your candidate affidavit and personal financial disclosure statement with the Secretary of State.

If you are a state candidate and you choose to accept voluntary spending limits, you must file your acceptance with your candidate affidavit. See Art. XXVIII Sec. 4(3) and the relevant section of this manual.

If you are running for a county office—including Assessor, Coroner, County Clerk and Recorder, County Treasurer, Sheriff, Surveyor, as well as candidates running in special district elections or for school

board—you must also file your candidate affidavit with the Secretary of State, but no personal financial disclosure statement is required.

Candidates in **municipal elections** file with the municipal clerk of the applicable municipality.

Please refer to our website at www.sos.state.co.us for the qualifications required of candidates for each office.

CANDIDATES WITHOUT COMMITTEES (STANDALONE CANDIDATES)

Standalone candidates are those candidates who do not have a candidate committee. You do not need a candidate committee if you *will not* seek or accept contributions during your candidacy (you will only be spending your own money).

Standalone candidates must report all expenditures to the appropriate filing officer (the Secretary of State or the municipal clerk, depending on the office sought).

Expenditures of \$20 or more must be itemized on disclosure reports. Itemization means listing each contribution individually with the name and address of the contributor.

Candidates who make no expenditures are not required to file disclosure reports, but are encouraged to file reports in the interest of full disclosure to the public.

Standalone candidates are no longer considered candidates upon losing the race or election to office. These individuals do not need to take affirmative action to end their candidacy. Candidates wishing to exit the race prior to the election must submit a written withdrawal. All candidates or former candidates must file disclosure reports for any reporting periods in which they made expenditures.

CANDIDATE COMMITTEES

A candidate committee is a group of people that accepts contributions or makes expenditures under the authority of the candidate, and includes the candidate. A candidate may have *only one* candidate committee.

If you will accept any contributions in furtherance of your candidacy, you *must* have a candidate committee. Your committee must be registered with the appropriate office *before* you accept contributions.

If you are considering running for office, you, your agent, fundraisers, and campaign manager should become familiar with the requirements of Article XXVIII of the Colorado Constitution, Title 1, Article 45, C.R.S., and the Rules Concerning Campaign and Political Finance.

Registering your Committee

Candidate committees must be registered with the appropriate filing office, and must register *before* accepting contributions or making expenditures.

All committees who register with the Secretary of State may do so electronically. To register a candidate committee, go to www.sos.state.co.us and click the link for the online campaign finance filing system, TRACER. You will need a committee name (usually including the name of the candidate, such as Jane Doe for House District 1), physical and mailing addresses, a description of your committee's purpose, your party affiliation (for partisan elections), the details of the political race, and financial information including the name of the bank where the committee has or will have an account. You also need to designate a registered agent who acts as the committee's representative.

Note: a governor candidate and lieutenant governor candidate, who run together, may have only one, combined committee. They may not maintain separate candidate committees.

Registered Agents

All committees must have a registered agent.

The registered agent is like a treasurer – he or she keeps track of all contributions and expenditures, and can file the committee's reports. The registered agent has important duties, and access to all of the committee's financial information. Much of the communication from the Secretary of State is directed to the registered agent via email. The candidate may serve as the registered agent for his or her candidate committee, or may appoint someone else to serve.

Either the candidate or the registered agent may complete and submit the Committee Registration or Reports of Contributions and Expenditures.

A person is designated as the registered agent by being listed on the committee registration form.

The registered agent can be replaced only by formally resigning, or if the committee files an amended registration. To resign, a registered agent must file a resignation letter with the appropriate filing officer via certified mail. Please see Rule 2.3 for more information.

Amending your Committee Registration

Any changes to your committee registration information—including address, phone, email, registered agent, or purpose—must be reported *within five days of the change*. Amendments can be filed using the online campaign finance filing system, TRACER, or by completing and submitting a paper Committee Registration form. Municipal candidates must use the paper form.

Terminating your Committee

Candidates continue to be considered candidates for office as long as they have an open candidate committee. Disclosure is required until a committee is terminated. Committees can only be terminated by filing a termination report that reflects a zero balance.

Reports must be filed as long as your committee remains open. Penalties of \$50 per day (including weekends and holidays) will be imposed for reports not filed timely.

A committee which has a loan or outstanding debt cannot be terminated until the loan or debt has been paid and the committee has reached a zero balance.

Inactive candidate committees *must* terminate after nine years. Inactive candidates are those who are not seeking access to the ballot in an upcoming election.

Relevant laws and rules for Candidate Committees

Definitions	Art. XXVIII, Sec. 2
Registration and amendments	1-45-108(3), C.R.S.; Rule 3.1
Disclosure requirements	1-45-108, 1-45-109, C.R.S.; Rule 4
Deposits and records	Art. XXVIII Sec. 3(9); Rule 4
Filing dates	1-45-108(2), C.R.S.; Rule 5
Contribution limits	Art. XXVIII, Sec. 3; 1-45-103.7, C.R.S.; Rule 12
Unexpended campaign contributions	Art. XXVIII, Sec. 2(15); 1-45-106, C.R.S.
Terminating	Rule 3.4
Inactive candidate committees	1-45-106 (1)(a)(III), C.R.S.
Sanctions	Art. XXVIII, Sec. 10

CONTRIBUTIONS AND EXPENDITURES

All contributions to and all expenditures made by a candidate committee must be reported to the appropriate filing office (the Secretary of State for all candidates except those in municipal elections). For standalone candidates, all expenditures must be reported.

Candidate committees for special district elections must file reports once the committee has accepted or spent \$20.

Filing dates and reporting periods vary depending on the office sought. Campaign finance filing calendars can be found on the Secretary of State website at www.sos.state.co.us. Penalties of \$50 per day will be imposed for late filings.

All contribution and expenditure reports must be filed electronically using TRACER, with the exception of reports filed by municipal candidates, who file reports with the applicable municipal clerk.

Contributions and Contribution Limits for Candidates and Candidate Committees

Remember that you *must* register a committee prior to accepting contributions. All contributions made to a candidate committee must be reported to the appropriate filing office.

All contributions of \$20 or more, including non-monetary (in-kind) contributions, must be itemized on your contribution and expenditure reports. Itemization means listing each contribution individually with the name and address of the contributor.

All contributions of \$100 or more must include the occupation and employer of the contributor (this includes non-monetary contributions). Contributions may be made by cash, check, money order, credit card, EFT, etc.; but no contribution over \$100 may be made in cash or coin.

In kind donations of goods or services (non-monetary contributions) are considered contributions, and must be reported. Non-monetary contributions count against contribution limits.

Contributions include anything of value given directly or indirectly to a candidate “for the purpose of promoting the candidate’s nomination, retention, recall, or election.”

Contributions from natural persons made by check are considered to be from the person who signed the check (however, the check should never come from a corporate account).

A contribution made by check is considered “received” on the date the check is deposited into the committee account.”

Volunteer services by an individual are not considered contributions. This includes volunteers who donate time to the campaign at no charge. Keep in mind that donated services that are not time-based may be subject to disclosure and contribution limits.

No person shall act as a conduit for a contribution to a candidate committee.

Prohibited Contributions

Candidates and candidate committees may not accept contributions from:

- ◆ Corporations
- ◆ Foreign citizens, foreign corporations, or foreign governments
- ◆ Another candidate committee (local, state, or federal)
- ◆ Lobbyists, principals of lobbyists, or political committees who retain a lobbyist, when the General Assembly is in session, if you are a member of or candidate for the General Assembly (State Senate or State House of Representatives) or Executive Office (Governor, Lt. Governor, Secretary of State, Attorney General, and State Treasurer).
- ◆ Limited Liability Companies (LLCs), *if* any of the LLC members are:
 - Corporation or labor organization
 - Natural person who is not a U.S. Citizen
 - Foreign government
 - Professional, volunteer lobbyist, or a principal of a lobbyist prohibited from contributing by 1-45-105.5(1), C.R.S.
 - Contributions are prohibited from LLCs that elect to be treated as corporations by the I.R.S., or from LLCs with shares that are publicly traded.

Permissible LLC contributions are subject to the following requirements:

- ◆ The LLC must provide the candidate or committee with a written affirmation statement that the contribution is permitted by law. (The Secretary of State’s office has a sample form on its website, or the LLC may create a form.)
 - Affirmation must include name & address of all LLC members.
 - Information on how to attribute the contribution among the LLC members.
 - The attributed amount shall reflect the capital the member has invested in the company at the time the contribution is made (percentage of ownership).

→ If amount attributed to an LLC member is \$100 or more then occupation and employer information for that member must also be provided.

- ◆ The committee must:
 - Retain affirmation statement for 1 year after the end of the election cycle.
 - Itemize LLC contributions regardless of amount.
 - List the individual LLC member’s name as the contributor followed by the name of the LLC in parenthesis. Example: John Doe (xyz LLC).

Limits

Major party candidates may accept contributions for both the primary and general election. Contribution limits apply once for the primary election and again for the general election.

Note: A candidate committee may accept and expend contributions for the primary and general election at any time during the election cycle.

Unaffiliated and minor party candidates who do not appear on a primary election ballot may only accept contributions for the general election.

Minor party candidates may only accept contributions for a primary election if the candidate’s name will appear on a primary election ballot. Minor party candidates who *do* appear on the primary election ballot may accept and expend contributions for the primary and general election at any time, including before the primary election.

Contribution Limit Amounts for Candidates

From persons and political committees

Limits apply separately to both the primary and general election, *if applicable*. For example, a major party candidate for governor may accept \$525 for the primary AND \$525 for the general election from one individual.

Governor, Lt. Governor, Secretary of State, Attorney General, State Treasurer.....	\$ 525
State Senate, State House of Representatives, State Board of Education, CU Regent, District Attorney	\$200

From small donor committees

Limits apply separately to both the primary and the general election, *if applicable*.

Governor, Lt. Governor, Secretary of State,
Attorney General, State Treasurer \$ 5,300

State Senate, State House of Representatives,
State Board of Education, CU Regent,
District Attorney \$ 2,125

From political parties

Contribution limits apply using the election cycle for a specific office. The election cycles starts the 31st day after a general election for a specific office and ends the 30th day after the next general election for that office.

Governor/Lt. Governor
(one committee)\$530,000

Secretary of State, Attorney General,
State Treasurer\$106,000

State Senate\$ 19,080

State House of Representatives,
State Board of Education, CU Regent,
District Attorney\$ 13,780

Note: These contribution limits reflect adjustments made by CPF Rule 12 effective April 1, 2007.

Candidates in home rule municipalities and counties may be subject to different contribution limits, or none at all. Municipal candidates should read Attorney General’s Opinion No. 03-01 January 13, 2003 regarding the applicability of Art. XXVIII to local elections, which may be found on the Campaign Finance page of the Secretary of State’s website at www.sos.state.co.us.

Voluntary Spending Limits

Most state candidates can choose to accept voluntary spending limits (but may only do so at the time the candidate’s candidate affidavit is filed). This will limit the total amount that a candidate or candidate committee may spend during the entire election cycle.

Contributions by a candidate to his or her own campaign are considered contributions from the political party, and are therefore subject to the political party limit. Combined contributions from the

candidate and the political party may not exceed the limit for the political party.

A candidate who has accepted voluntary spending limits may accept double the listed limits if another candidate enters the race , does not accept voluntary spending limits, and raises more than 10% of the limit. Political party contributions may not be doubled.

The acceptance of voluntary spending limits is irrevocable except that a candidate who has accepted the limits may withdraw acceptance within 10 days of a new candidate entering the race (by filing a candidate affidavit), if the new candidate does not accept voluntary spending limits. This option is available each time a new candidate enters the race and does not accept voluntary spending limits.

The limits are as follows:

Governor/Lt Governor \$2,650,000

Attorney General, Secretary of State,
State Treasurer \$ 530,000

State Senate \$ 95,400

CU Regent, District Attorney, State
Board of Education, State House of
Representatives \$ 68,900

Note: These contribution limits reflect adjustments made by CPF Rule 12 effective April 1, 2007.

Loans

Candidates may receive loans from financial institutions, “if the loan bears the usual and customary interest rate.”

Contribution limits do not apply to loans from a financial institution.

Loans from a financial institution cannot be forgiven.

Loans made by a candidate to their own committee *may* be forgiven, and are not subject to contribution limits. For candidates who have accepted voluntary spending limits, loans count towards those limits.

Candidates are not allowed to receive loans from other individuals.

Legal provisions related to contributions

Definitions	Art. XXVIII, Sec. 2(5)
Registration required	1-45-108(3), C.R.S.
Limits	Art. XXVIII, Sec. 3; 1-45-103.7 C.R.S.
Conduits prohibited	Art. XXVIII Sec. 3(7)
Major Contributors	1-45-108(2.5), C.R.S.
Voluntary spending limits	Art. XXVIII, Sec. 4
Loans	Art. XXVIII, Sec. 3(8); Rule 4.5
Sanctions	Art. XXVIII, Sec. 10

Expenditures by Candidates and Candidate Committees

Simply stated, expenditures refer to the money an individual or committee spends. Money spent for anything that is “for the purpose of expressly advocating the election or defeat of a candidate” is considered an expenditure.

An expenditure occurs when it is made, when it is obligated, or when a contract is established, whichever occurs sooner.

Expenditures that are controlled by or coordinated with a candidate or a candidate’s agent are deemed to be both contributions by the maker of the expenditures, and expenditures by the candidate committee.

Mileage should be reported as an expenditure using the Internal Revenue Service (I.R.S.) rate.

No committee or candidate may spend more than \$100 in cash or coin on any single expenditure.

All expenditures of \$20 or more must be itemized. Itemized expenditures must list the name and address of the payee and the purpose of the expense.

Candidate committees may not make contributions to another candidate committee (regardless of the jurisdiction), or to 527 organizations.

Third-party expenditures (those made on behalf of the committee by someone other than the candidate, agent, or other person affiliated with the committee) that are not reimbursed are reported as non-monetary (in-kind) contributions.

Reimbursements

Reimbursements to candidates, staff, and volunteers are reported as expenditures.

Candidate committees may reimburse the candidate for expenditures the candidate made on behalf of the committee at any time. The disclosure report should list this as a reimbursement, and should detail what the original expenditure was for. (E.g. the payee is Wells Fargo or the candidate because it is a reimbursement for credit card or out-of-pocket expenses, but the purpose should include the original service provider; that is, what the candidate purchased (and from whom) with the credit card or his/her own money. Simply stating that the purpose is “credit card payment” or “reimbursement” is insufficient.)

Bank Accounts

All contributions received by a candidate committee must be deposited in a financial institution in a separate account with a title that includes the name of the committee.

The financial institution with which you have your committee account may be any bank that you choose. Please consult your bank and I.R.S. regulations concerning account requirements, which may vary depending on the institution.

Legal provisions related to expenditures

Definitions	Art. XXVIII, Sec. 2(8, 9)
Cash/coin expenditures	Art. XXVIII, Sec. 3(10)
Itemized expenditures	1-45-108(1)(a)(I), C.R.S.; Rule 4.4
Independent expenditures	Art. XXVIII, Sec. 5; 1-45-108(2.5), C.R.S.
Sanctions	Art. XXVIII, Sec. 10

REPORTING AND TRACER

Your filing office

For state offices including Attorney General, CU Regent, Governor, Regional Transportation District, Secretary of State, State Board of Education, State House of Representatives, State Senate, and Treasurer for the State of Colorado, your filing officer is the Secretary of State.

County offices—including Assessor, Coroner, County Clerk and Recorder, County Treasurer, Sheriff, and Surveyor, as well as candidates in special district or school board elections—also file with the Secretary of State.

Candidates in municipal elections file with the municipal clerk of the applicable municipality.

Filing calendars: dates and deadlines

Municipal candidates and committees should check with the applicable municipal clerk for filing calendars.

For candidates and committees that file with the Secretary of State:

- ◆ Campaign finance filing schedules and reporting periods vary depending on the office you are seeking. Please consult the Secretary of State website, or your TRACER account, for information about which calendar applies to you.
- ◆ For candidates and candidate committees, you will typically file on a “frequent” schedule during the election year, and an “infrequent” calendar will apply during the non-election years. “Election year” means the year in which the office is up for election (appears on the ballot).

Amended reports

Whenever a committee becomes aware of an error in past reporting, the committee must amend the report as soon as possible by filing an “Amended Report of Contributions and Expenditures” using the TRACER system. Municipal candidates and committees file amended reports with the appropriate municipal clerk.

TRACER

(for candidates and committees that file with the Secretary of State)

The Secretary of State’s Office introduced the new TRACER online campaign finance filing system in January 2010. Registering your committee, entering contribution and expenditure information as well as filing required campaign and political finance reports are all done electronically using this system.

Pursuant to Campaign and Political Finance Rule 11, all filings where the Secretary of State is the appropriate filing officer are required to be submitted electronically. Candidates and committees may apply for an exemption to this rule based on hardship or other good cause.

The Secretary of State’s Office offers three ways to file electronically. You can submit your campaign finance information via regular data entry directly into TRACER; using electronic data interchange (EDI) with pre-approved Excel spreadsheets (available on our website); or using EDI with XML. EDI will be available to all filers. EDI is a way in which contributions and expenditures can be managed using spreadsheet templates or XML prior to report filing, and provides an additional data management option for candidates or committees who choose to use it.

You do not have to wait until the end of the reporting period to enter your transactions. You can work on the report and save your information throughout the reporting period and it is not publically viewable until you file the report.

If you do not currently have a user account in TRACER, you will need to apply for a committee registration online. A user ID and password will then be generated and emailed to you. The Secretary of State generally issues the user ID and password within one business day of your registration.

Keep your e-mail address current with the Secretary of State’s office because confirmations of reports filed electronically—as well as other important information—are sent via e-mail. If you need to update your email address, you may do so in the TRACER system, or you may call the Campaign Finance Support Team at (303) 894-2200 ext. 6383 or email cpfhelp@sos.state.co.us.

After the election

Candidate committees remain open until action is taken to close them. Failure to win the election is not enough to close your candidate committee. The candidate or agent must file a termination report reflecting a zero balance to close the committee. All outstanding loans and debts must be paid before a committee can terminate. As long as the committee remains open, all required reports must be filed.

Committees must keep records for 180 days following any general election in which the committee received contributions, and LLC affirmations must be kept for 1 year. If a complaint is filed that involves your committee, your records must be maintained and available until after the matter is resolved.

Inactive candidate committees *must* terminate, and all funds must be disposed of appropriately, after nine years.

Unexpended campaign contributions

There are restrictions on what a committee may do with unexpended campaign funds. Unexpended funds may only be used in the following ways:

- ◆ Contributed to a political party, up to the limit allowed for the party.
- ◆ Contributed to a new committee established by the same candidate for a new office. Limits apply as to how much may be contributed to the new committee.
- ◆ Donated to an IRS-recognized charitable organization.
- ◆ Returned to contributors.
- ◆ Retained for use in a later campaign by the same candidate.
- ◆ If you were elected, you may also use your unexpended campaign funds for voter

registration, political issue education (e.g. educating your constituents or yourself about relevant political matters; contributions to issue committees are not permitted), postsecondary educational scholarships, or to defray reasonable and necessary expenses related to your official duties as an elected official (including communicating with your constituents).

If you wish to run for a different office, you may use some or all of your old committee funds, subject to the following restrictions:

- ◆ Not more than 20% of the voluntary campaign spending limit for the new office may be transferred to the new committee if the new committee is for a state office, excluding RTD (this limit applies also to committees remaining open and carrying over for the same office in a new election cycle).
- ◆ The committee funds rolled over to the new committee shall be counted as a contribution from a political party.
- ◆ The old candidate committee must be closed within 10 days of opening a new committee for a new office.

Standalone Candidates

Standalone candidates who fail to win their election cease to be candidates once the election is over. However, disclosure reports must still be filed for any reporting period that includes time up to and including the election if expenditures were made.

Relevant laws and rules

Unexpended campaign funds	1-45-106, C.R.S.
Subsequent elections	Art. XXVIII Sec. 3(3)(e); Rule 4.10

PART TWO: NONCANDIDATE COMMITTEES

Political Committees, Small Donor Committees, Political Parties, Issue Committees, Recall Committees, and Federal Groups (Federal PACs and 527s)

REGISTERING YOUR COMMITTEE

It is important to determine whether or not your political activities meet the definition of a type of committee under Colorado law. Prior to raising or spending money, read Article XXVIII of the Colorado Constitution, Title 1 Article 45 of the C.R.S., and the Rules Concerning Campaign and Political Finance.

The type of committee that you register depends on the activities of your committee. Under most circumstances, it is not possible to “choose” the type or committee that you want to register. If your activities meet the definition of one of the committees listed below, you *must* register with the appropriate office and are subject to the laws governing activities for that type of committee.

Types of Committees

Political committees

Definition: Any person, other than a natural person, or any group of two or more persons, including natural persons that have accepted or made contributions or expenditures in excess of \$200 to support or oppose the nomination or election of one or more candidates.

Features of political committees:

- ◆ Political committees are established *to support or oppose candidates* for public office.
- ◆ Before an entity or a group of people spends \$200 or more engaging in political activity that expressly advocates the nomination, election, or defeat of a candidate, they must register a political committee with the appropriate office.
- ◆ Committees advocating for or against candidates—except those related to municipal elections—register with the Secretary of State.

Political committees may not accept more than \$525 per contributor per House of Representatives election cycle (every two years). (Contribution limits reflect adjustments made by CPF Rule 12 pursuant to Article XXVIII, Section 3(13) of the Colorado Constitution effective April 1, 2007.)

Political committees cannot accept contributions from foreign citizens, foreign corporations, or foreign governments.

All political committees organized by the same labor organization, corporation, or other group of persons are treated as a single political committee under Colorado law.

There is no requirement that a political committee segregate contributions received from corporations and labor organizations from those received from natural persons.

Reporting requirements

All contributions received and expenditures made by a political committee must be reported to the Secretary of State (except for municipal committees, who report to the municipal clerk).

The name and address of the contributor must be reported for all contributions of \$20 or more, and the contributor’s employer and occupation must be listed for those totaling \$100 or more. Contributions under \$20 may be combined and reported as one lump sum in a reporting period.

All contributions from Limited Liability Companies (LLCs) must be itemized. The LLC must provide the candidate or committee with a written affirmation statement that the contribution is permitted by law.

Only the registered agent may sign or electronically file committee reports.

Filing dates for municipal, county, local school, and some special district committees differ from state

committees. Please be certain you have the correct filing dates. Penalties of \$50 per day are imposed upon committees for every day (including weekends and holidays) a required report is late.

Contributions received within 30 days before a primary or general election, which exceed \$1,000, must be reported in the TRACER system on the form for “major contributions” *in addition to* reporting such contributions on regular reports.

Terminating a political committee

With the exception of municipal committees, you must submit a termination report through the TRACER system in order to close a political committee. Municipal committees terminate with the applicable municipal clerk. The committee must have a zero balance, which means there are no funds on hand, and no outstanding debts, loans, or other obligations. As long as the committee remains open, it *must* file disclosure reports.

The termination report may be filed at any time. There are no regulations related to unexpended funds held by a political committee.

There are no statutory limitations on the use of unexpended campaign funds for political committees; however, keep in mind the definition of a political committee when expending these funds.

Legal provisions applicable to political committees

Definitions	Art. XXVIII, Sec. 2(12)
Registration and amendments	1-45-108(3), C.R.S.; Rule 3.1
Disclosure requirements	Art. XXVIII, Sec. 7; 1-45-103.7, 1-45-108, 1-45-109, C.R.S.; Rule 4
Filing dates	1-45-108(2)(a), C.R.S.; Rule 5
Contribution limits	Art. XXVIII, Sec. 3; 1-45-103.7, C.R.S.
Major contributions	1-45-108(2.5), C.R.S.
Sanctions	Art. XXVIII, Sec. 10

Small donor committees

Definition: Any political committee that has accepted (or will accept) contributions only from natural persons who each contributed no more than fifty dollars in the aggregate per year.

Small Donor Committees (SDCs) are a form of a political committee. They may only accept contributions of \$50 or less from natural persons who are U.S. citizens.

Corporations and labor organizations may establish small donor committees, and their members may contribute to the SDC. However, corporations and labor organizations themselves cannot contribute to SDCs, and money contributed to a SDC cannot be given back to a corporation or labor organization for general use.

Small donor committees will be treated as a single committee if established by substantially the same group of persons.

Small donor committees are permitted to make larger contributions to candidates and candidate committees than other committees.

Dues transferred to a SDC from a membership organization (including when transferred together as a lump sum) are considered pro-rata contributions to the committee from individual members. The actual transfer itself is not considered a contribution from the membership organization to the SDC. If the pro-rata amount from each individual is \$20 or more, each individual member should be listed as a contributor.

Reporting requirements

All contributions received and expenditures made by a small donor committee must be reported to the Secretary of State (except for municipal committees, who report to the municipal clerk).

The name and address of the contributor must be reported for all contributions of \$20 or more.

Contributions from LLCs are prohibited, because LLCs are not “natural persons.”

Only the registered agent may sign and electronically file committee reports.

Filing dates for municipal, county, and some special district committees differ from state committees. Please be certain you have the correct filing dates.

Terminating a small donor committee

You must submit a termination report through the TRACER system to close a small donor committee, with the exception of municipal committees. The committee must have a zero balance, which means there are no funds on hand and no outstanding debts, loans, or other obligations. As long as the committee remains open, it must file disclosure reports.

The termination report may be filed at any time.

There are no regulations related to unexpended funds held by a small donor committee, however, keep in mind the definition of a small donor committee when expending these funds.

Legal provisions applicable to small donor committees

Definitions	Art. XXVIII, Sec. 2(14)
Registration and amendments	1-45-108(3), C.R.S.; Rule 3.1
Disclosure requirements	1-45-108, 1-45-109, C.R.S.; Rule 4
Filing dates	1-45-108(2)(a), C.R.S.; Rule 5
Contribution limits	Art. XXVIII, Sec. 3
Sanctions	Art. XXVIII, Sec. 10

Political parties

Definition: Any group of registered electors who, by petition or assembly, nominate candidates for the official general election ballot. “Political party” includes affiliated party organizations at the state, county, and election district levels, and all such affiliates are considered to be a single entity for the purposes of Article XXVIII except with respect to disclosure requirements in 1-45-108 C.R.S.

Registration and reporting requirements

State and county political parties register with the Secretary of State.

Filing dates for county parties differ from state parties. Please be certain you have the correct filing dates (calendars are available in the TRACER system

and on the Secretary of State website at www.sos.state.co.us).

Only the registered agent may sign and electronically file the committee reports.

Any amendments or changes to your registration must be filed with the appropriate officer within five days of the change.

The name and address of the contributor must be reported for all contributions of \$20 or more, and the contributor’s employer and occupation must be listed for those \$100 or more.

Contributions received within 30 days before a primary or general election, which exceed \$1,000, must be reported in the TRACER system on the form for “major contributions” *in addition to* reporting such contributions on regular reports.

Contributions to political parties

Political parties cannot accept contributions from foreign citizens, foreign corporations, or foreign governments.

Contributions from corporations and labor organizations are prohibited.

Political parties cannot accept contributions intended for a specific candidate.

No political party may accept aggregate contributions from any person—other than a small donor committee—that exceed \$3,175* per year at the state, county, district, and local levels combined. Aggregate contributions to a state political party shall not exceed \$2,650* per year.

No political party may accept aggregate contributions from any small donor committee that exceed \$15,900* per year at the state, county, district, and local levels combined; and not more than \$13,250* at the state level.

* Contribution limits reflect adjustments made by CPF Rule 12 pursuant to Article XXVIII, Section 3(13) of the Colorado Constitution effective April 1, 2007.

Purely social groups organized within a political party are not considered part of the political party for campaign finance reporting purposes.

Contributions to political parties from Limited Liability Companies (LLCs) are subject to additional restrictions and reporting requirements. Please see the section on candidate committees for more information on what is required for LLC contributions.

Legal provisions applicable to political parties

Definitions	Art. XXVIII, Sec. 2(13)
Registration and amendments	1-45-108(3), C.R.S.; Rule 3.1
Disclosure requirements	Art. XXVIII, Sec. 7; 1-45-108, 1-45-109, C.R.S.; Rule 4
Filing dates	1-45-108(2)(a), C.R.S.; Rule 5
Contribution limits	Art. XXVIII, Sec. 3(3); 1-45-103.7, C.R.S.
Corporations and labor organizations	Art. XXVIII Sec. 3(4)(a); 1-45-103(7), 1-45-103.7, C.R.S.
Sanctions	Art. XXVIII, Sec. 10

Issue committees

Definition: Any person, other than a natural person, or any group of two or more persons, including natural persons, that has a major purpose of supporting or opposing any ballot issue or ballot question, AND that has accepted or made contributions or expenditures in excess of two hundred dollars to support or oppose any ballot issue or ballot question.

Issue committee status applies to organizations made up of members who support or oppose an issue in their community. Please familiarize yourself with the laws concerning issue committees *before* you as a group engage in political activity, to ensure that you comply with any campaign finance laws that may apply.

You *must* register an issue committee if you:

- ◆ Are a group of two or more individuals (natural persons) or businesses (or both);

- ◆ That supports or opposes a ballot issue or ballot question (see below for definition); AND
- ◆ You have accepted or made contributions or expenditures of \$200 or more to support or oppose that ballot issue or ballot question.

Registration and reporting requirements

Registration is required within 10 calendar days of accepting contributions or making expenditures in excess of \$200 to support or oppose any ballot issue or ballot question.

Issue committees at the state, county, or special district level, or those active in multiple counties or special districts, register with and report to the Secretary of State. Municipal issue committees (those supporting or opposing ballot measures at the local municipal only) register with the municipal clerk.

Filing dates vary depending on whether your issue committee is statewide, county, special district, school district, etc. Please consult TRACER for the filing calendar applicable to your committee.

Only the registered agent may sign and electronically file the committee’s reports.

Any amendments or changes to your registration must be filed with the appropriate officer within five days of the change.

Contributions received within 30 days before a primary or general election, which exceed \$1,000, must be reported on the form for “major contributions” in the TRACER system *in addition to* reporting such contributions on regular reports.

There are no contribution limits or prohibitions for contributions to issue committees.

The name and address of the contributor must be reported for all contributions of \$20 or more, and the contributor’s occupation and employer must be listed for contributions totaling \$100 or more.

An issue committee may only be closed by filing a termination report indicating a “zero” balance.

Issue committees may return unexpended campaign funds to the contributors or donate them to a charitable organization recognized by the Internal Revenue Service.

Ballot Issues and Ballot Questions

A ballot issue is “a state or local government matter arising under section 20 of article X of the state constitution, as defined in sections 1-41-104(4) and 1-41-103(4), respectively.” Essentially, ballot issues are TABOR matters.

A ballot question is “a state or local government matter involving a citizen petition or referred measure, other than a ballot issue.” Ballot questions are non-TABOR ballot measures.

Legal provisions applicable to issue committees

Definitions	Art. XXVIII, Sec. 2(10)
Registration and amendments	1-45-108(3), (3.3), and (6), C.R.S.; Rule 3.1
Disclosure requirements	Art. XXVIII, Sec. 7; 1-45-108, 1-45-109, C.R.S.; Rules 4, 10
Filing dates	1-45-108(2)(a), C.R.S.; Rules 5, 10
Major contributions	1-45-108(2.5), C.R.S.
Unexpended funds	1-45-106(3), C.R.S.
Ballot issues and questions	1-1-104(2.3), 1-1-104(2.7), C.R.S.
Sanctions	Art. XXVIII, Sec. 10

Recall committees

A recall committee is an issue committee formed to support or oppose the recall of a public officer. *Note: Committees authorized by a candidate are still candidate committees.*

An incumbent subject to a recall election must form an issue committee to oppose the recall. The incumbent’s candidate committee cannot be used to oppose the recall.

Persons supporting or opposing candidates to fill the vacancy if the question of recall is successful need to form a political committee.

Any person seeking to be elected to the vacancy if the recall is successful must form a candidate committee if they will accept contributions.

Recall committees are subject to the same campaign finance requirements as issue committees, including itemization, termination, etc.

Filing calendars for committees participating in a recall election are determined by the date of the election, or by the date that the recall petition is deemed insufficient. The filing officer will prepare and issue the calendar.

Federal groups

The political activity of two types of federal political organizations may subject them to Colorado campaign finance requirements: **Federal Political Action Committees (PACs) and 527 Political Organizations (527s)**. For definitions and more information about these groups, consult the Federal Elections Commission (FEC) and the Internal Revenue Service (IRS). This manual only discusses these groups to the extent that they are subject to Colorado campaign finance law.

Federal PACs

Federal PACs are treated like Colorado political committees when supporting or opposing state or local candidates. Only contributions received by the Federal PAC that are within contribution limits under Colorado law may be used to support or oppose candidates in Colorado.

Federal PACs may file a copy of their F.E.C. registration with the Secretary of State to comply with registration requirements under Colorado law, if that registration contains substantially the same information as required by Colorado law (full name of the organization, the registered agent, address and phone number, affiliated candidates and committees, a description of purpose, etc.).

Federal PACs that file with the F.E.C. do not need to file disclosure reports with the Colorado Secretary of State if the F.E.C. reports comply with the disclosure requirements under Colorado law (e.g. itemization of contributions and expenditures of \$20 or more, etc.).

A Federal PAC may terminate its active status with the Secretary of State if the committee submits a letter of termination, which may be filed at any time.

Federal PACs must also comply with any applicable federal laws and regulations. Please consult the F.E.C. at www.fec.gov with any questions related to federal law.

527 Political Organizations

527 organizations (named for the section of I.R.S. code that governs them) must register with and report to the Secretary of State if the organization is influencing or attempting to influence the election or defeat of candidates in Colorado. In the TRACER system, there is an option to register a 527 Political Organization.

Reports must include all contributions and expenditures that were accepted or made “for the purpose of influencing or attempting to influence the selection, nomination, election, or appointment of any individual to any state or local public office, unless the contributions accepted and expended by the organization amount to less than \$20 for a reporting period.”

Contributions of \$20 or more must list the name and address of the contributor, and contributions totaling \$100 or more must include the contributor’s employer and occupation.

527 organizations must comply with all applicable I.R.S. and any other federal regulations in addition to complying with Colorado law. Please consult the I.R.S at www.irs.gov with any questions pertaining to federal law or tax regulations.

Legal provisions related to federal groups

Registration and amendments	1-45-108(3), 1-45-108.5, C.R.S.; Rules 2.8 and 3.1
Disclosure requirements	1-45-108, 1-45-108.5, 1-45-109, C.R.S.; Rule 4
Filing dates	1-45-108(2)(a), C.R.S.; Rule 5
Terminating	Rule 3.2
Sanctions	Art. XXVIII, Sec. 10

Registered Agents

All committees registered with the Colorado Secretary of State must have a registered agent. The registered agent must be a natural person and is responsible for maintaining all committee records and filing all reports on time.

The registered agent can be replaced only by the committee filing an amended registration, or by formally resigning. To resign, a registered agent must file a resignation letter with the appropriate filing officer via certified mail. Please see Rule 2.3 for more information.

Legal provisions that govern registered agents

Definition	1-45-108(3)(b)
Registration	1-45-108(3), C.R.S.; Rules 2.2 and 3.1
Disclosure requirements	1-45-108, C.R.S.; Rule 4
Filing dates	1-45-108(2)(a), C.R.S.; Rule 5
Deposits and record-keeping	Rule 4
Contribution limits	Art. XXVIII, Sec. 3
Sanctions	Art. XXVIII, Sec. 10

How to register

All registration and reporting required by committees subject to campaign finance law, with the exception of municipal candidates, is done through the TRACER system, available at <http://tracer.sos.colorado.gov>. To register your committee, you will need the following:

- ◆ Know which type of committee you will register;
- ◆ A committee name (and acronyms you will use);
- ◆ A registered agent;
- ◆ The physical and mailing addresses for the committee’s principal place of business;
- ◆ A description of your committee’s purpose (this must include detail, including candidates, ballot measure numbers, or policy positions you will support or oppose); and
- ◆ Financial information, including the name of the bank where the committee has an account.

Any registration amendments must be promptly reported to the SOS (within 5 days of the change). This can be done in your TRACER account. Reportable changes include (but are not limited to): name and address changes, a change in the committee’s purpose, and changes in the financial institution.

CONTRIBUTIONS AND EXPENDITURES

All committees registered with the Secretary of State must report contributions and expenditures.

Filing dates and reporting periods vary depending on the office sought. Calendars can be found on the Secretary of State website at www.sos.state.co.us. Penalties of \$50 per day (including weekends and holidays) will be imposed for late filings.

Contributions to committees

A contribution made by check is considered “received” on the date the check is deposited into the committee account.

For checks from natural persons the contributor is the person who signed the check.

State law prohibits making a contribution with the expectation that the contribution will be reimbursed in part or in full by another person.

Contributions of \$20 or more must be itemized on disclosure reports. Itemization means listing each contribution individually with the name and address of the contributor. Contributions less than \$20 accepted during a reporting period may be combined and reported as one lump sum.

All contributions of \$100 or more must include the occupation and employer of the contributor (this includes non-monetary contributions). No contribution over \$100 may be made in cash or coin.

Non-monetary (in-kind) contributions count against contribution limits.

Expenditures by committees

An expenditure occurs when it is made, when it is obligated, or when a contract is established, which ever occurs first.

No committee may spend more than \$100 in cash or coin, and all expenditures of \$20 or more must be itemized.

Third-party expenditures are reported as non-monetary contributions.

Reimbursements to committee staff and volunteers are reported as expenditures, and may be made at any time. The service provider who was initially paid for goods or services must be listed for all reimbursements, in addition to listing the person who is being reimbursed.

An Independent Expenditure Report is required for all contributions of \$1,000 or more received within 30 days before the primary or general election. The independent expenditure is listed on both the regular report *and* the independent expenditure report. Independent expenditures are only those related to candidates, and do not apply to expenditures made for ballot issues or ballot questions.

Bank Accounts

All contributions received by a committee must be deposited in a financial institution in a separate account with a title that includes the name of the committee.

The financial institution with which you have your committee account may be any bank that you choose. Please consult your bank and I.R.S. regulations concerning account requirements, which may vary depending on the institution.

Legal provisions related to contributions and expenditures

Definitions	Art. XXVIII Sec. 2
Disclosure requirements	1-45-108, C.R.S.; Rule 4
Filing dates	1-45-108, C.R.S.; Rule 5
Contribution limits	Art. XXVIII Sec. 3; 1-45-103.7, C.R.S.; Rule 12
Bank accounts	Art. XXVIII Sec. 3(9)

REPORTING AND TRACER

All electronic filing: Pursuant to Campaign and Political Finance Rule 11, effective November 30 2009, all filings where the Secretary of State is the appropriate filing officer are required to be submitted electronically. Committees may apply for an exemption to this rule based on hardship or other good cause. Please review Rule 11 for more information.

The Secretary of State's Office offers three ways to file electronically. You can submit your campaign finance information via regular data entry directly into TRACER; using electronic data interchange (EDI) with pre-approved Excel spreadsheets (available on our website); or using EDI with XML. EDI will be available to all filers. EDI is a way in which contributions and expenditures can be managed using spreadsheet templates or XML prior to report filing, and provides an additional data management option for candidates or committees who choose to use it.

In order to use TRACER, you will need to apply for a committee registration online. A user ID and password will then be generated and emailed to you. The Secretary of State generally issues the user ID and password within one business day of your registration.

Keep your agent's e-mail address current with the Secretary of State's office because confirmations of reports filed electronically—as well as other important information—are sent via e-mail. If you need to update your email address, please call the Campaign Finance Support Team at (303) 894-2200 ext. 6383 or email cpfhelp@sos.state.co.us.

You do not have to wait until the end of the reporting period to enter your transactions. You can work on the report and save your information throughout the reporting period and it is not publically viewable until you file the report.

Failure to file reports before the report deadline will result in penalties of \$50 per day.

PART THREE: INDEPENDENT EXPENDITURES, ELECTIONEERING, AND FUNDRAISING

INDEPENDENT EXPENDITURES

Independent expenditures are those expenditures made by individuals, political parties, and political committees—without the support of or coordination with a candidate, committee, or agent—to support or oppose candidates running for election.

A **Notice of Independent Expenditure** must be filed with the Secretary of State for any independent expenditure of \$1,000 or more. If the independent expenditure is made within thirty days of a primary or general election, regardless of amount, the Notice of Independent Expenditure must be filed within 48 hours of obligating funds for the expenditure.

Expenditures made by a candidate committee, or controlled by or coordinated with a candidate or their agent, are *not* “independent expenditures.”

Laws governing independent expenditures apply only to expenditures made to support or oppose a candidate or candidates. They do not apply to expenditures made to support or oppose ballot measures or expenditures coordinated or controlled by the candidate’s political party.

These reporting requirements for independent expenditures do not apply to expenditures made by a candidate committee or agent of a candidate.

Corporations and labor organizations may not make independent expenditures.

Relevant legal provisions

Definition	Art. XXVIII, Sec. 2(9)
Reporting	Art. XXVIII, Sec. 5
Corporations and labor organizations	Rules 4.22 and 14

ELECTIONEERING

Definition of electioneering communication:

“any communication broadcasted by television or radio, printed in a newspaper or on a billboard, directly mailed or delivered by hand to personal residences or otherwise distributed that:

- (I) Unambiguously refers to any candidate; and
- (II) Is broadcasted, printed, mailed, delivered, or distributed within thirty days before a primary election or sixty days before a general election; and
- (III) Is broadcasted to, printed in a newspaper distributed to, mailed to, delivered by hand to, or otherwise distributed to an audience that includes members of the electorate for such public office.”

See Art. XXVIII Sec. 2(7)(a)

Electioneering communication *does not include*:

- ◆ Opinion or commentary writings, editorial endorsements, or letters to the editor published in a periodical not owned or controlled by the candidate(s) or party named.
- ◆ Editorial endorsements aired by a broadcast facility not owned or controlled by the candidate(s) or party.
- ◆ Any communication by persons made in the regular course and scope of their business or any communication made by a membership organization solely to members of such organization and their families.
- ◆ Any communication that refers to any candidate only as part of the popular name of a bill or statute.

Any person, including a candidate and/or candidate committee, spending \$1,000 or more per calendar year for broadcast or print messages that

“unambiguously” refer to any candidate and are distributed within 30 days before a primary or 60 days before a general election, is required to report these expenditures.

Electioneering reports are due at the same time as committee reports for contributions and expenditures.

Reports must include all expenditures made on electioneering communications, and the name and address of contributors giving more than \$250 per year for electioneering.

Electioneering reports must include occupation and employer of “natural persons” contributing more than \$250 per year.

It is unlawful for a corporation or labor organization to provide funding for electioneering communication. Political committees and small donor committees established by labor organizations or corporations may fund electioneering.

Communications are considered electioneering if they are subject to no reasonable interpretation other than as an appeal to vote for or against a specific candidate.

Relevant legal provisions:

Definition	Art. XXVIII, Sec. 2(7); Rule 9
Reporting	Art. XXVIII, Sec. 6, 1-45-108, C.R.S; Rule 9.4
Sanctions	Art. XXVIII, Sec. 10

FUNDRAISING

Note: The information contained in this section provides only examples of some types of activity related to fundraising. If you have further questions about fundraising activities, please contact a member of the Campaign Finance Support Team for guidance, or an attorney for legal advice.

Fish Bowls and Pass the Hat Events

Traditional fish bowls and pass-the-hat events are prohibited by Colorado campaign finance laws because contributions at such events typically do not include sufficient contributor information. However, these events may be modified in order to comply with the law. Provide guests with information (prior to the event, if possible) regarding what disclosure is required. This includes name and address for contribution of \$20 or more, and employer and occupation for contributions totaling \$100 or more. It can be helpful to provide envelopes printed with spaces to enter this information at your fundraising event.

If you are required to provide the occupation and employer information for a contribution, and fail to do so within 30 days, the contribution must be returned on the 31st day.

Meet and Greet Events

These events are treated the same whether they are held in a rented space or someone’s private home. Anything of value given to a committee or party must be reported, even if it is Jane Doe’s lasagna that she brought for attendees to eat while they mingle. The lasagna would be reported as a contribution at the fair market value.

Cost of Admission to Fundraising Events

Any amount paid for a ticket to a fundraising event in excess of the value of the meal (which is typically stated) is considered a contribution to the organization benefitting from the event. For example, if a ticket to an event is \$100 and the cost of the meal is stated to be \$25, the ticket purchaser is considered to have made a \$75 contribution to the organization hosting the event.

Silent Auctions

Items donated for silent auctions are considered to be—and reported as—non-monetary (in-kind) contributions. The fair market value of goods or services donated count against contributions limits, if applicable, for the both the contributor and the recipient committee or party.

When a silent auction item is purchased, the full purchase price is considered a contribution from the purchaser and is reported as a monetary contribution.

Non-monetary (in-kind) Contributions of Goods or Services

The use of a space (room, building, etc.), telephones, office equipment, printed material, or any other good or service by a committee or party is considered to be a contribution to the committee or party from the person who owns the space, office equipment, business providing the service, etc. Such a donation is therefore subject to contribution limits and prohibitions. For example, the donation of the use of a ballroom at a corporate-owned hotel (whether it is donated outright, or given for use at a reduced rate) is typically prohibited as a corporate contribution. This may be allowed, if and only if the company provides a substantially similar reduced rate or donation to other entities in the usual course of its business.

Contributions from a Couple or Joint Account Holders

A contribution cannot be considered to be from two people. Therefore, couples and joint account holders should each write their own separate checks, and note in the “memo” space who the contribution is from. If no notation is made, the contribution is considered to be from the person signing the check. A couple cannot write one check for an amount in excess of the individual contribution limits with the intent that it be considered to be from two persons.

Online Contributions: PayPal and other Payment Intermediary Services

PayPal or other payment intermediary services may be used to solicit campaign contributions. The amount the contributor agrees to contribute is the

contribution amount. The fee the service provider charges for the transaction is an expenditure.

Fundraising During the Regular Session of the General Assembly

General Assembly (GA) members, executive office holders and candidates for these offices may not accept contributions from lobbyists, principals of lobbyists, or political committees who retain a lobbyist while the GA is in regular session.

Contributions from lobbyists are considered received at the time the contribution leaves the possession of the lobbyist. This is in contrast to contributions from non-lobbyists, which are considered received at the time that they are deposited.

“Paid for by” Statements

Colorado’s campaign finance laws do not require a “Paid for by” statement unless the communication meets the definition of independent expenditure, in which case the name of individual making the independent expenditure together with a statement that the communication or advertisement is not authorized by, coordinated with, or controlled by a candidate is required. This information must be prominently featured on the communication.

The Federal Communications Commission (F.C.C.) regulates political advertising for television and radio and may require a “Paid for by” statement. For more information, visit their website at www.fcc.gov. In some instances a newspaper or other publication may require you to include a “Paid for by” statement as a condition of publishing your advertisement; such a requirement is made at the discretion of the publication.

Candidate Committees Sharing Expenses

Candidate committees may share expenses for the cost of brochures, offices, office equipment, etc. so long as each committee pays for its proportionate cost of the expense. If one committee pays for the entire cost initially and the other committee reimburses the paying committee within 30 days, then the purchase and reimbursement is not considered a contribution by one candidate committee to the other.

PART FOUR: COMPLAINTS, PENALTIES, AND WAIVERS

COMPLAINTS

Any person who believes that there has been a violation of campaign finance laws and regulations may file a complaint with the Secretary of State’s Office within 180 days of the alleged violation.

COMPLAINTS MUST INCLUDE:

- ✧ Complainant’s name, address, and signature
- ✧ Counsel’s name, address, and signature (if Complainant is represented by counsel)
- ✧ Name and address of each respondent alleged to have committed a violation
- ✧ Description of the violation

The Secretary of State’s office will ensure the complaint is submitted with all required information and then refer the complaint to an Administrative Law Judge at the Office of Administrative Courts for a hearing.

Once the complaint has been submitted with the Office of Administrative Courts all future communications, pleadings, and correspondence should be directed to that office **only** at the address and phone number listed below.

The Office of Administrative Courts
633 17th Street, Suite 1300
Denver, CO 80202
☎ 303-866-2000
🌐 www.colorado.gov/dpa/oac

Complainants are expected to gather evidence related to the complaint and present that evidence at the hearing as if they were prosecuting a case. The Secretary of State’s office cannot offer legal advice or interpret the law; our office can only advise with regard to the procedures for filing a complaint.

Legal provisions for complaints

Complaint procedure	Art. XXVIII, Sec. 9(2)(a), Rule 6
Sanctions	Art. XXVIII, Sec. 10

PENALTIES

Late filing penalties

The Secretary of State and municipal clerks are required to impose penalties upon candidates or committees for failure to file disclosure reports or for disclosure reports filed past the due date. A penalty of \$50 per day, including weekends and holidays, is imposed on a committee for every day that a report remains outstanding, beyond the due date.

Penalties may be reduced or waived at the discretion of the Secretary of State or municipal clerk, upon a showing of good cause.

Violations of contribution limits or voluntary spending limits

Civil penalties of at least double and up to five times the amount contributed, received, or spent in violation of contribution or voluntary spending limits may be imposed by an administrative law judge, if such judge finds that a violation of limits has occurred.

Legal provisions for penalties

Sanctions	Art. XXVIII, Sec. 10
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WAIVERS AND WAIVER REQUESTS

If a state or county candidate, committee, or party receives a penalty, that person or committee may submit a written request, addressed to the Secretary of State, explaining why a waiver or reduction in the penalty should be granted. Waiver requests must show good cause as to why the assessed penalty should be reconsidered.

The Secretary of State's office must receive the request **no later than 30 days after the date the notice was mailed**. Waiver requests may be submitted in the TRACER system (at the "overview" tab), or mailed to the Colorado Secretary of State, Attn: Elections Division, 1700 Broadway, Suite 200, Denver, CO 80290.

Municipal clerks have the discretion to grant penalty waivers for municipal candidates and committees.

Municipal candidates and committees should direct such requests to the appropriate municipal clerk.

The Secretary of State's office will review the requests and make a determination, at which time the candidate, committee or party will be notified in writing as to the outcome of their request. An invoice will accompany the letter if a penalty remains.

If a state candidate, committee, or party does not agree with the determination made by the Secretary of State, they may appeal the decision by filing a complaint with the Secretary of State's office. The complaint will be forwarded to the Office of Administrative Courts for an Administrative Law Judge (ALJ) for review. The last resort for appealing a penalty is the Court of Appeals.

Please review Article XXVIII, Sec. 9 and 10 for more detailed information about the complaint and appeals process.

PART FIVE: TRACER

Overview

TRACER stands for Transparency in Contribution and Expenditure Reporting. It is the Secretary of State's online campaign finance filing system.

The Secretary of State's Office introduced the new TRACER online campaign finance filing system in January 2010. Registering your committee, entering contribution and expenditure information as well as filing required campaign and political finance reports are all done electronically using this system. Below is a summary of the how to perform basic tasks in the TRACER system. Step by step help screens are available on each page to guide you through the system and short instructional videos or webinars are also available for the various modules in TRACER.

Committee Registration

New users of the TRACER system will need to register their committee online. To apply for committee registration, go to the TRACER homepage at: <http://tracer.sos.colorado.gov> and click on the button labeled Committee Registration. You can also access the new committee registration page by clicking on the tab labeled Registration or the link in the left hand menu labeled Committee Registration. Fill out the registration form as instructed and click Save. Once the Secretary of State's Office has reviewed and approved your registration, you will receive a username and a temporary PIN, which you will be prompted to change when you log into the system for the first time.

Committee Workspace

When you log into the system, you will be directed to the Candidate/Committee Overview page. This page contains detailed information pertaining to your committee including account status, recent transaction history and any reports that are coming due for your committee. From the Candidate/Committee Overview page, you can also access the different sections of the TRACER system by

clicking on the appropriate tab across the top of the page or clicking on the appropriate link on the left hand menu in order to enter, modify or update contributions, expenditures and other required information for your committee.

Contribution Entry

To access the Contribution Administration page, click on the Contribution tab on the top of the page or on the left hand menu. Once you are on the Contribution Administration page, to enter a new contribution, click the Add button which will take you to the Contribution Entry page where you can enter information for a contribution. Please note that you must enter information in all required fields.

You can also associate a contributor to each contribution on this page. Associating a contributor can be done in one of two ways. You can enter information into the fields manually or, if you have already entered information for that contributor for a previous contribution, you can click the search button, locate the contributor and have the system pre-populate the contributor information fields for you. You can also choose to "lock" this contributor information if you are entering multiple contributions from one contributor.

You can enter contributions into the system throughout the reporting period and previously entered contributions can be modified either by clicking on the Update link from the Contribution Administration page if it is a recently entered contribution, or by clicking the Find button if it is an older contribution. This information will be stored in the system and will not be publically viewable until you file a report. Standalone candidates, or candidates without committees, do not need to enter contributions but must report expenditures.

Expenditure Entry

Expenditure entry is done in the same way as contribution entry. To access the Expenditure Administration page, click on the Expenditure tab on

the top of the page or on the left hand menu. Once you are on the Expenditure Administration page, to enter a new expenditure, click the Add button which will take you to the Expenditure Entry page where you can enter information for an expenditure. Please note that you must enter information in all required fields.

Entering information about a Payee can also be done either by entering information into the fields manually or by clicking the Search button, to locate a previously entered payee. You can enter contributions into the system throughout the reporting period. This information will be stored in the system and will not be publically viewable until you file a report.

Previously entered expenditures can be modified either by clicking on the Update link from the Expenditure Administration page if it is a recently entered expenditure, or by clicking the Find button if it is an older expenditure entry.

Filing a Report

On the Candidate/Committee Overview page, there is a section titled Reports Due. This section lists the name of a required report, its due date and the status of that report (e.g. Past Due). The filing due dates are based upon the reporting schedule that has been assigned to your committee by the Secretary of State's Office. Please note, you must be logged into the system to file current or past due reports.

To file a current or past due report, click on the View/File link next to that report which will take you to the File Report of Contributions and Expenditures page. The Detailed Summary section contains information about your committee. The Reporting Period Covered lists the dates of the reporting period and also allows you to file an amended report or a termination report. Lines 1 through 20 contain financial information for entries included in this report. TRACER automatically includes contributions, expenditures and loan entries you have entered into the system during this reporting period and will calculate totals for you.

If you need to enter additional contributions or expenditures or modify existing entries, follow the instruction on the report page. When you are ready to file the report, click the File button at which point you will receive a confirmation dialog box confirming that

you wish to file the report. To complete the filing, click Ok. You can now view the filed report, print it or export it in a variety of desired formats for your personal records.

Searching the Database

To search for information contained in the database, click the Search tab on the TRACER homepage or click on one of the search categories on the left hand menu of the homepage. Once the Search the Campaign Finance Database page is displayed, you can choose what type of information you wish to search for.

There are various types of searches that you can perform including searching for candidate information, committee information, contributions and expenditures, as well as detailed financial information for specified political races. You can also search for penalties and complaints filed against committees registered with the Secretary of State's Office. Follow the instructions listed on the page or by using the "help with this page" link to enter information in the various search fields to complete your search. Once the search results have been displayed, you can choose to print the results grid or export the search results to a CSV or MS Excel file.

All electronic filing

Pursuant to Campaign and Political Finance Rule 11, all filings where the Secretary of State is the appropriate filing officer are required to be submitted electronically. Candidates and committees may apply for an exemption to this rule based on hardship or other good cause. Please review Rule 11 for more information.

The Secretary of State's Office offers three ways to file electronically. You can submit your campaign finance information via regular data entry directly into TRACER; using electronic data interchange (EDI) with pre-approved Excel spreadsheets (available on our website); or using EDI with XML. EDI will be available to all filers. EDI is a way in which contributions and expenditures can be managed using spreadsheet templates or XML prior to report filing, and provides an additional data management option for candidates or committees who choose to use it.

If you do not currently have a user account in TRACER, you will need to apply for a committee registration online. A user ID and password will then be generated and emailed to you. The Secretary of State generally issues the user ID and password within one business day of your registration.

Keep your e-mail address current with the Secretary of State's Office because confirmations of reports

filed electronically—as well as other important information—are sent via e-mail. If you need to update your email address, you may do so in the TRACER system, or you may call the Campaign Finance Support Team at (303) 894-2200 ext. 6383 or email cpfhelp@sos.state.co.us.

Appendix

QUICK REFERENCE: ELECTION CYCLE / CONTRIBUTION LIMITS

Contribution limits may not necessarily be based on election cycles. If contribution limits apply to your committee please review all applicable laws thoroughly and carefully. The contribution limits below have been adjusted by CPF Rule 12 pursuant to Article XXVIII, Section 3(13) of the Colorado Constitution effective April 1, 2007.

Committee Type	Contribution Cycle	Contribution Limits
Candidate Committee	<p>Election cycle starts 31 days following a general election for the particular office and ends 30 days following the next general election for that office.</p> <p>6 years – State Board of Education, CU Regent 4 years – Governor/Lt. Gov, Sec. of State, Attorney General, State Treasurer, State Senate, District Attorney, RTD 2 years – State House of Representative</p>	<p><i>State candidates:</i> Please review CPF Rule 12 and the Quick Reference guide for candidate committees in this manual.</p> <p><i>Municipal/County candidates:</i> Contribution limits may or may not apply to home rule municipal or county candidates. Check with the municipality or county to verify if Home Rule charters or ordinances apply. Unless a municipality or county is home ruled, municipal or county candidates may not accept corporate or labor union contributions.</p>
Political Party (state, county, district and local level combined)	Per year (calendar year) - January 1 st through December 31 st .	<p>\$3,175 per year; no more than \$2,650 to the state party from any person (does not include issue committees) other than Small Donor Committee.</p> <p>\$15,900 per year; no more than \$13,250 to the state party from any Small Donor Committee.</p>
Political Committee	<p>Colorado House of Representatives Elections Cycle (2 years).</p> <p>This applies to state, county and local political committees.</p>	\$525
Small Donor Committee	<p>Per year (calendar year) - January 1st through December 31st.</p> <p>This applies to state, county and local small donor committees.</p>	\$50 maximum by <u>natural persons who are U.S. citizens only.</u>
Issue Committee	Not applicable.	<p><i>State issue committees</i> do not have contribution limits.</p> <p><i>Municipal/County issue committees:</i> Please check with the designated election official to see if a Home Rule Charter establishes contribution limits.</p>

QUICK REFERENCE OF STATE CANDIDATE CONTRIBUTION LIMITS

MAXIMUM CONTRIBUTION LIMITS FOR CANDIDATES PER ELECTION CYCLE

Contribution limits listed in this chart reflect adjustments made by CPF Rule 12 pursuant to Art. XXVIII, Sec. 3(13) of the CO Constitution effective April 1, 2007 and are current until 2011.

From ↓ To ⇒	Governor / Lt. Governor	Secretary of State	Attorney General	State Treasurer	State Senate	State House of Representatives	State Board of Education	CU Regent	District Attorney	Regional Transportation District
Natural Person / Political Committee & Business Entity (Other than a corporation)	Primary* \$525	Primary* \$525	Primary* \$525	Primary* \$525	Primary* \$200	Primary* \$200	Primary* \$200	Primary* \$200	Primary* \$200	No Limit
	General* \$525	General* \$525	General* \$525	General* \$525	General* \$200	General* \$200	General* \$200	General* \$200	General* \$200	
Small Donor Committee	Primary* \$5,300	Primary* \$5,300	Primary* \$5,300	Primary* \$5,300	Primary* \$2,125	Primary* \$2,125	Primary* \$2,125	Primary* \$2,125	Primary* \$2,125	No Limit
	General* \$5,300	General* \$5,300	General* \$5,300	General* \$5,300	General* \$2,125	General* \$2,125	General* \$2,125	General* \$2,125	General* \$2,125	
Political Party	\$530,000	\$106,000	\$106,000	\$106,000	\$19,080	\$13,780	\$13,780	\$13,780	\$13,780	No Limit
Candidate Committee (to another Candidate committee)	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited
Issue Committee	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited
Corporations & Labor Unions	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited
Federal PAC (see Rule 2.8)	Primary* \$525	Primary* \$525	Primary* \$525	Primary* \$525	Primary* \$200	Primary* \$200	Primary* \$200	Primary* \$200	Primary* \$200	No Limit
	General* \$525	General* \$525	General* \$525	General* \$525	General* \$200	General* \$200	General* \$200	General* \$200	General* \$200	No Limit
527 Organization	Consult Internal Revenue Service Regulations									

* All major party candidates may accept contributions for the primary and general election. Minor party candidates who appear on a primary election ballot may accept contributions for the primary and general elections. Unaffiliated and minor party candidates who do not appear on a primary election ballot may only accept contributions for the general election. The Governor and Lt. Governor are considered one committee and the contribution and spending limits for governor apply to the joint committee.

Contribution limits double for a candidate who has accepted voluntary spending limits if his or her opponent has not accepted the voluntary spending limits and has raised more than 10 percent of the spending limit. Contributions from a political party are based on a candidate's election cycle and cannot be doubled.

Contributions to a candidate committee by the candidate are counted as political party contributions when a candidate accepts voluntary spending limits. Any unexpended campaign contributions which are carried forward to a subsequent election cycle are also counted as a political party contribution.

QUICK REFERENCE: STATE VOLUNTARY SPENDING LIMITS

Please note that there is nothing in Article XXVIII of the Colorado Constitution or Title 1, Article 45 of the Colorado Revised Statutes addressing voluntary spending limits for county or municipal candidates. If you are running for office in a home rule county or municipality, please contact your county clerk and recorder or municipal clerk to see if your county or municipality has its own spending limit guidelines or restrictions.

VOLUNTARY SPENDING LIMITS

This chart reflects the voluntary spending limits as adjusted by CPF Rule 12 pursuant to Article XXVIII, Section 4(7) of the Colorado Constitution effective April 1, 2007, and are current until the next adjustment in 2011.

OFFICE / CANDIDATE	VOLUNTARY SPENDING LIMITS
Governor / Lieutenant Governor	\$2,650,000
Secretary of State	530,000
Attorney General	530,000
State Treasurer	530,000
State Senate	95,400
State House of Representatives	68,900
State Board of Education	68,900
Regent of the University of Colorado	68,900
District Attorney	68,900
Regional Transportation District (RTD)	No Limit

Remember: Contribution limits double for a candidate who has accepted voluntary spending limits if his or her opponent has not accepted the voluntary spending limits and has raised more than 10 percent of the spending limit; however, **this does not double the candidate's spending limit**. Political Party contribution limits cannot be doubled.

QUICK REFERENCE OF COMMITTEE CONTRIBUTION LIMITS

This chart reflects contribution limits for all political committees, small donor committees, issue committees and political parties within the State of Colorado. Home Rule counties or municipalities may have their own contribution limits; therefore, you should contact the county clerk and recorder or municipal clerk. The limits in this chart reflect adjustments made by CPF Rule 12 pursuant to Article XXVII, Sec. 3(13) of the Colorado Constitution. In addition, please review Campaign and Political Finance Rule 2.6 and 2.7 relating to issue committee and political committee contributions.

Contributor	Committee Receiving Contribution			
	Political Committee (per State House of Representatives election cycle)	Small Donor Committee (per calendar year)	Political Party (per calendar year)	Issue Committee
Natural Person	\$525	\$50	\$3,175 (State, county, district, & local levels combined of which no more than \$2,650 may be given to the state party.)	No Limit
Political Party	\$525	Prohibited	\$3,175 (State, county, district, & local levels combined of which no more than \$2,650 may be given to the state party.)	No Limit
Political Committee (PC)	\$525	Prohibited	\$3,175 (State, county, district, & local levels combined of which no more than \$2,650 may be given to the state party.)	Prohibited
Small Donor Committee (SDC)	\$525	Prohibited	\$15,900 (State, County, district, and local levels combined of which no more than \$13,250 may be given to the state party.)	Prohibited
Candidate Committee	\$525, but only if the stated purpose of the political committee includes supporting the candidate who is contributing.	Prohibited	\$3,175 of unexpended campaign funds only.	Prohibited
Issue Committee	Prohibited	Prohibited	Prohibited	No Limit
Business Entity (Other than a Corporation)	\$525	Prohibited	\$3,175 (State, county, district, & local levels combined of which no more than \$2,650 may be given to the state party.)	No Limit
Corporations & Labor Unions	\$525	Prohibited	Prohibited	No Limit
Federal PAC	\$525	Prohibited	\$3,175 (State, county, district, & local levels combined of which no more than \$2,650 may be given to the state party.)	No Limit
Federal 527 Organization	\$525	Prohibited	\$3,175 (State, county, district, & local levels combined of which no more than \$2,650 may be given to the state party.)	No Limit

GLOSSARY OF TERMS AND ACRONYMS

527

The term “527” refers to a section of the Internal Revenue Code governing a type of tax-exempt political organization. 527s are typically federal organizations created to influence or attempt to influence the selection, nomination, election, or appointment of candidates.

Amendment 27

Refers to what is now Article XXVIII of the Colorado Constitution, a voter-approved constitutional amendment providing campaign finance laws for the state of Colorado.

Article XXVIII

A voter-approved amendment to the Colorado constitution providing campaign finance laws for the state of Colorado.

Candidate Affidavit

Notarized form filed with the appropriate filing office to certify one’s intent to run for public office.

Committee

A person or group of persons that raises and spends money for the purpose of supporting or opposing candidates running for office, or supporting or opposing ballot measures.

Contribution

A contribution is money given to, or received by, a campaign entity such as a candidate or a committee.

CPF – Campaign and Political Finance

Includes all the laws pertaining to and methods of financing political campaigns and related activities.

C.R.S. – Colorado Revised Statutes

The laws enacted by the Colorado General Assembly.

Electioneering

Any communication broadcast in some form within 30 days of an election, to members of the electorate urging a vote for or against a candidate for public office.

Expenditure

Money spent by a candidate, committee, other political entity, or individual in the case of Independent Expenditures.

FCPA – Fair Campaign Practices Act

Title 1, Article 45 of the Colorado Revised Statutes.

FCC – Federal Communications Commission

Federal agency responsible for oversight of broadcast communications, including television, internet, and radio.

FEC – Federal Elections Commission

Federal agency responsible for oversight of federal elections and campaign and political finance.

Filing Officer

This is the office with whom you or your committee is required to file campaign finance reports. For all candidates and committees except those at the municipal and federal levels, the appropriate filing officer is the Colorado Secretary of State.

GA – General Assembly

The State Senate and State House of Representatives together comprise the General Assembly.

Independent Expenditure

A campaign finance expenditure that is not controlled or coordinated by the candidate that it references.

Issue Committee

A person or group of persons that raises and spends money in excess of \$200 to support or oppose ballot measures.

Major Contributor Report

Report that must be filed by the recipient of any contribution of \$1,000 or more, naming the contributor and his or her address, occupation, and employer.

Municipality

A subdivision of the state, most often a city or town.

PAC – Political Action Committee

A PAC is a federal political organization regulated by the Federal Elections Commission. Colorado does not have PACs, only political committees.

P.C. – Political Committee

A person or group of people that raises and spends money (more than \$200) to support or oppose the nomination or election of one or more candidates.

PFD – Personal Financial Disclosure

Document that must be filed by public officials and those running for office under Colorado’s Sunshine Law.

Political Party

A group of registered electors that nominates candidates for the general election ballot, whether by petition or by assembly.

Recall Committee

A recall committee is an issue committee established for the purpose of recalling an elected official.

Registered Agent

The agent authorized to act on behalf of a committee. Only the agent (and, in the cases of candidate committees, the candidate) may file committee reports and engage in other activities related to the control of a committee. The agent is also the person responsible for penalties and responding to complaints lodged against the committee.

Report of Contributions and Expenditures

Report outlining all of the contributions received, and expenditures made by, a candidate, committee, or other entity governed by campaign and political finance laws. Required by Colorado law.

RTD – Regional Transportation District

Regional authority that operates public transportation in the Denver metro area. RTD is overseen by an elected 15-member Board of Directors.

Rules – Rules Concerning Campaign and Political Finance

These are legally-binding regulations promulgated by the Colorado Secretary of State that govern campaign and political finance activities in Colorado.

SD – Senate District OR Special District

SD is used to refer to both senate districts and special districts.

Senate District: Colorado has 35 Senate Districts, each represented by one State Senator in the Colorado Legislature.

Special District: A political subdivision of the state of Colorado, typically created to provide services to citizens (such as water and sanitation) that are not provided by the county or municipality. Special districts have their own elections for their governing boards.

SDC – Small Donor Committee

Political committee that accepts contributions of \$50 or less from natural persons only.

SOS – Secretary of State

The Secretary is an elected official that oversees a state agency by the same name. The Secretary of State’s Office is a non-partisan agency that administers many laws including Colorado’s business and commercial statutes pertaining to profit and nonprofit corporations, limited liability companies, partnerships, trade names, secured transactions under the Uniform Commercial Code and miscellaneous liens, Colorado Election Code, Voter Registration Law, Campaign Finance Laws, Lobbyist Regulation, Colorado Charitable Solicitations Act, Bingo and Raffles Laws, and Notaries Public Laws.

TRACER – Transparency in Contribution and Expenditure Reporting

The Colorado Secretary of State’s online campaign and political finance filing system.

VSL – Voluntary Spending Limits

Campaign spending limits that a candidate running for state office may elect to abide.

References:

Article XXVIII, Colorado Constitution; Title 1 Article 45, C.R.S.; and Rules Concerning Campaign and Political Finance

COLORADO CONSTITUTION ARTICLE XXVIII (Amendment 27)

Campaign and Political Finance

Section 1. Purpose and findings. The people of the state of Colorado hereby find and declare that large campaign contributions to political candidates create the potential for corruption and the appearance of corruption; that large campaign contributions made to influence election outcomes allow wealthy individuals, corporations, and special interest groups to exercise a disproportionate level of influence over the political process; that the rising costs of campaigning for political office prevent qualified citizens from running for political office; that because of the use of early voting in Colorado timely notice of independent expenditures is essential for informing the electorate; that in recent years the advent of significant spending on electioneering communications, as defined herein, has frustrated the purpose of existing campaign finance requirements; that independent research has demonstrated that the vast majority of televised electioneering communications goes beyond issue discussion to express electoral advocacy; that political contributions from corporate treasuries are not an indication of popular support for the corporation's political ideas and can unfairly influence the outcome of Colorado elections; and that the interests of the public are best served by limiting campaign contributions, encouraging voluntary campaign spending limits, providing for full and timely disclosure of campaign contributions, independent expenditures, and funding of electioneering communications, and strong enforcement of campaign finance requirements.

Source: L. Initiated 2002: Entire Article added, **L. 2003**, p. 3615. For the effective date of this Article, see the editor's note following the Article heading.

Section 2. Definitions. For the purpose of this Article and any statutory provisions pertaining to campaign finance, including provisions pertaining to disclosure:

(1) "Appropriate officer" means the individual with whom a candidate, candidate committee, political committee, small donor committee, or issue committee must file pursuant to section 1-45-109 (1), C.R.S., or any successor section.

(2) "Candidate" means any person who seeks nomination or election to any state or local public office that is to be voted on in this state at any primary election, general election, school district election, special district election, or municipal election. "Candidate" also includes a judge or justice of any court of record who seeks to be retained in office pursuant to the provisions of section 25 of article VI. A person is a candidate for election if the person has publicly announced an intention to seek election to public office or retention of a judicial office and thereafter has received a contribution or made an expenditure in support of the candidacy. A person remains a candidate for purposes of this Article so long as the candidate maintains a registered candidate committee. 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, is a candidate for purposes of this article.

Colorado Campaign and Political Finance Manual, References: Laws and Regulations

(3) "Candidate committee" means a person, including the candidate, or persons with the common purpose of receiving contributions or making expenditures under the authority of a candidate. A contribution to a candidate shall be deemed a contribution to the candidate's candidate committee. A candidate shall have only one candidate committee. A candidate committee shall be considered open and active until affirmatively closed by the candidate or by action of the secretary of state.

(4) "Conduit" means a person who transmits contributions from more than one person, directly to a candidate committee. "Conduit" does not include the contributor's immediate family members, the candidate or campaign treasurer of the candidate committee receiving the contribution, a volunteer fund raiser hosting an event for a candidate committee, or a professional fund raiser if the fund raiser is compensated at the usual and customary rate.

(5) (a) "Contribution" means:

(I) The payment, loan, pledge, gift, or advance of money, or guarantee of a loan, made to any candidate committee, issue committee, political committee, small donor committee, or political party;

(II) Any payment made to a third party for the benefit of any candidate committee, issue committee, political committee, small donor committee, or political party;

(III) The fair market value of any gift or loan of property made to any candidate committee, issue committee, political committee, small donor committee or political party;

(IV) Anything of value given, directly or indirectly, to a candidate for the purpose of promoting the candidate's nomination, retention, recall, or election.

(b) "Contribution" does not include services provided without compensation by individuals volunteering their time on behalf of a candidate, candidate committee, political committee, small donor committee, issue committee, or political party; a transfer by a membership organization of a portion of a member's dues to a small donor committee or political committee sponsored by such membership organization; or payments by a corporation or labor organization for the costs of establishing, administering, and soliciting funds from its own employees or members for a political committee or small donor committee.

(6) "Election cycle" means either:

(a) The period of time beginning thirty-one days following a general election for the particular office and ending thirty days following the next general election for that office;

(b) The period of time beginning thirty-one days following a general election for the particular office and ending thirty days following the special legislative election for that office; or

(c) The period of time beginning thirty-one days following the special legislative election for the particular office and ending thirty days following the next general election for that office.

(7) (a) "Electioneering communication" means any communication broadcasted by television or radio, printed in a newspaper or on a billboard, directly mailed or delivered by hand to personal residences or otherwise distributed that:

(I) Unambiguously refers to any candidate; and

(II) Is broadcasted, printed, mailed, delivered, or distributed within thirty days before a primary election or sixty days before a general election; and

(III) Is broadcasted to, printed in a newspaper distributed to, mailed to, delivered by hand to, or otherwise distributed to an audience that includes members of the electorate for such public office.

(b) "Electioneering communication" does not include:

(I) Any news Articles, editorial endorsements, opinion or commentary writings, or letters to the editor printed in a newspaper, magazine or other periodical not owned or controlled by a candidate or political party;

(II) Any editorial endorsements or opinions aired by a broadcast facility not owned or controlled by a candidate or political party;

(III) Any communication by persons made in the regular course and scope of their business or any communication made by a membership organization solely to members of such organization and their families;

(IV) Any communication that refers to any candidate only as part of the popular name of a bill or statute.

Colorado Campaign and Political Finance Manual, References: Laws and Regulations

(8) (a) "Expenditure" means any purchase, payment, distribution, loan, advance, deposit, or gift of money by any person for the purpose of expressly advocating the election or defeat of a candidate or supporting or opposing a ballot issue or ballot question. An expenditure is made when the actual spending occurs or when there is a contractual agreement requiring such spending and the amount is determined.

(b) "Expenditure" does not include:

(I) Any news Articles, editorial endorsements, opinion or commentary writings, or letters to the editor printed in a newspaper, magazine or other periodical not owned or controlled by a candidate or political party;

(II) Any editorial endorsements or opinions aired by a broadcast facility not owned or controlled by a candidate or political party;

(III) Spending by persons, other than political parties, political committees and small donor committees, in the regular course and scope of their business or payments by a membership organization for any communication solely to members and their families;

(IV) Any transfer by a membership organization of a portion of a member's dues to a small donor committee or political committee sponsored by such membership organization; or payments made by a corporation or labor organization for the costs of establishing, administering, or soliciting funds from its own employees or members for a political committee or small donor committee.

(9) "Independent expenditure" means an expenditure that is not controlled by or coordinated with any candidate or agent of such candidate. Expenditures that are controlled by or coordinated with a candidate or candidate's agent are deemed to be both contributions by the maker of the expenditures, and expenditures by the candidate committee.

(10) (a) "Issue committee" means any person, other than a natural person, or any group of two or more persons, including natural persons:

(I) That has a major purpose of supporting or opposing any ballot issue or ballot question; or

(II) That has accepted or made contributions or expenditures in excess of two hundred dollars to support or oppose any ballot issue or ballot question.

(b) "Issue committee" does not include political parties, political committees, small donor committees, or candidate committees as otherwise defined in this section.

(c) An issue committee shall be considered open and active until affirmatively closed by such committee or by action of the appropriate authority.

(11) "Person" means any natural person, partnership, committee, association, corporation, labor organization, political party, or other organization or group of persons.

(12) (a) "Political committee" means any person, other than a natural person, or any group of two or more persons, including natural persons that have accepted or made contributions or expenditures in excess of \$200 to support or oppose the nomination or election of one or more candidates.

(b) "Political committee" does not include political parties, issue committees, or candidate committees as otherwise defined in this section.

(c) For the purposes of this Article, the following are treated as a single political committee:

(I) All political committees established, financed, maintained, or controlled by a single corporation or its subsidiaries;

(II) All political committees established, financed, maintained, or controlled by a single labor organization; except that, any political committee established, financed, maintained, or controlled by a local unit of the labor organization which has the authority to make a decision independently of the state and national units as to which candidates to support or oppose shall be deemed separate from the political committee of the state and national unit;

(III) All political committees established, financed, maintained, or controlled by the same political party;

(IV) All political committees established, financed, maintained, or controlled by substantially the same group of persons.

(13) "Political party" means any group of registered electors who, by petition or assembly, nominate candidates for the official general election ballot. "Political party" includes affiliated party organizations at the state,

county, and election district levels, and all such affiliates are considered to be a single entity for the purposes of this Article, except as otherwise provided in section 7.

(14) (a) "Small donor committee" means any political committee that has accepted contributions only from natural persons who each contributed no more than fifty dollars in the aggregate per year. For purposes of this section, dues transferred by a membership organization to a small donor committee sponsored by such organization shall be treated as pro-rata contributions from individual members.

(b) "Small donor committee" does not include political parties, political committees, issue committees, or candidate committees as otherwise defined in this section.

(c) For the purposes of this Article, the following are treated as a single small donor committee:

(I) All small donor committees established, financed, maintained, or controlled by a single corporation or its subsidiaries;

(II) All small donor committees established, financed, maintained, or controlled by a single labor organization; except that, any small donor committee established, financed, maintained, or controlled by a local unit of the labor organization which has the authority to make a decision independently of the state and national units as to which candidates to support or oppose shall be deemed separate from the small donor committee of the state and national unit;

(III) All small donor committees established, financed, maintained, or controlled by the same political party;

(IV) All small donor committees established, financed, maintained, or controlled by substantially the same group of persons.

(15) "Unexpended campaign contributions" means the balance of funds on hand in any candidate committee at the end of an election cycle, less the amount of all unpaid monetary obligations incurred prior to the election in furtherance of such candidacy.

Source: L. Initiated 2002: Entire Article added, **L. 2003**, p. 3615. For the effective date of this Article, see the editor's note following the Article heading.

[PLEASE NOTE THAT THE CONTRIBUTION LIMITS LISTED IN SECTION 3 HAVE BEEN UPDATED BY CAMPAIGN AND POLITICAL FINANCE RULE 12 AS REQUIRED BY SUBSECTION (13), EFFECTIVE APRIL 2007, AND ARE CURRENT UNTIL THE NEXT ADJUSTMENT IN 2011.]

Section 3. Contribution limits. (1) Except as described in subsections (2), (3), and (4) of this section, no person, including a political committee, shall make to a candidate committee, and no candidate committee shall accept from any one person, aggregate contributions for a primary or a general election in excess of the following amounts:

(a) Five hundred dollars to any one:

(I) Governor candidate committee for the primary election, and governor and lieutenant governor candidate committee, as joint candidates under 1-1-104, C.R.S., or any successor section, for the general election;

(II) Secretary of state, state treasurer, or attorney general candidate committee; and

(b) Two hundred dollars to any one state senate, state house of representatives, state board of education, regent of the university of Colorado, or district attorney candidate committee.

(2) No small donor committee shall make to a candidate committee, and no candidate committee shall accept from any one small donor committee, aggregate contributions for a primary or a general election in excess of the following amounts:

(a) Five thousand dollars to any one:

(I) Governor candidate committee for the primary election, and governor and lieutenant governor candidate committee, as joint candidates under 1-1-104, C.R.S., or any successor section, for the general election;

(II) Secretary of state, state treasurer, or attorney general candidate committee; and

(b) Two thousand dollars to any one state senate, state house of representatives, state board of education, regent of the university of Colorado, or district attorney candidate committee.

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(3) (a) No political party shall accept aggregate contributions from any person, other than a small donor committee as described in paragraph (b) of this subsection (3), that exceed three thousand dollars per year at the state, county, district, and local level combined, and of such amount no more than twenty-five hundred dollars per year at the state level;

(b) No political party shall accept aggregate contributions from any small donor committee that exceed fifteen thousand dollars per year at the state, county, district, and local level combined, and of such amount no more than twelve thousand, five hundred dollars at the state level;

(c) No political party shall accept contributions that are intended, or in any way designated, to be passed through the party to a specific candidate's candidate committee;

(d) In the applicable election cycle, no political party shall contribute to any candidate committee more than twenty percent of the applicable spending limit set forth in section 4 of this Article.

(e) Any unexpended campaign contributions retained by a candidate committee for use in a subsequent election cycle shall be counted and reported as contributions from a political party in any subsequent election for purposes of paragraph (d) of this subsection (3);

(4) (a) It shall be unlawful for a corporation or labor organization to make contributions to a candidate committee or a political party, and to make expenditures expressly advocating the election or defeat of a candidate; except that a corporation or labor organization may establish a political committee or small donor committee which may accept contributions or dues from employees, officeholders, shareholders, or members.

(b) The prohibition contained in paragraph (a) of this subsection (4) shall not apply to a corporation that:

(I) Is formed for the purpose of promoting political ideas and cannot engage in business activities; and

(II) Has no shareholders or other persons with a claim on its assets or income; and

(III) Was not established by and does not accept contributions from business corporations or labor organizations.

(5) No political committee shall accept aggregate contributions or pro-rata dues from any person in excess of five hundred dollars per house of representatives election cycle.

(6) No candidate's candidate committee shall accept contributions from, or make contributions to, another candidate committee, including any candidate committee, or equivalent entity, established under federal law.

(7) No person shall act as a conduit for a contribution to a candidate committee.

(8) Notwithstanding any other section of this Article to the contrary, a candidate's candidate committee may receive a loan from a financial institution organized under state or federal law if the loan bears the usual and customary interest rate, is made on a basis that assures repayment, is evidenced by a written instrument, and is subject to a due date or amortization schedule. The contribution limits described in this section shall not apply to a loan as described in this subsection (8).

(9) All contributions received by a candidate committee, issue committee, political committee, small donor committee, or political party shall be deposited in a financial institution in a separate account whose title shall include the name of the committee or political party. All records pertaining to such accounts shall be maintained by the committee or political party for one-hundred eighty days following any general election in which the committee or party received contributions unless a complaint is filed, in which case they shall be maintained until final disposition of the complaint and any consequent litigation. Such records shall be subject to inspection at any hearing held pursuant to this Article.

(10) No candidate committee, political committee, small donor committee, issue committee, or political party shall accept a contribution, or make an expenditure, in currency or coin exceeding one hundred dollars.

(11) No person shall make a contribution to a candidate committee, issue committee, political committee, small donor committee, or political party with the expectation that some or all of the amounts of such contribution will be reimbursed by another person. No person shall be reimbursed for a contribution made to any candidate committee, issue committee, political committee, small donor committee, or political party, nor shall any person make such reimbursement except as provided in subsection (8) of this section.

(12) No candidate committee, political committee, small donor committee, or political party shall knowingly accept contributions from:

- (a) Any natural person who is not a citizen of the United States;
- (b) A foreign government; or
- (c) Any foreign corporation that does not have the authority to transact business in this state pursuant to Article 115 of title 7, C.R.S., or any successor section.

(13) Each limit on contributions described in subsections (1), (2), (3) (a), (3) (b) and (5) of this section, and subsection (14) of section 2, shall be adjusted by an amount based upon the percentage change over a four year period in the United States bureau of labor statistics consumer price index for Denver- Boulder-Greeley, all items, all consumers, or its successor index, rounded to the nearest lowest twenty-five dollars. The first adjustment shall be done in the first quarter of 2007 and then every four years thereafter. The secretary of state shall calculate such an adjustment in each limit and specify the limits in rules promulgated in accordance with article 4 of title 24, C.R.S., or any successor section.

Source: L. Initiated 2002: Entire article added, L. 2003, p. 3619. For the effective date of this Article, see the editor's note following the Article heading.

[PLEASE NOTE THAT THE VOLUNTARY CAMPAIGN SPENDING LIMITS LISTED IN SECTION 4 HAVE BEEN UPDATED BY CAMPAIGN AND POLITICAL FINANCE RULE 12 AS REQUIRED BY SUBSECTION (7) EFFECTIVE APRIL 2007, AND ARE CURRENT UNTIL THE NEXT ADJUSTMENT IN 2011.]

Section 4. Voluntary campaign spending limits. (1) Candidates may certify to the secretary of state that the candidate's candidate committee shall not exceed the following spending limits for the applicable election cycle:

- (a) Two and one-half million dollars combined for a candidate for governor and governor and lieutenant governor as joint candidates under 1-1-104, C.R.S., or any successor section;
- (b) Five hundred thousand dollars for a candidate for secretary of state, attorney general, or treasurer;
- (c) Ninety thousand dollars for a candidate for the state senate;
- (d) Sixty-five thousand dollars for a candidate for the state house of representatives, state board of education, regent of the university of Colorado, or district attorney.

(2) Candidates accepting the campaign spending limits set forth above shall also agree that their personal contributions to their own campaign shall be counted as political party contributions and subject to the aggregate limit on such contributions set forth in section 3 of this article.

(3) Each candidate who chooses to accept the applicable voluntary spending limit shall file a statement to that effect with the secretary of state at the time that the candidate files a candidate affidavit as currently set forth in section 1-45-110(1), C.R.S., or any successor section. Acceptance of the applicable voluntary spending limit shall be irrevocable except as set forth in subsection (4) of this section and shall subject the candidate to the penalties set forth in section 10 of this Article for exceeding the limit.

(4) If a candidate accepts the applicable spending limit and another candidate for the same office refuses to accept the spending limit, the accepting candidate shall have ten days in which to withdraw acceptance. The accepting candidate shall have this option of withdrawing acceptance after each additional non-accepting candidate for the same office enters the race.

(5) The applicable contribution limits set forth in section 3 of this Article shall double for any candidate who has accepted the applicable voluntary spending limit if:

- (a) Another candidate in the race for the same office has not accepted the voluntary spending limit; and
- (b) The non-accepting candidate has raised more than ten percent of the applicable voluntary spending limit.

(6) Only those candidates who have agreed to abide by the applicable voluntary spending limit may advertise their compliance. All other candidates are prohibited from advertising, or in any way implying, their acceptance of voluntary spending limits.

(7) Each spending limit described in subsection (1) of this section shall be adjusted by an amount based upon the percentage change over a four year period in the united states bureau of labor statistics consumer price index

for Denver-Boulder-Greeley, all items, all consumers, or its successor index, rounded to the nearest lowest twenty-five dollars. The first adjustment shall be done in the first quarter of 2007 and then every four years thereafter. The secretary of state shall calculate such an adjustment in each limit and specify the limits in rules promulgated in accordance with Article 4 of title 24, C.R.S., or any successor section.

Source: L. Initiated 2002: Entire Article added, **L. 2003**, p. 3622. For the effective date of this Article, see the editor's note following the Article heading.

Section 5. Independent expenditures. (1) Any person making an independent expenditure in excess of one thousand dollars per calendar year shall deliver notice in writing to the secretary of state of such independent expenditure, as well as the amount of such expenditure, and a detailed description of the use of such independent expenditure. The notice shall specifically state the name of the candidate whom the independent expenditure is intended to support or oppose. Each independent expenditure in excess of one-thousand dollars shall require the delivery of a new notice. Any person making an independent expenditure within thirty days of a primary or general election shall deliver such notice within forty-eight hours after obligating funds for such expenditure.

(2) Any person making an independent expenditure in excess of one thousand dollars shall disclose, in the communication produced by the expenditure, the name of the person making the expenditure and the specific statement that the advertisement of material is not authorized by any candidate. Such disclosure shall be prominently featured in the communication.

(3) Expenditures by any person on behalf of a candidate for public office that are coordinated with or controlled by the candidate or the candidate's agent, or political party shall be considered a contribution to the candidate's candidate committee, or the political party, respectively.

(4) This section 5 applies only to independent expenditures made for the purpose of expressly advocating the defeat or election of any candidate.

Source: L. Initiated 2002: Entire Article added, **L. 2003**, p. 3623. For the effective date of this Article, see the editor's note following the Article heading.

Section 6. Electioneering communications. (1) Any person who expends one thousand dollars or more per calendar year on electioneering communications shall submit reports to the secretary of state in accordance with the schedule currently set forth in 1-45-108 (2), C.R.S., or any successor section. Such reports shall include spending on such electioneering communications, and the name, and address, of any person that contributes more than two hundred and fifty dollars per year to such person described in this section for an electioneering communication. In the case where the person is a natural person, such reports shall also include the occupation and employer of such natural person. The last such report shall be filed thirty days after the applicable election.

(2) Notwithstanding any section to the contrary, it shall be unlawful for a corporation or labor organization to provide funding for an electioneering communication; except that any political committee or small donor committee established by such corporation or labor organization may provide funding for an electioneering communication.

Source: L. Initiated 2002: Entire article added, **L. 2003**, p. 3623. For the effective date of this Article, see the editor's note following the Article heading.

Section 7. Disclosure. The disclosure requirements relevant to candidate committees, political committees, issue committees, and political parties, that are currently set forth in section 1-45-108, C.R.S., or any successor section, shall be extended to include small donor committees. The disclosure requirements of section 1-45-108, C.R.S., or any successor section, shall be extended to require disclosure of the occupation and employer of each person who has made a contribution of one hundred dollars or more to a candidate committee, political committee,

issue committee, or political party. For purposes of this section and 1-45-108, C.R.S., or any successor section, a political party shall be treated as separate entities at the state, county, district, and local levels.

Source: L. Initiated 2002: Entire article added, **L. 2003**, p. 3624. For the effective date of this Article, see the editor's note following the Article heading.

Section 8. Filing - where to file - timeliness. The secretary of state shall promulgate rules relating to filing in accordance with article 4 of title 24, C.R.S., or any successor section. The rules promulgated pursuant to this section shall extend section 1- 45-109, C.R.S., or any successor section to apply to small donor committees.

Source: L. Initiated 2002: Entire article added, **L. 2003**, p. 3624. For the effective date of this Article, see the editor's note following the Article heading.

Section 9. Duties of the secretary of state - enforcement. (1) The secretary of state shall:

(a) Prepare forms and instructions to assist candidates and the public in complying with the reporting requirements of this article and make such forms and instructions available to the public, municipal clerks, and county clerk and recorders free of charge;

(b) Promulgate 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 this Article;

(c) Prepare forms for candidates to declare their voluntary acceptance of the campaign spending limits set forth in section 4 of this Article. Such forms shall include an acknowledgment that the candidate voluntarily accepts the applicable spending limit and that the candidate swears to abide by those spending limits. These forms shall be signed by the candidate under oath, notarized, filed with the secretary of state, and available to the public upon request;

(c) Maintain a filing and indexing system consistent with the purposes of this Article;

(e) Make the reports and statements filed with the secretary of state's office available immediately for public inspection and copying. The secretary of state may charge a reasonable fee for providing copies of reports. No information copied from such reports shall be sold or used by any person for the purpose of soliciting contributions or for any commercial purpose;

(f) Refer any complaints filed against any candidate for the office of secretary of state to the attorney general. Any administrative law judge employed pursuant to this section shall be appointed pursuant to part 10 of Article 30 of title 24, C.R.S., or any successor section. Any hearing conducted by an administrative law judge employed pursuant to subsection (2) of this section shall be conducted in accordance with the provisions of section 24-4-105, C.R.S., or any successor section.

(2) (a) Any person who believes that a violation of section 3, section 4, section 5, section 6, section 7, or section 9 (1) (e), of this Article, or of sections 1-45-108, 1-45-114, 1-45-115, or 1-45-117 C.R.S., or any successor sections, has occurred may file a written complaint with the secretary of state no later than one hundred eighty days after the date of the alleged violation. The secretary of state shall refer the complaint to an administrative law judge within three days of the filing of the complaint. The administrative law judge shall hold a hearing within fifteen days of the referral of the complaint, and shall render a decision within fifteen days of the hearing. The defendant shall be granted an extension of up to thirty days upon defendant's motion, or longer upon a showing of good cause. If the administrative law judge determines that such violation has occurred, such decision shall include any appropriate order, sanction, or relief authorized by this Article. The decision of the administrative law judge shall be final and subject to review by the court of appeals, pursuant to section 24-4-106 (11), C.R.S., or any successor section. The secretary of state and the administrative law judge are not necessary parties to the review. The decision maybe enforced by the secretary of state, or, if the secretary of state does not file an enforcement action within thirty days of the decision, in a private cause of action by the person filing the complaint. Any private action brought under this section shall be brought within one year of the date of the violation in state district court. The prevailing party in a private enforcement action shall be entitled to reasonable attorneys fees and costs.

(b) The attorney general shall investigate complaints made against any candidate for the office of secretary of state using the same procedures set forth in paragraph (a) of this subsection (2). Complainant shall have the same private right of action as under paragraph (a) of this subsection (2).

(c) A subpoena issued by an administrative law judge requiring the production of documents by an issue committee shall be limited to documents pertaining to contributions to, or expenditures from, the committee's separate account established pursuant to section 3(9) of this Article to support or oppose a ballot issue or ballot question. A subpoena shall not be limited in this manner where such issue committee fails to form a separate account through which a ballot issue or ballot question is supported or opposed.

Source: L. Initiated 2002: Entire article added, **L. 2003**, p. 3624. For the effective date of this Article, see the editor's note following the Article heading.

Section 10. Sanctions. (1) Any person who violates any provision of this Article relating to contribution or voluntary spending limits shall be subject to a civil penalty of at least double and up to five times the amount contributed, received, or spent in violation of the applicable provision of this Article. Candidates shall be personally liable for penalties imposed upon the candidate's committee.

(2) (a) The appropriate officer shall impose a penalty of fifty dollars per day for each day that a statement or other information required to be filed pursuant to section 5, section 6, or section 7 of this Article, or sections 1-45-108, 1-45-109 or 1-45-110, C.R.S., or any successor sections, is not filed by the close of business on the day due. Upon imposition of a penalty pursuant to this subsection (2), the appropriate officer shall send the person upon whom the penalty is being imposed proper notification by certified mail of the imposition of the penalty. If an electronic mail address is on file with the secretary of state, the secretary of state shall also provide such notification by electronic mail. Revenues collected from fees and penalties assessed by the secretary of state or revenues collected in the form of payment of the secretary of state's attorney fees and costs pursuant to this Article shall be deposited in the department of state cash fund created in section 24-21-104 (3), C.R.S., or any successor section.

(b) (I) Any person required to file a report with the secretary of state and upon whom a penalty has been imposed pursuant to this subsection (2) may appeal such penalty by filing a written appeal with the secretary of state no later than thirty days after the date on which notification of the imposition of the penalty was mailed to such person's last known address in accordance with paragraph (a) of this subsection (2). Except as provided in paragraph (c) of this subsection (2), the secretary shall refer the appeal to an administrative law judge. Any hearing conducted by an administrative law judge pursuant to this subsection (2) shall be conducted in accordance with the provisions of section 24-4-105, C.R.S., or any successor section. The administrative law judge shall set aside or reduce the penalty upon a showing of good cause, and the person filing the appeal shall bear the burden of proof. The decision of the administrative law judge shall be final and subject to review by the court of appeals pursuant to section 24-4-106 (11), C.R.S., or any successor section.

(II) If the administrative law judge finds that the filing of an appeal brought pursuant to subparagraph (I) of this paragraph (b) was frivolous, groundless, or vexatious, the administrative law judge shall order the person filing the appeal to pay reasonable attorney fees and costs of the secretary of state in connection with such proceeding.

(c) Upon receipt by the secretary of state of an appeal pursuant to paragraph (b) of this subsection (2), the secretary shall set aside or reduce the penalty upon a showing of good cause.

(d) Any unpaid debt owing to the state resulting from a penalty imposed pursuant to this subsection (2) shall be collected by the state in accordance with the requirements of section 24-30-202.4, C.R.S., or any successor section.

(3) Failure to comply with the provisions of this article shall have no effect on the validity of any election.

Source: L. Initiated 2002: Entire article added, **L. 2003**, p. 3626. For the effective date of this Article, see the editor's note following the article heading.

Section 11. Conflicting provisions declared inapplicable. Any provisions in the statutes of this state in conflict or inconsistent with this article are hereby declared to be inapplicable to the matters covered and provided for in this Article.

Source: L. Initiated 2002: Entire article added, **L. 2003**, p. 3627. For the effective date of this Article, see the editor's note following the article heading.

Section 12. Repeal of conflicting statutory provisions. Sections 1-45-103, 1-45-105.3, 1-45-107, 1-45-111, and 1-45-113 are repealed.

Source: L. Initiated 2002: Entire article added, **L. 2003**, p. 3627. For the effective date of this Article, see the editor's note following the article heading.

Section 13. Applicability and effective date. The provisions of this article shall take effect on December 6, 2002 and be applicable for all elections thereafter. Legislation may be enacted to facilitate its operations, but in no way limiting or restricting the provisions of this Article or the powers herein granted.

Source: L. Initiated 2002: Entire article added, **L. 2003**, p. 3627. For the effective date of this Article, see the editor's note following the article heading.

Section 14. Severability. If any provision of this Article or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the Article which can be given effect without the invalid provision or application, and to this end the provisions of this Article are declared to be severable.

Source: L. Initiated 2002: Entire article added, **L. 2003**, p. 3627. For the effective date of this Article, see the editor's note following the article heading.

Colorado Revised Statutes Title 1, Article 45

ELECTION CAMPAIGN REGULATIONS

ARTICLE 45

Fair Campaign Practices Act

Editor's note: (1) This article was added in 1974. This article was repealed and reenacted by initiative in 1996, resulting in the addition, relocation, and elimination of sections as well as subject matter. The vote count on the measure at the general election held November 5, 1996, was as follows:

FOR:	928,148
AGAINST:	482,551

(2) For amendments to this article prior to 1996, consult the Colorado statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of C.R.S. 1973 beginning on page vii in the front of this volume. Former C.R.S. section numbers are shown in editors' notes following those sections that were relocated.

Cross references: For public official disclosure law, see part 2 of article 6 of title 24.

Law reviews: For article, "Fair Campaign Practices Act: Killing Trees for Good Government", see 26 Colo. Law. 101 (September 1997). For article, "Public Moneys and Ballot Issues Under the Fair Campaign Practices Act", see 34 Colo. Law. 81 (September 2005).

1-45-101.	Short title.	1-45-110.	Candidate affidavit - disclosure statement.
1-45-102.	Legislative declaration.	1-45-111.	Duties of the secretary of state - enforcement. (Repealed)
1-45-103.	Definitions.	1-45-111.5.	Duties of the secretary of state - enforcement - sanctions.
1-45-103.7.	Contribution limits - contributions from limited liability companies - definitions.	1-45-112.	Duties of municipal clerk.
1-45-104.	Contribution limits. (Repealed)	1-45-112.5.	Immunity from liability for fine or penalty.
1-45-105.	Voluntary campaign spending limits. (Repealed)	1-45-113.	Sanctions. (Repealed)
1-45-105.3.	Contribution limits. (Repealed)	1-45-114.	Expenditures - political advertising - rates and charges.
1-45-105.5.	Contributions to members of general assembly and governor during consideration of legislation.	1-45-115.	Encouraging withdrawal from campaign prohibited.
1-45-106.	Unexpended campaign contributions.	1-45-116.	Home rule counties and municipalities.
1-45-107.	Independent expenditures. (Repealed)	1-45-117.	State and political subdivisions - limitations on contributions.
1-45-108.	Disclosure.	1-45-118.	Severability.
1-45-108.5.	Political organizations - disclosure.		
1-45-109.	Filing - where to file - timeliness - repeal.		

1-45-101. Short title. This article shall be known and may be cited as the "Fair Campaign Practices Act".

Source: Initiated 96: Entire article R&RE, effective upon proclamation of the Governor, January 15, 1997.

Editor's note: This section was contained in an article that was repealed and reenacted in 1996. Provisions of this section, as it existed in 1996, are similar to those contained in 1-45-101 as said section existed in 1995, the year prior to the repeal and reenactment of this article.

1-45-102. Legislative declaration. The people of the state of Colorado hereby find and declare that large campaign contributions to political candidates allow wealthy contributors and special interest groups to exercise a disproportionate level of influence over the political process; that large campaign contributions create the potential for corruption and the appearance of corruption; that the rising costs of campaigning for political office prevent qualified citizens from running for political office; and that the interests of the public are best served by limiting campaign contributions, encouraging voluntary campaign spending limits, full and timely disclosure of campaign contributions, and strong enforcement of campaign laws.

Source: Initiated 96: Entire article R&RE, effective upon proclamation of the Governor, January 15, 1997.

Editor's note: This section was contained in an article that was repealed and reenacted in 1996. Provisions of this section, as it existed in 1996, are similar to those contained in 1-45-102 as said section existed in 1995, the year prior to the repeal and reenactment of this article.

1-45-103. Definitions. As used in this article, unless the context otherwise requires:

(1) "Appropriate officer" shall have the same meaning as set forth in section 2 (1) of article XXVIII of the state constitution.

(1.3) "Ballot issue" shall have the same meaning as set forth in section 1-1-104 (2.3); except that, for purposes of section 1-45-117, "ballot issue" shall mean both a ballot issue as defined in this subsection (1.3) and a ballot question.

(1.5) "Ballot question" shall have the same meaning as set forth in section 1-1-104 (2.7).

(2) "Candidate" shall have the same meaning as set forth in section 2 (2) of article XXVIII of the state constitution.

(3) "Candidate committee" shall have the same meaning as set forth in section 2 (3) of article XXVIII of the state constitution.

(4) "Candidate committee account" shall mean the account established by a candidate committee with a financial institution pursuant to section 3 (9) of article XXVIII of the state constitution.

(5) "Conduit" shall have the same meaning as set forth in section 2 (4) of article XXVIII of the state constitution.

(6) (a) "Contribution" shall have the same meaning as set forth in section 2 (5) of article XXVIII of the state constitution.

(b) "Contribution" includes, with regard to a contribution for which the contributor receives compensation or consideration of less than equivalent value to such contribution, including, but not limited to, items of perishable or nonpermanent value, goods, supplies, services, or participation in a campaign-related event, an amount equal to the value in excess of such compensation or consideration as determined by the candidate committee.

(c) "Contribution" also includes:

(I) Any payment, loan, pledge, gift, advance of money, or guarantee of a loan made to any political organization;

(II) Any payment made to a third party on behalf of and with the knowledge of the political organization; or

(III) The fair market value of any gift or loan of property made to any political organization.

(7) "Corporation" 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 the "Colorado Revised Nonprofit Corporation Act", 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. For purposes of this article, "domestic corporation" shall mean a for-profit or nonprofit corporation incorporated under and subject to the laws of this state, and "foreign corporation" shall mean a corporation incorporated under and subject to the laws of another state or foreign country.

(8) "Election cycle" shall have the same meaning as set forth in section 2 (6) of article XXVIII of the state constitution.

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(9) "Electioneering communication" shall have the same meaning as set forth in section 2 (7) of article XXVIII of the state constitution.

(10) "Expenditure" shall have the same meaning as set forth in section 2 (8) of article XXVIII of the state constitution.

(11) "Independent expenditure" shall have the same meaning as set forth in section 2 (9) of article XXVIII of the state constitution.

(12) "Issue committee" shall have the same meaning as set forth in section 2 (10) of article XXVIII of the state constitution.

(13) "Person" shall have the same meaning as set forth in section 2 (11) of article XXVIII of the state constitution.

(14) "Political committee" shall have the same meaning as set forth in section 2 (12) of article XXVIII of the state constitution.

(14.5) "Political organization" means a political organization defined in section 527 (e) (1) of the federal "Internal Revenue Code of 1986", as amended, that is engaged in influencing or attempting to influence the selection, nomination, election, or appointment of any individual to any state or local public office in the state and that is exempt, or intends to seek any exemption, from taxation pursuant to section 527 of the internal revenue code. "Political organization" shall not be construed to have the same meaning as "political organization" as defined in section 1-1-104 (24) for purposes of the "Uniform Election Code of 1992", articles 1 to 13 of this title.

(15) "Political party" shall have the same meaning as set forth in section 2 (13) of article XXVIII of the state constitution.

(16) "Small donor committee" shall have the same meaning as set forth in section 2 (14) of article XXVIII of the state constitution.

(16.5) "Spending" means funds expended influencing or attempting to influence the selection, nomination, election, or appointment of any individual to any state or local public office in the state and includes, without limitation, any purchase, payment, distribution, loan, advance, deposit, or gift of money or anything else of value by any political organization, a contract, promise, or agreement to expend funds made or entered into by any political organization, or any electioneering communication by any political organization.

(17) "Subsidiary" means a business entity having more than half of its stock owned by another entity or person, or a business entity of which a majority interest is controlled by another person or entity.

(18) "Unexpended campaign contributions" shall have the same meaning as set forth in section 2 (15) of article XXVIII of the state constitution.

Source: Initiated 96: Entire article R&RE, effective upon proclamation of the Governor, January 15, 1997. **L. 98:** (1) added and (8) amended, p. 223, § 1, effective April 10; (1.5) amended and (14) added, p. 954, § 1, effective May 27. **L. 99:** (5) amended, p. 1390, § 12, effective June 4. **L. 2000:** (1.3), (4)(a)(V), and (4.5) added and (4)(a)(III), (10)(b), and (12) amended, pp. 122, 123, §§ 2, 3, effective March 15; (8) amended, p. 1724, § 1, effective June 1. **L. 2002:** (8)(a)(I) amended and (8)(a)(III) added, p. 198, § 1, effective April 3; (1.5) and (2) amended, p. 1576, § 1, effective July 1. **Initiated 2002:** Entire section repealed, effective upon proclamation of the Governor, December 20, 2002; however section 13 of the initiated measure repealing this section provides that the effective date of this section is December 6, 2002. **L. 2003:** Entire section RC&RE, p. 2156, § 1, effective June 3. **L. 2007:** (7) amended, p. 1766, § 1, effective June 1; (6)(c), (14.5), and (16.5) added, pp. 1225, 1224, §§ 2, 1, effective July 1. **L. 2009:** (1.3) and (1.5) added, (HB 09-1153), ch. 174, p. 774, § 1, effective September 1.

Editor's note: (1) This section was contained in an article that was repealed and reenacted in 1996. Provisions of this section, as it existed in 1996, are similar to those contained in § 1-45-103 as said section existed in 1995, the year prior to the repeal and reenactment of this article.

(2) (a) Subsection (4) of section 1 of article V of the state constitution provides that initiated and referred measures shall take effect from and after the official declaration of the vote thereon by the proclamation of the Governor. The measure enacting article XXVIII of the state constitution takes effect upon proclamation of the vote by the Governor. The Governor's proclamation was issued on December 20, 2002. However section 13 of the measure enacting article XXVIII of the state constitution provides that the effective date of article XXVIII is December 6, 2002.

(b) This section was repealed by an initiated measure that was adopted by the people in the general election held November 5, 2002. Section 12 of article XXVIII provides for the repeal of this section. For the text of the initiative and the vote count, see Session Laws of Colorado 2003, p. 3609.

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(3) Subsections (1.3) and (1.5) were added in a 2009 act that was passed without a safety clause. The act establishes an effective date of September 1, 2009, for these provisions. The act, or portions thereof, may not take effect if the people exercise their right to petition under article V, section 1 (3) of the state constitution. For further explanation concerning the effective date, see page ix of this volume.

ANNOTATION

Annotator's note. Since § 1-45-103 is similar to § 1-45-103 as it existed prior to its repeal in 2002, relevant cases construing that provision and its predecessors have been included in the annotations to this section.

It is apparent from the plain language of subsection (2) that a candidate committee may be comprised of one person only and that the candidate acting alone may be a candidate committee. Thus, a candidate committee who acts alone for the purpose of receiving campaign contributions or making campaign expenditures is a candidate committee subject to the disclosure requirements of this article. Therefore, the expenditures made by a candidate from the candidate's personal funds before certification of his or her committee were either contributions to the ultimately certified candidate committee or expenditures by a separate campaign committee composed of the candidate alone. *Hlavec v. Davidson*, 64 P.3d 881 (Colo. App. 2002) (decided under section that was repealed by article XXVIII of the state constitution).

Court's interpretation of the term "candidate committee" to include expenditures of personal money by the candidate on his or her campaign does not limit the amount of money a candidate could personally spend on his or her campaign in violation of the first amendment. The act does not specifically address whether a candidate's personal expenditures are contributions. However, in light of *Buckley v. Valeo*, 424 U.S. 1 (1976), the court holds that the definition of "contribution" contained in subsection (4) does not include a candidate's expenditures of personal funds and contributions made by the candidate to his or her own candidate committee. Accordingly, the court rejected candidate's first amendment argument. *Hlavec v. Davidson*, 64 P.3d 881 (Colo. App. 2002) (decided under section that was repealed by article XXVIII of the state constitution).

Phrases unconstitutional. The phrase in subsection (7), "which unambiguously refer to any specific public office or candidate for such office, but does not include expenditures made by persons, other than political parties and political committees, in the regular course and scope of their business and political messages sent solely to their members[,]" is unconstitutional under the first amendment. *Citizens for Responsible Gov't State Political Action Comm. v. Davidson*, 236 F.3d 1174 (10th Cir. 2000).

The phrase in subsection (11), "or which unambiguously refers to such candidate[,]" is unconstitutional under the first amendment. *Citizens for Responsible Gov't State Political Action Comm. v. Davidson*, 236 F.3d 1174 (10th Cir. 2000).

The court concluded that the unconstitutional phrases were severable and declared subsections (7) and (11) invalid only insofar as they reach beyond that which may constitutionally be regulated. *Citizens for Responsible Gov't State Political Action Comm. v. Davidson*, 236 F.3d 1174 (10th Cir. 2000).

Term "independent expenditure" in subsection (7) permits the regulation of only those expenditures that are used for communications that expressly advocate the election or defeat

of a clearly identified candidate. This standard includes the words and phrases listed in *Buckley v. Valeo*, 424 U.S. 1 (1976), and other substantially similar or synonymous words. This approach remains focused on actual words, as contrasted with images, symbols, or other contextual factors, provides adequate notice in light of due process concerns, and strikes an appropriate balance between trying to preserve the goals of campaign finance reform and protecting political speech. *League of Women Voters v. Davidson*, 23 P.3d 1266 (Colo. App. 2001).

None of the advertisements of so-called educational committee at issue amounted to "express advocacy" as that term is applied in *Buckley* and progeny and, therefore, so-called educational committee was not subject to the requirements of the Fair Campaign Practices Act. *League of Women Voters v. Davidson*, 23 P.3d 1266 (Colo. App. 2001).

The term "issue" in subsection (8) includes an initiative that has gone through the title-setting process, but has not been formally certified for the election ballot. To construe the term to include only measures actually placed on the ballot would frustrate the purposes of the Campaign Reform Act by allowing groups to raise and spend money, without limit and without disclosure to the public, to convince electors to sign or not to sign a particular petition, thus significantly influencing its success or failure. *Colo. for Family Values v. Meyer*, 936 P.2d 631 (Colo. App. 1997).

Telephone opinion poll was not "electioneering" and thus did not constitute an "electioneering communication" within the meaning of subsection (9) of this section and § 6 of article XXVIII of the state constitution. In giving effect to the intent of the electorate, court gives term "communication" its plain and ordinary meaning. Court relies upon dictionary definitions of "communication" that contemplate imparting a message to, rather than having mere contact with, another party. In reviewing scripts used by telephone opinion pollster, "communication" occurred because "facts, information, thoughts, or opinions" were "imparted, transmitted, interchanged, expressed, or exchanged" by pollster to those it called. Telephone opinion pollster, therefore, communicated information to members of the electorate during its opinion poll. *Harwood v. Senate Majority Fund, LLC*, 141 P.3d 962 (Colo. App. 2006).

Telephone opinion poll, however, did not satisfy meaning of electioneering. Colorado electorate intended article XXVIII to regulate communication that expresses "electorate advocacy" and tends to "influence the outcome of Colorado elections". This conclusion is reinforced by plain and ordinary meaning of term "electioneering". Court relies upon dictionary definitions suggesting that "electioneering" is defined by such activities as taking an active part in an election campaign, campaigning for one's own election, or trying to sway public opinion especially by the use of propaganda and that "campaigning" means influencing the public to support a particular candidate, ticket, or measure. Here, telephone opinion poll did not seek to influence voters or sway public opinion but instead merely asked neutral

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questions to collect data and measure public opinion. Accordingly, telephone opinion poll did not constitute an "electioneering communication" under subsection (9) of this section and article XXVIII of the state constitution. *Harwood v. Senate Majority Fund, LLC*, 141 P.3d 962 (Colo. App. 2006).

The term "issue committee" covers only those issue committees that were formed for the purpose of supporting or opposing a ballot initiative. An association that was formed and operated for purposes other than "accepting contributions or making expenditures to support or oppose any ballot issue or ballot question" does not become an "issue committee" as defined in this section if, at a future point in time, it engages in those activities with regard to a specific ballot issue or ballot question. *Common Sense Alliance v. Davidson*, 995 P.2d 748 (Colo. 2000).

A "political committee" is formed when two or more persons associate themselves with the original purpose of making independent expenditures. *Citizens for Responsible Gov't State Political Action Comm. v. Davidson*, 236 F.3d 1174 (10th Cir. 2000).

The term "political committee" in subsection (10) includes a for-profit corporation which makes contributions, contributions in kind, or expenditures to or on behalf of state political campaigns out of its ordinary corporate treasury. Therefore, such corporation is required to file a statement of organization, to report its contributions, contributions in kind, and expenditures, and otherwise to comply with any filing and reporting requirements of the "Campaign Reform Act of 1974". *Colo. Common Cause v. Meyer*, 758 P.2d 153 (Colo. 1988) (decided prior to 1988 amendment to subsection (10)).

While the stated purposes for the formation of an organization may be one criterion upon which to determine whether it is a "political committee", such purposes are not conclusive. To so hold would permit regulable conduct to escape regulation merely because the stated purposes were misleading, ambiguous, fraudulent, or all three. In addition, such a holding would exalt form over substance and would almost entirely eviscerate the Fair Campaign Practices Act and make a mockery of legitimate attempts at campaign finance reform. *League of Women Voters v. Davidson*, 23 P.3d 1266 (Colo. App. 2001).

The use of the disjunctive term "or" in subsection (11) renders the definition of "political message" applicable to messages that "unambiguously refer to a candidate", even if such messages do not also "advocate the election or defeat" of that candidate. *Citizens for Responsible Gov't State Political Action Comm. v. Davidson*, 236 F.3d 1174 (10th Cir. 2000).

To qualify as a political message under subsection (11), a message need only: (1) Be delivered by telephone, any print or electronic media, or other written material, and (2) either (a) advocate the election or defeat of any candidate or (b) unambiguously refer to such candidate. *Citizens for Responsible Gov't State Political Action Comm. v. Davidson*, 236 F.3d 1174 (10th Cir. 2000).

Voter guides that unambiguously refer to specific candidates but do not expressly advocate the election or defeat of any candidate constitute "political messages" as defined in subsection (11). Therefore, the funds expended to produce and disseminate the voter guides are subject to regulation as "independent expenditures" as the term is defined in subsection

(7). *Citizens for Responsible Gov't State Political Action Comm. v. Davidson*, 236 F.3d 1174 (10th Cir. 2000).

Administrative law judge (ALJ) did not err in concluding that definition of "expenditures" did not apply to metropolitan district boards. Respondents had argued that the metropolitan districts qualified as "persons" that could expend payments on behalf of issue committee supporting ballot issue. Even if the definition of "person" could be stretched to cover political subdivisions of the state such as metropolitan districts, respondents failed to explain how the payments at issue were "made with the prior knowledge and consent of an agent" of the issue committee that was not yet formed in order to bring such payments within the definition of "expenditure". *Skruich v. Highlands Ranch Metro. Dists.*, 107 P.3d 1140 (Colo. App. 2004).

ALJ did not err by interpreting "expenditure" to occur when a payment is made and when there is a contractual agreement and the amount is determined. The use of the disjunctive "or" in the definition of "expenditure" indicates that an expenditure is made if either criterion is met after the ballot title is submitted. *Skruich v. Highlands Ranch Metro. Dists.*, 107 P.3d 1140 (Colo. App. 2004).

Order by ALJ assessing penalty against nonprofit association engaging in political advocacy based upon determination by ALJ that association was a political committee is vacated and case remanded. Under controlling precedent, regulation under campaign finance laws should be tied to groups controlled by candidates or which have a "major purpose" of electing candidates. Here, record does not permit a determination of whether major purpose test satisfied as to association. On remand, ALJ instructed to determine whether association's "major purpose" in 2004 was the nomination or election of candidates. *Alliance for Colorado's Families v. Gilbert*, 172 P.3d 964 (Colo. App. 2007).

Court rejects interpretation of § 2(5)(a)(IV) of article XXVIII of state constitution and subsection (6)(a) of this section under which a city employee would be barred from providing to a candidate for elected office anything of value that had the effect of promoting the candidate's election. ALJ correctly construed the relevant phrase "for the purpose of" § 2(5)(a)(IV) of article XXVIII of state constitution in accordance with its plain meaning to indicate an anticipated result that is intended or desired. Court rejects construction under which phrase would mean "with the effect of". Such a construction would improperly conflate the distinct concepts of purpose and effect. Such an interpretation would also lead to unintended consequences far beyond the scope of issues presented in the case. *Colo. Ethics Watch v. City & County of Broomfield*, ___ P.3d ___ (Colo. App. 2009).

Since effect of city employees' actions, rather than their intent, is to be examined, court further rejects argument that intent is to be gauged by objective rather than subjective criteria. Inquiry into purpose requires examination of the intent of the person alleged to have made a campaign contribution. ALJ considered evidence concerning the city employees' intent and determined, on the basis of substantial evidence in the record, that organization bringing campaign finance complaint had not met its burden of proving that the employees provided services for the purpose of promoting a campaign even though employees knew information would be helpful to the candidates to whom the information was provided. Organization's

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interpretation improperly equates knowledge of the possible effects of one's actions with an intent to achieve a particular result. Accordingly, ALJ correctly determined that city's contribution of staff time was not "for the purpose of" promoting a political campaign. Colo. Ethics Watch v. City & County of Broomfield, __ P.3d __ (Colo. App. 2009).

Payment by unions of staff salaries for time spent organizing walks to distribute political literature and payments of other costs associated with related political activities did not constitute prohibited expenditures in violation of § 3(4)(a) of article XXVIII of the state constitution. Whether payments made by the union are prohibited as "expenditures" depends upon whether they are exempt from regulation by the membership communication exception in § 2(8)(b)(III) of article XXVIII of the state constitution as payments for "any communication solely to members and their families". The membership communication exception must be construed broadly to reflect the plain language of this constitutional provision and to satisfy the demands of the first amendment. The membership communication exception as construed applies to most of the union's activities in this case. To the extent that the challenged union activities are not embraced by the membership communication exception, the administrative law judge correctly held that person filing campaign finance complaint failed to prove facts demonstrating that an expenditure was made. Colo. Educ. Ass'n v. Rutt, 184 P.3d 65 (Colo. 2008).

The membership communication exception found in § 2(8)(b)(III) of article XXVIII of the state constitution must be extended to and embraced within the definition of "contribution". To hold otherwise nullifies the exception. The same conduct may not be protected by the membership communication exception to expenditures, that is, treated as an exempt expenditure, yet, at the same time, be prohibited as a nonexempt contribution. Such a result would be contrary to the intent of the electorate and constitute an unreasonable and disharmonious application of this article. Colo. Educ. Ass'n v. Rutt, 184 P.3d 65 (Colo. 2008).

Unions' challenged conduct does not meet the pertinent definitions of a contribution under § 2(5)(a)(II) and (5)(a)(IV) of article XXVIII of the state constitution and subsection (6) of this section. Facts may reasonably be viewed in two contradictory

ways: One advancing the union's argument that the payment of union staff salaries for organizing political events were paid for the benefit of the unions and their members and thus exempt from regulation; the other that the payments constituted payments made to a third party for the benefit of the candidate or anything of value given indirectly to the candidate and, thus, were prohibited contributions. When the first amendment is at stake, the tie goes to the speaker rather than to censorship and regulation. On the facts of this case, the unions did not make any prohibited contributions in violation of § 3(4)(a) of article XXVIII of the state constitution. Colo. Educ. Ass'n v. Rutt, 184 P.3d 65 (Colo. 2008).

Because coordination, as a concept or as a matter of law, is not required to protect the rights of the maker of a contribution under the circumstances of this case, court declines to impose a requirement of coordination on the definition of contribution to satisfy first amendment requirements. While a finding of coordination may be necessary to protect the recipient of an indirect contribution from unwittingly violating this article, that issue is not raised by this case. Colo. Educ. Ass'n v. Rutt, 184 P.3d 65 (Colo. 2008).

Television advertisements urging voters to oppose incumbent member met the definition of electioneering communications under § 2(7)(a) of article XXVIII of state constitution. Unambiguous reference to "any communication" in definition does not distinguish between express advocacy and advocacy that is not express. Further, subsection (7)(a) is triggered when a communication is made within 30 days before a primary election or 60 days before a general election, without regard to the communication's purpose. Colo. Citizens for Ethics in Gov't v. Comm. for the Am. Dream, 187 P.3d 1207 (Colo. App. 2008).

Regular business exception in § 2(7)(b)(III) of article XXVIII is limited to persons whose business is to broadcast, print, publicly display, directly mail, or hand deliver candidate-specific communications within the named candidate's district as a service rather than to influence elections. Wording of exception shows that the phrase "in the regular course and scope of their business" does not apply to political committees. Accordingly, political committee does not come within the regular business exception. Colo. Citizens for Ethics in Gov't v. Comm. for the Am. Dream, 187 P.3d 1207 (Colo. App. 2008).

1-45-103.7. Contribution limits - contributions from limited liability companies - definitions. (1) Nothing in article XXVIII of the state constitution or this article shall be construed to prohibit a corporation or labor organization from making a contribution to a political committee.

(2) A political committee may receive and accept moneys contributed to such committee by a corporation or labor organization pursuant to subsection (1) of this section for disbursement to a candidate committee or political party without depositing such moneys in an account separate from the account required to be established for the receipt and acceptance of all contributions by all committees or political parties in accordance with section 3 (9) of article XXVIII of the state constitution.

(3) A candidate committee may accept:

(a) The aggregate contribution limit specified in section 3 (1) of article XXVIII of the state constitution for a primary election at any time after the date of the primary election in which the candidate in whose name the candidate committee is accepting contributions is on the primary election ballot; or

(b) The aggregate contribution limit specified in section 3 (1) of article XXVIII of the state constitution for a general election at any time prior to the date of the primary election in which the candidate in whose name the candidate committee is accepting contributions is on the primary election ballot.

(4) A candidate committee may expend contributions received and accepted for a general election prior to the date of the primary election in which the candidate in whose name the candidate committee is accepting contributions is on the primary election ballot. A candidate committee established in the name of a candidate who wins the primary election may expend contributions received and accepted for a primary election in the general election.

(5) (a) No limited liability company shall make any contribution to a candidate committee or political party if one or more of the individual members of the limited liability company is:

- (I) A corporation;
- (II) A labor organization;
- (III) A natural person who is not a citizen of the United States;
- (IV) A foreign government;

(V) A professional lobbyist, volunteer lobbyist, or the principal of a professional or volunteer lobbyist, and the contribution is prohibited under section 1-45-105.5 (1); or

(VI) Otherwise prohibited by law from making the contribution.

(b) No limited liability company shall make any contribution to a political committee if one or more of the individual members of the limited liability company is:

- (I) An entity formed under and subject to the laws of a foreign country;
- (II) A natural person who is not a citizen of the United States; or
- (III) A foreign government.

(c) Notwithstanding any other provision of this subsection (5), no limited liability company shall make any contribution to a candidate committee or political party if either the limited liability company has elected to be treated as a corporation by the internal revenue service pursuant to 26 CFR 301.7701-3 or any successor provision or the shares of the limited liability company are publicly traded. A contribution by a limited liability company with a single natural person member that does not elect to be treated as a corporation by the internal revenue service pursuant to 26 CFR 301.7701-3 shall be attributed only to the single natural person member.

(d) (I) Any limited liability company that is authorized to make a contribution shall, in writing, affirm to the candidate committee, political committee, or political party to which it has made a contribution, as applicable, that it is authorized to make a contribution, which affirmation shall also state the names and addresses of all of the individual members of the limited liability company. No candidate committee, political committee, or political party shall accept a contribution from a limited liability company unless the written affirmation satisfying the requirements of this paragraph (d) is provided before the contribution is deposited by the candidate committee, political committee, or political party. The candidate committee, political committee, or political party receiving the contribution shall retain the written affirmation for not less than one year following the date of the end of the election cycle during which the contribution is received.

(II) Any contribution by a limited liability company, and the aggregate amount of contributions from multiple limited liability companies attributed to a single member of any such company under this subparagraph (II), shall be subject to the limits governing such contributions under section 3 of article XXVIII of the state constitution. A limited liability company that makes any contribution to a candidate committee, political committee, or political party shall, at the time it makes the contribution, provide information to the recipient committee or political party as to the amount of the total contribution attributed to each member of the limited liability company. The attribution shall reflect the capital each member of the limited liability company has invested in the company relative to the total amount of capital invested in the company as of the date the company makes the campaign contribution, and for a single member limited liability company, the contribution shall be attributed to that single member. The limited liability company shall then deduct the amount of the contribution attributed to each of its members from the aggregate contribution limit applicable to multiple limited liability companies under this subparagraph (II) for purposes of ensuring that the aggregate amount of contributions from multiple limited

liability companies attributed to a single member does not exceed the contribution limits in section 3 of article XXVIII of the state constitution. Nothing in this subparagraph (II) shall be construed to restrict a natural person from making a contribution in his or her own name to any committee or political party to the extent authorized by law.

(6) No foreign corporation shall be permitted to make any contribution under article XXVIII of the state constitution or this article that a domestic corporation is prohibited from making under article XXVIII of the state constitution or this article.

(7) (a) Any person who believes that a violation of subsection (5) or (6) of this section has occurred may file a written complaint with the secretary of state no later than one hundred eighty days after the date of the alleged violation. The complaint shall be subject to all applicable procedures specified in section 9 (2) of article XXVIII of the state constitution.

(b) Any person who has violated any of the provisions of paragraph (a), (b), or (c) of subsection (5) or subsection (6) of this section shall be subject to a civil penalty of at least double and up to five times the amount contributed or received in violation of the applicable provision.

(c) Any person who has violated any of the provisions of subparagraph (I) of paragraph (d) of subsection (5) of this section shall be subject to a civil penalty of fifty dollars per day for each day that the written affirmation regarding the membership of a limited liability company has not been filed with or retained by the candidate committee, political committee, or political party to which a contribution has been made.

(8) As used in this section, "limited liability company" includes any form of domestic entity as defined in section 7-90-102 (13), C.R.S., or foreign entity as defined in section 7-90-102 (23), C.R.S.; except that, as used in this section, "limited liability company" shall not include a domestic corporation, a domestic cooperative, a domestic nonprofit association, a domestic nonprofit corporation, a foreign corporation, a foreign cooperative, a foreign nonprofit association, or a foreign nonprofit corporation, as those terms are defined in section 7-90-102, C.R.S.

Source: L. 2003: Entire section added, p. 2160, § 6, effective June 3. L. 2004: Entire section amended, p. 863, § 1, effective May 21. L. 2007: (5), (6), (7), and (8) added, p. 1766, § 2, effective June 1. L. 2008: (5)(d)(II) amended, p. 440, § 1, effective April 14.

1-45-104. Contribution limits. (Repealed)

Source: Initiated 96: Entire article R&RE, effective upon proclamation of the Governor, January 15, 1997. L. 98: (13)(a)(II) amended, p. 632, § 2, effective May 6; (13)(c) amended, p. 950, § 1, effective May 27; (14) added, p. 955, § 2, effective May 27. L. 99: IP(2) amended, p. 1391, § 13, effective June 4. L. 2000: Entire section repealed, p. 129, § 12, effective March 15.

Editor's note: Prior to its repeal, this section was contained in an article that was repealed and reenacted in 1996. Provisions of this section, as it existed in 1996, are similar to those contained in 1-45-111 as said section existed in 1995, the year prior to the repeal and reenactment of this article.

1-45-105. Voluntary campaign spending limits. (Repealed)

Source: Initiated 96: Entire article R&RE, effective upon proclamation of the Governor, January 15, 1997. L. 98: (3) amended, p. 951, § 2, effective May 27. L. 2000: Entire section repealed, p. 129, § 12, effective March 15.

Editor's note: Prior to its repeal, this section was contained in an article that was repealed and reenacted in 1996. Provisions of this section, as it existed in 1996, are similar to those contained in 1-45-112 as said section existed in 1995, the year prior to the repeal and reenactment of this article.

1-45-105.3. Contribution limits. (Repealed)

Source: L. 2000: Entire section added with relocations, p. 118, § 1, effective March 15. L. 2002: (4)(a.5) added, p. 1929, § 1, effective June 7. Initiated 2002: Entire section repealed, effective upon proclamation of the Governor, December 20, 2002; however section 13 of the initiated measure repealing this section provides that the effective date of this section is December 6, 2002.

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Editor's note: (1) Subsections (7), (8), (9), (10), and (11) were formerly numbered as 1-45-104 (9), (10), (11), (12), and (14) respectively.

(2) (a) Subsection (4) of section 1 of article V of the state constitution provides that initiated and referred measures shall take effect from and after the official declaration of the vote thereon by the proclamation of the Governor. The measure enacting article XXVIII of the state constitution takes effect upon proclamation of the vote by the Governor. The Governor's proclamation was issued on December 20, 2002. However, section 13 of the measure enacting article XXVIII of the state constitution provides that the effective date of article XXVIII is December 6, 2002.

(b) This section was repealed by an initiated measure that was adopted by the people in the general election held November 5, 2002. Section 12 of article XXVIII provides for the repeal of this section. For the text of the initiative and the vote count, see Session Laws of Colorado 2003, p. 3609.

ANNOTATION

Court's interpretation of the term "candidate committee" to include expenditures of personal money by the candidate on his or her campaign does not limit the amount of money a candidate could personally spend on his or her campaign in violation of the first amendment. The act does not specifically address whether a candidate's personal expenditures are contributions. However, in light of *Buckley v. Valeo*, 424 U.S. 1 (1976),

the court holds that the definition of "contribution" does not include a candidate's expenditures of personal funds and contributions made by the candidate to his or her own candidate committee. Accordingly, the court rejected candidate's first amendment argument. *Hlavec v. Davidson*, 64 P.3d 881 (Colo. App. 2002) (decided under section that was repealed by article XXVIII of the state constitution).

1-45-105.5. Contributions to members of general assembly and governor during consideration of legislation. (1) (a) No professional lobbyist, volunteer lobbyist, or principal of a professional lobbyist or volunteer lobbyist shall make or promise to make a contribution to, or solicit or promise to solicit a contribution for:

(I) A member of the general assembly or candidate for the general assembly, when the general assembly is in regular session;

(II) (A) The governor or a candidate for governor when the general assembly is in regular session or when any measure adopted by the general assembly in a regular session is pending before the governor for approval or disapproval; or

(B) The lieutenant governor, the secretary of state, the state treasurer, the attorney general, or a candidate for any of such offices when the general assembly is in regular session.

(b) As used in this subsection (1):

(I) "Principal" means any person that employs, retains, engages, or uses, with or without compensation, a professional or volunteer lobbyist. One does not become a principal, nor may one be considered a principal, merely by belonging to an organization or owning stock in a corporation that employs a lobbyist.

(II) The terms "professional lobbyist" and "volunteer lobbyist" shall have the meanings ascribed to them in section 24-6-301, C.R.S.

(c) (I) Nothing contained in this subsection (1) shall be construed to prohibit lobbyists and their principals from raising money when the general assembly is in regular session or when regular session legislation is pending before the governor, except as specifically prohibited in paragraph (a) of this subsection (1).

(II) Nothing contained in this subsection (1) shall be construed to prohibit a lobbyist or principal of a lobbyist from participating in a fund-raising event of a political party when the general assembly is in regular session or when regular session legislation is pending before the governor, so long as the purpose of the event is not to raise money for specifically designated members of the general assembly, specifically designated candidates for the general assembly, the governor, or specifically designated candidates for governor.

(III) A payment by a lobbyist or a principal of a lobbyist to a political party to participate in such a fund-raising event shall be reported as a contribution to the political party pursuant to section 1-45-108; except that, if the lobbyist or principal of a lobbyist receives a meal in return for a portion of the payment, only the amount of the payment in excess of the value of the meal shall be considered a contribution to the political party. The political party shall determine the value of the meal received for such payment, which shall approximate the actual value of the meal.

(IV) A gift of a meal described in subparagraph (III) of this paragraph (c) by a lobbyist or a principal of a lobbyist to an incumbent in or a candidate elected to any office described in paragraph (a) of this subsection (1) shall be reported as follows:

(A) The lobbyist shall report the value of the meal in the lobbyist disclosure statement filed pursuant to section 24-6-302, C.R.S.

(B) The incumbent or candidate shall report the value of the meal in the public official disclosure statement filed pursuant to section 24-6-203, C.R.S.

Source: L. 2000: Entire section added with relocations, p. 118, § 1, effective March 15.

Editor's note: This section was formerly numbered as 1-45-104 (13).

1-45-106. Unexpended campaign contributions. (1) (a) (I) Subject to the requirements of section 3 (3) (e) of article XXVIII of the state constitution, unexpended campaign contributions to a candidate committee may be:

(A) Contributed to a political party;

(B) Contributed to a candidate committee established by the same candidate for a different public office, subject to the limitations set forth in section 1-45-105.3 (4) (b) and (c), 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;

(C) Donated to a charitable organization recognized by the internal revenue service;

(D) Returned to the contributors, or retained by the committee for use by the candidate in a subsequent campaign.

(II) In no event shall contributions to a candidate committee be used for personal purposes not reasonably related to supporting the election of the candidate.

(III) A candidate committee for a former officeholder or a person not elected to office shall expend all of the unexpended campaign contributions retained by such candidate committee, for the purposes specified in this subsection (1), no later than nine years from the date such officeholder's term expired or from the date of the election at which such person was a candidate for office, whichever is later.

(b) In addition to any use described in paragraph (a) of this subsection (1), a person elected to a public office may use unexpended campaign contributions held by the person's candidate committee for any of the following purposes:

(I) Voter registration;

(II) Political issue education, which includes obtaining information from or providing information to the electorate;

(III) Postsecondary educational scholarships;

(IV) To defray reasonable and necessary expenses related to mailings and similar communications to constituents;

(V) Any expenses that are directly related to such person's official duties as an elected official, including, but not limited to, expenses for the purchase or lease of office equipment and supplies, room rental for public meetings, necessary travel and lodging expenses for legislative education such as seminars, conferences, and meetings on legislative issues, and telephone and pager expenses.

(2) (Deleted by amendment, L. 2000, p. 123, § 4, effective March 15, 2000.)

(3) Unexpended contributions to an issue committee may be donated to any charitable organization recognized by the Internal Revenue Service or returned to the contributor.

(4) This section shall apply to unexpended campaign contributions transferred from a political committee formed prior to January 15, 1997, to a candidate committee registering after January 15, 1997, pursuant to section 1-45-108.

(5) Notwithstanding any other provision of law, any unexpended campaign contributions retained by a candidate committee for use in a subsequent election cycle shall be counted and reported as contributions from a

political party in any subsequent election in accordance with the requirements of section 3 (3) (e) of article XXVIII of the state constitution.

Source: Initiated 96: Entire article R&RE, effective upon proclamation of the Governor, January 15, 1997. **L. 98:** (1) amended, p. 955, § 3, effective May 27. **L. 2000:** (1)(a) and (2) amended, p. 123, § 4, effective March 15. **L. 2003:** IP(1)(a)(I) amended and (5) added, p. 2157, § 2, effective June 3.

Editor's note: This section was contained in an article that was repealed and reenacted in 1996. Provisions of this section, as it existed in 1996, are similar to those contained in 1-45-109 as said section existed in 1995, the year prior to the repeal and reenactment of this article.

ANNOTATION

Subsection (2) is constitutional. The state's interest in preventing avoidance of valid contribution limits by use of funds carried over from prior campaigns is both compelling and served by the restriction set forth in subsection (2). This provision is narrowly tailored to accomplish the state's legitimate interest. *Citizens for Responsible Gov't State Political Action Comm. v. Buckley*, 60 F. Supp.2d 1066 (D. Colo. 1999).

Candidate's disclosure report not required to report unexpended campaign funds at the end of an election cycle as contributions from a political party. To accomplish the purpose of subsection (5), it is necessary only that a candidate committee report the amount of unexpended campaign funds on hand at the end of an election cycle. To report money already on hand as a fictional, new contribution from an unidentified political party would artificially inflate the amount of funds

reportedly available to a candidate committee and would be confusing to those who read the report. *Williams v. Teck*, 113 P.3d 1255 (Colo. App. 2005).

Candidate committee permitted to use unexpended contributions to pay elected state senator's legal fees. Although legal fees are not specifically mentioned as permissible expenses under subsection (1)(b)(V), the words "including, but not limited to," indicate that the statute merely illustrates the kinds of expenses that may be regarded as directly related to an elected official's duties. Here, the legal fees may properly be characterized as directly related to official duties of elected state senator. The senator's duties include filing periodic reports with the secretary of state, and the fees were reasonably necessary to demonstrate that senator and his or her committee had properly performed this duty. *Williams v. Teck*, 113 P.3d 1255 (Colo. App. 2005).

1-45-107. Independent expenditures. (Repealed)

Source: Initiated 96: Entire article R&RE, effective upon proclamation of the Governor, January 15, 1997. **Initiated 2002:** Entire section repealed, effective upon proclamation of the Governor, December 20, 2002; however section 13 of the initiated measure repealing this section provides that the effective date of this section is December 6, 2002.

Editor's note: (1) Prior to its repeal, this section was contained in an article that was repealed and reenacted in 1996. Provisions of this section, as it existed in 1996, are similar to those contained in 1-45-110.5 as said section existed in 1995, the year prior to the repeal and reenactment of this article.

(2) (a) Subsection (4) of section 1 of article V of the state constitution provides that initiated and referred measures shall take effect from and after the official declaration of the vote thereon by the proclamation of the Governor. The measure enacting article XXVIII of the state constitution takes effect upon proclamation of the vote by the Governor. The Governor's proclamation was issued on December 20, 2002. However, section 13 of the measure enacting article XXVIII of the state constitution provides that the effective date of article XXVIII is December 6, 2002.

(b) This section was repealed by an initiated measure that was adopted by the people in the general election held November 5, 2002. Section 12 of article XXVIII provides for the repeal of this section. For the text of the initiative and the vote count, see *Session Laws of Colorado 2003*, p. 3609.

1-45-108. Disclosure. (1) (a) (I) All candidate committees, political committees, issue committees, small donor committees, and political parties shall report to the appropriate officer their contributions received, including the name and address of each person who has contributed twenty dollars or more; expenditures made, and obligations entered into by the committee or party.

(II) In the case of contributions made to a candidate committee, political committee, issue committee, and political party, the disclosure required by this section shall also include the occupation and employer of each person who has made a contribution of one hundred dollars or more to such committee or party.

(III) Any person who expends one thousand dollars or more per calendar year on electioneering communications shall report to the secretary of state, in accordance with the disclosure required by this section, the amount expended on the communications and the name and address of any person that contributes more than two hundred fifty dollars per year to the person expending one thousand dollars or more on the communications. If the person making such contribution of two hundred fifty dollars or more is a natural person, the disclosure required by this section shall also include the person's occupation and employer.

(IV) In the case of a limited liability company, the disclosure required by this section shall include, in addition to any other information required to be disclosed, each contribution from the limited liability company regardless of the dollar amount of the contribution.

(b) (Deleted by amendment, L. 2003, p. 2158, § 3, effective June 3, 2003.)

(c) A candidate committee in a special district election shall not be required to file reports under this section until the committee has received contributions or made expenditures exceeding twenty dollars in the aggregate.

(d) For purposes of this section, a political party shall be treated as a separate entity at the state, county, district, and local levels.

(e) A candidate's candidate committee may reimburse the candidate for expenditures the candidate has made on behalf of the candidate committee. Any such expenditures may be reimbursed at any time. Notwithstanding any other provision of law, any expenditure reimbursed to the candidate by the candidate's candidate committee within the election cycle during which the expenditure is made shall be treated only as an expenditure and not as a contribution to and an expenditure by the candidate's candidate committee. Notwithstanding the date on which any such expenditure is reimbursed, the expenditure shall be reported at the time it is made in accordance with the requirements of this section.

(2) (a) (I) Except as provided in subsections (2.5), (2.7), and (6) of this section, such reports that are required to be filed with the secretary of state shall be filed:

(A) Quarterly in off-election years no later than the fifteenth calendar day following the end of the applicable quarter;

(B) On the first Monday in July and on each Monday every two weeks thereafter before the primary election;

(C) On the first day of each month beginning the sixth full month before the major election; except that no monthly report shall be required on the first day of the month in which the major election is held;

(D) On the first Monday in September and on each Monday every two weeks thereafter before the major election;

(E) Thirty days after the major election in election years; and

(F) Fourteen days before and thirty days after a special legislative election held in an off-election year.

(II) Such reports that are required to be filed with the municipal clerk and such reports required to be filed pursuant to section 1-45-109 (1) (a) (II) and (1) (c) shall be filed on the twenty-first day and on the Friday before and thirty days after the primary election, where applicable, and the major election in election years and annually in off-election years on the first day of the month in which the anniversary of the major election occurs.

(III) For purposes of this section, "election year" means every even numbered year for political parties and political committees and each year in which the particular candidate committee's candidate, or issue committee's issue, appears on the ballot; and "major election" means the election that decides an issue committee's issue and the election that elects a person to the public office sought by the candidate committee's candidate.

(IV) If the reporting day falls on a weekend or legal holiday, the report shall be filed by the close of the next business day.

(b) The reports required by this section shall also include the balance of funds at the beginning of the reporting period, the total of contributions received, the total of expenditures made during the reporting period, and the name and address of the financial institution used by the committee or party.

(c) All reports filed with the secretary of state pursuant to this subsection (2) shall be for the reporting periods established pursuant to rules promulgated by the secretary of state in accordance with article 4 of title 24, C.R.S.

(d) A candidate committee for a former officeholder or a person not elected to office that has no change in the balance of funds maintained by such committee, receives no contributions, makes no expenditures, and

enters into no obligations during a reporting period shall not be required to file a report under this section for such period.

(e) The reporting period for all reports required to be filed with the municipal clerk and such reports required to be filed pursuant to section 1-45-109 (1) (a) (II) and (1) (c) shall close five calendar days prior to the effective date of filing.

(2.3) Repealed.

(2.5) In addition to any report required to be filed with the secretary of state or municipal clerk under this section, all candidate committees, political committees, issue committees, and political parties shall file a report with the secretary of state of any contribution of one thousand dollars or more at any time within thirty days preceding the date of the primary election or general election. This report shall be filed with the secretary of state no later than twenty-four hours after receipt of said contribution.

(2.7) Any candidate or candidate committee supporting any candidate, including an incumbent, in a recall election, shall file reports of contributions and expenditures with the appropriate officer fourteen and seven days before the recall election and thirty days after the recall election.

(3) Except as otherwise provided in subsection (3.5) of this section, all candidate committees, political committees, small donor committees, and political parties shall register with the appropriate officer before accepting or making any contributions. Registration shall include a statement listing:

- (a) The organization's full name, spelling out any acronyms used therein;
- (b) A natural person authorized to act as a registered agent;
- (c) A street address and telephone number for the principle place of operations;
- (d) All affiliated candidates and committees;
- (e) The purpose or nature of interest of the committee or party;

(f) Any intent of the candidate committee, political committee, small donor committee, or political party to electronically file reports required by this article that may be filed electronically on a web site operated and maintained by the secretary of state pursuant to section 1-45-109.

(3.3) Subject to the provisions of subsection (7) of this section, each issue committee shall register with the appropriate officer within ten calendar days of accepting or making contributions or expenditures in excess of two hundred dollars to support or oppose any ballot issue or ballot question. If required to register under the requirements of this subsection (3.3), the registration of the issue committee shall include a statement containing the items listed in paragraphs (a) to (f) of subsection (3) of this section in connection with other committees and a political party.

(3.5) Any political committee that has registered with the federal election commission 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 this section, the political committee shall be considered to have registered with the appropriate officer for purposes of subsection (3) of this section and, therefore, shall be authorized to accept or make contributions as permitted by law. Any political committee that satisfies the requirements of this subsection (3.5) shall be subject to all other legal requirements pertaining to contributions and disclosure that are applicable to political committees.

(4) For purposes of subsection (3) of this section, a political committee in existence on January 1, 1997, shall register with the secretary of state on or before April 1, 1997, pursuant to the requirements of this act.

(5) The registration and reporting requirements of this section shall not apply to that part of the organizational structure of a political party which is responsible for only the day-to-day operations of such political party at the national level 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 secretary of state and include the information required by this section.

(6) Any issue committee whose purpose is the recall of any elected official shall file a committee registration with the appropriate officer within ten business days of receiving its first contribution. Reports of contributions and expenditures shall be filed with the appropriate officer within fifteen days of the filing of the committee registration and every thirty days thereafter until the date of the recall election has been established and then fourteen days and seven days before the recall election and thirty days following the recall election.

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(7) (a) Notwithstanding any other provision of law, and subject to the provisions of paragraph (b) of this subsection (7), a matter shall be considered to be a ballot issue or ballot question for the purpose of determining whether an issue committee has been formally established, thereby necessitating compliance with any disclosure and reporting requirements of this article and article XXVIII of the state constitution, at the earliest of the following:

(I) A title for the matter has been designated and fixed in accordance with law;

(II) The matter has been referred to the voters by the general assembly or the governing body of any political subdivision of the state with authorization to refer matters to the voters;

(III) In the case of a citizen referendum petition, the matter has been submitted for format approval in accordance with law;

(IV) A petition concerning the matter has been circulated and signed by at least one person; except that, where a matter becomes a ballot issue or ballot question upon such signing, any person opposing the matter shall not be considered to be an issue committee for purposes of this article and article XXVIII of the state constitution until one such person knows or has reason to know of the circulation; or

(V) A signed petition has been submitted to the appropriate officer in accordance with law.

(b) Notwithstanding the provisions of paragraph (a) of this subsection (7), where a matter concerns a municipal annexation brought pursuant to article 12 of title 31, C.R.S., the matter shall not be considered to be a ballot issue or ballot question for the purpose of determining whether an issue committee has been formally established, thereby necessitating compliance with any disclosure and reporting requirements of this article and article XXVIII of the state constitution, unless and until the first notice of the annexation election has been published in accordance with the requirements of section 31-12-112 (6), C.R.S.

Source: Initiated 96: Entire article R&RE, effective upon proclamation of the Governor, January 15, 1997. **L. 98:** (1), (2)(a), and IP(3) amended, p. 223, § 2, effective April 10; (2)(c) added, p. 951, § 3, effective May 27. **L. 99:** (2)(a) amended and (2)(c)(V) and (2)(c)(VI) added, p. 1391, §§ 14, 15, effective June 4. **L. 2000:** (2)(a) and (2)(c) amended and (2)(d), (2.3), and (2.5) added, pp. 124, 125, §§ 5, 6, effective March 15; (1) amended, p. 1725, § 2, effective June 1; (2)(e) added, p. 791, § 2, effective August 2. **L. 2001:** (3)(f) added, p. 808, § 1, effective August 8; (2.3) amended, p. 1111, § 2, effective September 1. **L. 2002:** IP(2)(a)(I) and (6) amended and (2.7) added, p. 198, § 2, effective April 3; (1)(c) added, p. 1640, § 33, effective June 7. **L. 2003:** (1)(a), (1)(b), (2.3)(a), (2.5), IP(3), and (3)(f) amended and (1)(d) added, p. 2158, § 3, effective June 3. **L. 2004:** (1)(e) and (3.5) added and IP(3) amended, p. 864, §§ 2, 3, effective May 21. **L. 2007:** IP(2)(a)(I) amended, p. 2017, § 2, effective June 1; IP(2)(a)(I) and (2)(a)(I)(B) amended, p. 1299, § 2, effective July 1. **L. 2008:** (1)(a)(IV) added, p. 441, § 2, effective April 14. **L. 2009:** (2)(a)(II), (2)(e), and (2.5) amended, (HB 09-1357), ch. 361, p. 1871, § 1, effective July 1; IP(3) and (3)(f) amended and (3.3) and (7) added, (HB 09-1153), ch. 174, p. 774, § 2, effective September 1.

Editor's note: (1) This section was contained in an article that was repealed and reenacted in 1996. Provisions of this section, as it existed in 1996, are similar to those contained in § 1-45-108 as said section existed in 1995, the year prior to the repeal and reenactment of this article.

(2) Subsections (2)(a)(I) and (2)(a)(II) as they existed prior to March 15, 2000, were renumbered on revision as (2)(a)(III) and (2)(a)(IV).

(3) Subsection (2.3)(b) provided for the repeal of subsection (2.3), effective January 1, 2007. (See L. 2001, p. 1111.)

(4) Section 5 of chapter 361, Session Laws of Colorado 2009, provides that the act amending subsections (2)(a)(II), (2)(e), and (2.5) applies to campaign finance reports required to be filed on or after January 1, 2010.

(5) The introductory portion to subsection (3) and subsection (3)(f) were amended and subsections (3.3) and (7) were added in a 2009 act that was passed without a safety clause. The act establishes an effective date of September 1, 2009, for these provisions. The act, or portions thereof, may not take effect if the people exercise their right to petition under article V, section 1 (3) of the state constitution. For further explanation concerning the effective date, see page ix of this volume.

ANNOTATION

Law reviews. For article, "Campaign Finance and 527 Organizations: Keeping Big Money in Politics", see 34 Colo. Law. 71 (July 2005).

Act is neither unconstitutionally vague nor unconstitutionally overbroad. As to candidate's vagueness argument, court finds that act provides sufficient notice to persons of ordinary intelligence that expenditures, regardless of the source of the funds, must be reported. As to candidate's arguments that act is unconstitutionally overbroad and inhibits

basic first amendment freedoms, court finds that, construed to preserve its constitutionality, the act does not inhibit a candidate's expenditures of personal funds so long as those expenditures are made through a candidate committee and reported in accordance with this section. *Hlavec v. Davidson*, 64 P.3d 881 (Colo. App. 2002).

The disclosure requirements contained in this section do not violate the right to engage in anonymous speech and association. Disclosure of the contributors to ballot measures may constitutionally be required under the standards specified

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in *Buckley v. Valeo*, 424 U.S. 1 (1976). Challengers to disclosure requirements must show a reasonable probability that the compelled disclosure of contributors' names would subject them to threats, harassment, or reprisals from either government officials or private parties. *Independence Inst. v. Coffman*, ___ P.3d ___ (Colo. App. 2008).

Under subsection (1)(a), candidate committees must disclose all expenditures and obligations, even if no contributions are received. Thus, if a candidate runs without a separate committee and finances the campaign from personal funds, the candidate is a candidate committee and must disclose expenditures and obligations as required by subsection (1)(a). Nothing in subsection (1)(a) indicates that expenditures must be reported only if drawn on outside contributions. *Hlavec v. Davidson*, 64 P.3d 881 (Colo. App. 2002).

Here, both candidate and the candidate committee made expenditures under the authority of the candidate. Thus, both the candidate and the committee were candidate committees or the candidate was acting through the formed committee. In either instance, the expenditures were subject to the disclosure requirements of subsection (1)(a). *Hlavec v. Davidson*, 64 P.3d 881 (Colo. App. 2002).

Candidate's disclosure report not required to report unexpended campaign funds at the end of an election cycle as contributions from a political party. It is necessary only that a candidate committee report the amount of unexpended campaign funds on hand at the end of an election cycle. To

report money already on hand as a fictional, new contribution from an unidentified political party would artificially inflate the amount of funds reportedly available to a candidate committee and would be confusing to those who read the report. *Williams v. Teck*, 113 P.3d 1255 (Colo. App. 2005).

Order by administrative law judge (ALJ) assessing penalty against nonprofit association engaging in political advocacy based upon determination by ALJ that association was a political committee is vacated and case remanded. Under controlling precedent, regulation under campaign finance laws should be tied to groups controlled by candidates or which have a "major purpose" of electing candidates. Here, record does not permit a determination of whether major purpose test satisfied as to association. On remand, ALJ instructed to determine whether association's "major purpose" in 2004 was the nomination or election of candidates. *Alliance for Colorado's Families v. Gilbert*, 172 P.3d 964 (Colo. App. 2007).

Adoption of Rule 9.3 of the Colorado secretary of state's rules concerning campaign and political finance requiring the name of the candidate unambiguously referred to in the electioneering communication to be included in the electioneering report was within the rulemaking authority of the secretary of state under § 9(1)(b) of article XXVIII of the state constitution and §§ 1-1-107 (2)(a) and 1-45-111.5 (1). *Colo. Citizens for Ethics in Gov't v. Comm. for the Am. Dream*, 187 P.3d 1207 (Colo. App. 2008).

1-45-108.5. Political organizations - disclosure. (1) Any political organization shall report to the appropriate officer in accordance with the requirements of sections 1-45-108 and 1-45-109:

(a) Any contributions it receives, including the name and address of each person who has contributed twenty dollars or more to the political organization in the reporting period, and the occupation and employer of each natural person who has made a contribution of one hundred dollars or more to the political organization; and

(b) Any spending by the political organization that exceeds twenty dollars in any one reporting period.

(2) No political organization shall accept a contribution, or undertake spending, in currency or coin exceeding one hundred dollars.

(3) Nothing in this section shall be construed to:

(a) Require any political organization to make any additional disclosure pursuant to this section to the extent the political organization is already providing disclosure as a committee or political party in a manner that satisfies the requirements of sections 1-45-108 and 1-45-109; or

(b) Authorize the secretary of state to require disclosure of the name of any natural person that is a member of an entity unless the natural person has made a contribution to a political organization in the amount of twenty dollars or more in a reporting period.

Source: L. 2007: Entire section added, p. 1225, § 3, effective July 1.

1-45-109. Filing - where to file - timeliness - repeal. (1) For the purpose of meeting the filing and reporting requirements of this article:

(a) The following shall file with the secretary of state:

(i) Candidates for statewide office, the general assembly, district attorney, district court judge, or any office representing more than one county; the candidate committees for such candidates; political committees in support of or in opposition to such candidates; issue committees in support of or in opposition to an issue on the ballot in more than one county; small donor committees making contributions to such candidates; and persons expending one thousand dollars or more per calendar year on electioneering communications.

(II) Candidates in special district elections; the candidate committees of such candidates; political committees in support of or in opposition to such candidates; issue committees supporting or opposing a special district ballot issue; and small donor committees making contributions to such candidates.

(b) Candidates in municipal elections, their candidate committees, any political committee in support of or in opposition to such candidate, an issue committee supporting or opposing a municipal ballot issue, and small donor committees making contributions to such candidates shall file with the municipal clerk.

(c) All other candidates, candidate committees, issue committees, political committees, and small donor committees shall file with the secretary of state.

(2) (a) Reports required to be filed by this article are timely if received by the appropriate officer not later than the close of business on the due date. Reports may be filed by fax and are timely if received by the appropriate officer not later than the close of business on the due date only if an original of the report is received by the appropriate officer within seven days of the due date.

(b) A person upon whom a penalty has been imposed for failure to file a statement or other information required to be filed pursuant to section 5, 6, or 7 of article XXVIII of the state constitution or section 1-45-108, this section, or section 1-45-110 by the due date may appeal the penalty by filing a written appeal with the appropriate officer no later than thirty days after the date on which notification of the imposition of the penalty was mailed to the person's last-known address. Upon receipt of an appeal pursuant to this paragraph (b), the appropriate officer shall set aside or reduce the penalty upon a showing of good cause.

(3) In addition to any other reporting requirements of this article, every incumbent in public office and every candidate elected to public office is subject to the reporting requirements of section 24-6-203 C.R.S.

(4) (a) All reports required to be filed by this article are public records and shall be open to inspection by the public during regular business hours. A copy of the report shall be kept by the appropriate officer and a copy shall be made available immediately in a file for public inspection.

(b) Any report that is deemed to be incomplete by the appropriate officer shall be accepted on a conditional basis and the committee or party treasurer shall be notified by mail as to any deficiencies found. If an electronic mail address is on file with the secretary of state, the secretary of state may also provide such notification by electronic mail. The committee or party treasurer shall have seven business days from the date of mailing such notice to file an addendum that cures the deficiencies.

(5) (a) The secretary of state shall operate and maintain a web site so as to allow any person who wishes to review reports filed with the secretary of state's office pursuant to this article electronic read-only access to such reports free of charge.

(b) All reports required to be filed by this article that are electronically filed pursuant to subsection (6) of this section shall be made available immediately on the web site.

(c) The web site shall enable a user to produce summary reports based on search criteria that shall include, but not be limited to the reporting period, date, name of the person making a contribution or expenditure, candidate, and committee.

(d) At the earliest practicable date, the secretary of state shall develop and implement improvements to the web site's design and structure to improve the public's ability to navigate, search, browse, download, and analyze information. Such improvements shall include but need not be limited to:

(I) Enhanced searching and summary reporting, including additional search fields such as zip code, employer, and vendor, the ability to search across multiple committees and all filers, the ability to filter or limit searches, such as by election cycle or candidate, the inclusion of smart-search features such as "name sounds like" or "name contains", and numerical totaling of amounts shown on search results;

(II) Features that facilitate the ability to download raw data and search results in one or more common formats to enable offline sorting and analyzing;

(III) Detailed, technical instructions for users;

(IV) Information to help users determine the scope of candidates' and committees' reports and campaign data available online, including explanations of which types of reports are available, the period covered by the online data, and which specific reports can be viewed for each campaign committee; and

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(V) Resources that give the public comparative context when viewing campaign finance data, such as compilations of the total amounts of money raised and spent by individual candidates, lists of total amounts raised and spent by all statewide and legislative candidates, and compilations of fundraising and spending across candidates and election cycles.

(e) The secretary of state may promulgate rules necessary for the implementation of this subsection (5). Such rules shall be promulgated in accordance with article 4 of title 24, C.R.S.

(6) (a) The secretary of state shall establish, operate, and maintain a system that enables electronic filing using the internet of the reports required by this article to be filed with the secretary of state's office. The rules for use of the electronic filing system shall be promulgated by the secretary of state in accordance with article 4 of title 24, C.R.S.

(b) In addition to any other method of filing, any person required to file with the secretary of state's office may use the electronic filing system described in paragraph (a) of this subsection (6) in order to meet the filing requirements of this article. Where a person uses such electronic filing system to meet the filing requirements of this article, the secretary of state shall acknowledge by electronic means the receipt of such filing.

(7) (Deleted by amendment, L. 2007, p. 1296, § 1, effective July 1, 2007.)

(8) (a) (Deleted by amendment, L. 2007, p. 1296, § 1, effective July 1, 2007.)

(b) (I) (Deleted by amendment, L. 2007, p. 1296, § 1, effective July 1, 2007.)

(II) and (III) (Deleted by amendment, L. 2009, (HB 09-1357), ch. 361, p. 1872, § 2, effective July 1, 2009.)

(c) (I) (Deleted by amendment, L. 2007, p. 1296, § 1, effective July 1, 2007.)

(II) (Deleted by amendment, L. 2009, (HB 09-1357), ch. 361, p. 1872, § 2, effective July 1, 2009.)

(9) Subsection (1) of this section shall not be construed to require the secretary of state to review reports electronically filed by persons beyond the duties specified in section 9 of article XXVIII of the state constitution.

(10) (a) Each county clerk and recorder shall transmit any report required by this article filed on or before December 15, 2009, to the secretary of state using the electronic filing system established in paragraph (a) of subsection (6) of this section not later than December 23, 2009. Any such report submitted to a county clerk and recorder on or after December 16, 2009, shall be transferred immediately to the secretary of state.

(b) Each county clerk and recorder shall, within ten days from the date of a request for data submitted by the secretary of state, certify that the data contained in the electronic filing system is complete and accurate. The certification required by this paragraph (b) shall occur not later than December 23, 2009.

(c) Each county clerk and recorder shall, to the extent feasible, take all appropriate measures to assist the secretary of state in transferring data contained in the electronic filing system from the control of the county clerk and recorder to the control of the secretary of state.

(d) Each county clerk and recorder shall maintain a copy of any report or statement filed with his or her office in accordance with the requirements of this article for a period of one year from the date on which the report is filed. In the case of a candidate for public office who is elected to such office, the county clerk and recorder shall maintain reports and filings pertaining to the candidate for a period of one year from the date the candidate leaves public office.

(e) This subsection (10) is repealed, effective January 1, 2011.

Source: Initiated 96: Entire article R&RE, effective upon proclamation of the Governor, January 15, 1997. **L. 2000:** (4), (5), and (6) amended, p. 125, § 7, effective March 15. **L. 2001:** (1) amended and (7), (8), and (9) added, p. 808, § 2, effective August 8; (6)(b) amended, p. 1111, § 3, effective September 1. **L. 2002:** (1) and (4)(a) amended, p. 1640, § 34, effective June 7. **L. 2003:** (1) and (7)(b) amended, p. 2159, § 4, effective June 3. **L. 2005:** (9) amended, p. 760, § 7, effective June 1. **L. 2007:** (5), (6), (7), (8), and (9) amended, p. 1296, § 1, effective July 1; (2) amended, p. 1983, § 37, effective August 3. **L. 2009:** (1), (5)(a), (6), (8)(b)(II), (8)(b)(III), (8)(c)(II), and (9) amended and (10) added, (HB 09-1357), ch. 361, p. 1872, § 2, effective July 1.

Editor's note: (1) This section was contained in an article that was repealed and reenacted in 1996. Provisions of this section, as it existed in 1996, are similar to those contained in § 1-45-104 as said section existed in 1995, the year prior to the repeal and reenactment of this article.

(2) Section 5 of chapter 361, Session Laws of Colorado 2009, provides that the act amending subsections (1), (5)(a), (6), (8)(b)(II), (8)(b)(III), (8)(c)(II), and (9) applies to campaign finance reports required to be filed on or after January 1, 2010, and that the act adding subsection (10) applies to campaign finance reports required to be filed on or after July 1, 2009.

ANNOTATION

Administrative law judge (ALJ) correctly dismissed appellants' agency appeal under § 10 (2)(b)(I) of article XXVIII of the state constitution for lack of subject matter jurisdiction. No question that appellants were required to file reports with secretary of state under subsection (1) of this section once appellant-candidate became a candidate for the general assembly. This does not mean, however, appellants acquired right to appeal penalty to secretary of state. Report at issue was filed not in connection with appellant-candidate's candidacy for the general assembly but solely in connection with position as a county commissioner. Thus, ALJ correctly determined that, for purposes of report and penalty at issue, appellants were persons required to file appeal with county clerk and recorder, not with secretary of state. *Sullivan v. Bucknam*, 140 P.3d 330 (Colo. App. 2006).

Although appellants could have been required to file a report with the secretary of state in certain circumstances, those

circumstances were not present in instant case. Appellants do not qualify as persons required to file with secretary of state under § 10 (2)(b)(I) of article XXVIII of the state constitution for purposes of underlying action merely because they could have been required to so file in other circumstances. *Sullivan v. Bucknam*, 140 P.3d 330 (Colo. App. 2006).

ALJ had jurisdiction to impose penalty for violation of Rule 9.3 and did not err by imposing a \$1,000 penalty on political committee. Section (2)(a) of article XXVIII of the state constitution grants an ALJ authority to conduct hearings on alleged violations of the article and the "Fair Campaign Practices Act" and to impose penalties if a violation has occurred. Rule 9.3 is necessary to implement former § 1-45-109 (5), and, under subsection (2)(a) of this section, sanctions can be imposed for violations of this section. *Colo. Citizens v. Ethics in Gov't v. Comm. for the Am. Dream*, 187 P.3d 1207 (Colo. App. 2008).

1-45-110. Candidate affidavit - disclosure statement. (1) When any individual becomes a candidate, such individual shall certify, by affidavit filed with the appropriate officer within ten days, that the candidate is familiar with the provisions of this article; except that an individual who is a candidate in a special legislative election that filed a candidate affidavit for the preceding general election shall not be required to comply with the provisions of this section, and except that a candidate in a special district election shall file the candidate affidavit or, alternatively, a copy of the candidate's self-nomination and acceptance form or letter submitted in accordance with section 32-1-804.3, C.R.S., if such form or letter contains a statement that the candidate is familiar with the provisions of this article, no later than the date established for certification of the special district's ballot pursuant to section 1-5-203 (3) (a). A candidate in a municipal election may comply with this section by filing a candidate affidavit pursuant to section 31-10-302 (6), C.R.S., if such affidavit contains a statement that the candidate is familiar with the provisions of this article.

(2) (a) Except as provided in paragraph (b) of this subsection, each candidate for the general assembly, governor, lieutenant governor, attorney general, state treasurer, secretary of state, state board of education, regent of the University of Colorado, and district attorney shall file a statement disclosing the information required by section 24-6-202 (2) with the appropriate officer, on a form approved by the secretary of state, within ten days of filing the affidavit required by subsection (1) of this section.

(b) No candidate listed in paragraph (a) of this subsection shall be required to file another disclosure statement if the candidate had already filed such a statement less than ninety days prior to filing the affidavit required by subsection (1) of this section.

(3) Failure of any person to file the affidavit or disclosure statement required under this section shall result in the disqualification of such person as a candidate for the office being sought. Disqualification shall occur only after the appropriate officer has sent a notice to the person by certified mail, return receipt requested, addressed to the person's residence address. The notice shall state that the person will be disqualified as a candidate if the person fails to file the appropriate document within five business days of receipt of the notice.

(4) Any disclosure statement required by subsection (2) of this section shall be amended no more than thirty days after any termination or acquisition of interests as to which disclosure is required.

(5) If a person is defeated as a candidate or withdraws from the candidacy, that person shall not be required to comply with the provisions of this section after the withdrawal or defeat.

Source: Initiated 96: Entire article R&RE, effective upon proclamation of the Governor, January 15, 1997. **L. 99:** (1) amended, p. 1392, § 16, effective June 4. **L. 2002:** (1) amended, p. 1641, § 35, effective June 7.

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Editor's note: This section was contained in an article that was repealed and reenacted in 1996. Provisions of this section, as it existed in 1996, are similar to those contained in 1-45-105 as said section existed in 1995, the year prior to the repeal and reenactment of this article.

1-45-111. Duties of the secretary of state - enforcement. (Repealed)

Source: Initiated 96: Entire article R&RE, effective upon proclamation of the Governor, January 15, 1997. **L. 2000:** (1)(a.5) added and (1)(b) and (2) amended, p. 126, § 8, effective March 15; (2)(d) added, p. 1725, § 3, effective June 1. **Initiated 2002:** Entire section repealed, effective upon proclamation of the Governor, December 20, 2002; however, section 13 of the initiated measure repealing this section provides that the effective date of this section is December 6, 2002.

Editor's note: (1) This section was contained in an article that was repealed and reenacted in 1996. Provisions of this section, as it existed in 1996, are similar to those contained in 1-45-113 and 1-45-114 as said sections existed in 1995, the year prior to the repeal and reenactment of this article.

(2) (a) Subsection (4) of section 1 of article V of the state constitution provides that initiated and referred measures shall take effect from and after the official declaration of the vote thereon by the proclamation of the Governor. The measure enacting article XXVIII of the state constitution takes effect upon proclamation of the vote by the Governor. The Governor's proclamation was issued on December 20, 2002. However, section 13 of the measure enacting article XXVIII of the state constitution provides that the effective date of article XXVIII is December 6, 2002.

(b) This section was repealed by an initiated measure that was adopted by the people in the general election held November 5, 2002. Section 12 of article XXVIII provides for the repeal of this section. For the text of the initiative and the vote count, see Session Laws of Colorado 2003, p. 3597.

1-45-111.5. Duties of the secretary of state - enforcement - sanctions. (1) The secretary of state shall promulgate such rules, in accordance with article 4 of title 24, C.R.S., as may be necessary to enforce and administer any provision of this article.

(1.5) (a) Any person who believes that a violation of either the secretary of state's rules concerning campaign and political finance or this article has occurred may file a written complaint with the secretary of state not later than one hundred eighty days after the date of the occurrence of the alleged violation. The complaint shall be subject to all applicable procedures specified in section 9 (2) of article XXVIII of the state constitution.

(b) Any person who commits a violation of either the secretary of state's rules concerning campaign and political finance or this article that is not specifically listed in section 9 (2) (a) of article XXVIII of the state constitution shall be subject to any of the sanctions specified in section 10 of article XXVIII of the state constitution or in this section.

(2) A party in any action brought to enforce the provisions of article XXVIII of the state constitution or of this article shall be entitled to the recovery of the party's reasonable attorney fees and costs from any attorney or party who has brought or defended the action, either in whole or in part, upon a determination by the office of administrative courts that the action, or any part thereof, lacked substantial justification or that the action, or any part thereof, was interposed for delay or harassment or if it finds that an attorney or party unnecessarily expanded the proceeding by other improper conduct, including, but not limited to, abuses of discovery procedures available under the Colorado rules of civil procedure. Notwithstanding any other provision of this subsection (2), no attorney fees may be awarded under this subsection (2) unless the court or administrative law judge, as applicable, has first considered the provisions of section 13-17-102 (5) and (6), C.R.S. For purposes of this subsection (2), "lacked substantial justification" means substantially frivolous, substantially groundless, or substantially vexatious.

Source: L. 2003: Entire section added, p. 2160, § 6, effective June 3. **L. 2005:** (2) amended, p. 852, § 4, effective June 1. **L. 2008:** (1.5) added and (2) amended, p. 349, § 1, effective April 10.

ANNOTATION

District court did not abuse its discretion by entering preliminary injunction against secretary of state enjoining

implementation of administrative rule defining "member" for purposes of constitutional provisions governing small donor

committees. Proposed rule would force labor and other covered organizations to get written permission before using an individual's dues or contributions to fund political campaigns. Plaintiffs demonstrated reasonable probability of success on the merits in challenging secretary's authority to enact proposed rule. Secretary's "definition" of term "member" in proposed rule is much more than an effort to define term. It can be read effectively to add, modify, and conflict with constitutional provision by imposing new condition not found in text of article XXVIII. Secretary's stated purpose in enacting proposed rule not furthered by "definition"

contained in proposed rule. Proposed rule does not further secretary's stated goal of achieving transparency of political contributions. *Sanger v. Dennis*, 148 P.3d 404 (Colo. App. 2006).

Plaintiffs demonstrated reasonable probability of success on the merits in alleging that administrative rule promulgated by secretary of state violated their constitutional rights to freedom of association as applied to them. Secretary's immediate enforcement of administrative rule forcing labor and other covered organizations to get written permission before using an individual's dues or contributions to fund political campaigns would have effectively prevented plaintiffs from exercising their first amendment rights in general election. Administrative rule was not narrowly tailored. Rationale justifying administrative rule was based upon speculation there would be dissenters, thereby impermissibly penalizing constitutional rights of the many for the speculative rights of the few. Accordingly, district court did not abuse its discretion by entering preliminary injunction against implementation of administrative rule. *Sanger v. Dennis*, 148 P.3d 404 (Colo. App. 2006).

Adoption of Rule 9.3 of the Colorado secretary of state's rules concerning campaign and political finance requiring the name of the candidate unambiguously referred to in the

electioneering communication to be included in the electioneering report, was within the rulemaking authority of the secretary of state under § 9(1)(b) of article XXVIII of the state constitution and subsection (1) of this section. Colo. Citizens for Ethics in Gov't v. Comm. for the Am. Dream, 187 P.3d 1207 (Colo. App. 2008).

ALJ had jurisdiction to impose penalty for violation of Rule 9.3 and did not err by imposing a \$1,000 penalty on political committee. Section (2)(a) of article XXVIII of the state constitution grants an ALJ authority to conduct hearings on alleged violations of the article and the "Fair Campaign Practices Act" and to

impose penalties if a violation has occurred. Rule 9.3 is necessary to implement former § 1-45-109 (5), and, under 10(2)(a) of article XXVIII of the state constitution, sanctions can be imposed for violations of § 1-45-109. Colo. Citizens for Ethics in Gov't v. Comm. for the Am. Dream, 187 P.3d 1207 (Colo. App. 2008).

ALJ did not err in determining that membership contribution claim was groundless and in awarding attorney fees against litigant. ALJ did not misinterpret subsection (2) by rejecting litigant's defense based on voluntary dismissal of its membership contributions claim under § 13-17-102 (5). Although § 1-45-111.5 (2) contains the same operative language and definitions as § 13-17-102 (4), at the time of the action, the FCPA did not incorporate § 13-17-102 (5) and contained no exception for dismissal of a groundless claim prior to hearing. Moreover, although § 13-17-102 applies to any civil action commenced or appealed in any court of record, "court of record" does not include administrative courts. Finally, the record showed that the ALJ considered litigant's arguments about the efforts it made after the filing of the action to reduce or dismiss claims it found to be invalid. Colo. Citizens for Ethics in Gov't v. Comm. for the Am. Dream, 187 P.3d 1207 (Colo. App. 2008).

1-45-112. Duties of municipal clerk. (1) The municipal clerk shall:

- (a) Develop a filing and indexing system for their offices consistent with the purposes of this article;
 - (b) Keep a copy of any report or statement required to be filed by this article for a period of one year from the date of filing. In the case of candidates who were elected, those candidate's reports and filings shall be kept for one year after the candidate leaves office;
 - (c) Make reports and statements filed under this article available to the public for inspection and copying no later than the end of the next business day after the date of filing. No information copied from such reports and statements shall be sold or used by any person for the purpose of soliciting contributions or for any commercial purpose.
 - (d) Upon request by the secretary of state, transmit records and statements filed under this article to the secretary of state;
 - (e) Notify any person under their jurisdiction who has failed to fully comply with the provisions of this article and notify any person if a complaint has been filed with the secretary of state alleging a violation of this article.
 - (f) Repealed.
- (2) The secretary of state shall reimburse the municipal clerk of each municipality at the rate of two dollars per candidate per election to help defray the cost of implementing this article.

Source: Initiated 96: Entire article R&RE, effective upon proclamation of the Governor, January 15, 1997. **L. 2008:** (1)(f) repealed, p. 350, § 2, effective April 10. **L. 2009:** IP(1) and (2) amended, (HB 09-1357), ch. 361, p. 1874, § 3, effective July 1.

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Editor's note: (1) This section was contained in an article that was repealed and reenacted in 1996. Provisions of this section, as it existed in 1996, are similar to those contained in § 1-45-115 as said section existed in 1995, the year prior to the repeal and reenactment of this article.

(2) Section 5 of chapter 361, Session Laws of Colorado 2009, provides that the act amending the introductory portion to subsection (1) and subsection (2) applies to campaign finance reports required to be filed on or after January 1, 2010.

1-45-112.5. Immunity from liability for fine or penalty. (1) Any individual volunteering his or her time on behalf of a candidate or candidate committee shall be immune from any liability for a fine or penalty imposed pursuant to section 10 (1) of article XXVIII of the state constitution in any proceeding that is based on an act or omission of such volunteer if:

(a) The volunteer was acting in good faith and within the scope of such volunteer's official functions and duties for the candidate or candidate committee; and

(b) The violation was not caused by willful and intentional misconduct by such volunteer.

(2) Subsection (1) of this section shall be administered in a manner that is consistent with section 1 of article XXVIII of the state constitution and with the legislative declaration set forth in section 1-45-102.

Source: L. 2003: Entire section added, p. 2160, § 6, effective June 3.

1-45-113. Sanctions. (Repealed)

Source: Initiated 96: Entire article R&RE, effective upon proclamation of the Governor, January 15, 1997. **L. 98:** (6) added, p. 633, § 3, effective May 6; (6) added, p. 952, § 4, effective May 27. **L. 2000:** (1), (2), (3), and (4) amended, p. 127, § 9, effective March 15. **L. 2001:** (4) amended, p. 1110, § 1, effective September 1. **Initiated 2002:** Entire section repealed, effective upon proclamation of the Governor, December 20, 2002; however, section 13 of the initiated measure repealing this section provides that the effective date of this section is December 6, 2002.

Editor's note: (1) This section was contained in an article that was repealed and reenacted in 1996. Provisions of this section, as it existed in 1996, are similar to those contained in 1-45-121 as said section existed in 1995, the year prior to the repeal and reenactment of this article.

(2) (a) Subsection (4) of section 1 of article V of the state constitution provides that initiated and referred measures shall take effect from and after the official declaration of the vote thereon by the proclamation of the Governor. The measure enacting article XXVIII of the state constitution takes effect upon proclamation of the vote by the Governor. The Governor's proclamation was issued on December 20, 2002. However, section 13 of the measure enacting article XXVIII of the state constitution provides that the effective date of article XXVIII is December 6, 2002.

(b) This section was repealed by an initiated measure that was adopted by the people in the general election held November 5, 2002. Section 12 of article XXVIII provides for the repeal of this section. For the text of the initiative and the vote count, see Session Laws of Colorado 2003, p. 3609.

1-45-114. Expenditures - political advertising - rates and charges. (1) No candidate shall pay to any radio or television station, newspaper, periodical, or other supplier of materials or services a higher charge than that normally required for local commercial customers for comparable use of space, materials, or services. Any such rate shall not be rebated, directly or indirectly.

(2) Any radio or television station, newspaper, or periodical that charges a candidate committee a lower rate for use of space, materials, or services than the rate such station, newspaper, periodical, or supplier charges another candidate committee for the same public office for comparable use of space, materials, or services shall report the difference in such rate as a contribution to the candidate committee that is charged such lower rate pursuant to section 1-45-108.

(3) Nothing in this article shall be construed to prevent an adjustment in rates related to frequency, volume, production costs, and agency fees if such adjustments are offered consistently to other advertisers.

Source: Initiated 96: Entire article R&RE, effective upon proclamation of the Governor, January 15, 1997. **L. 2000:** Entire section amended, p. 128, § 10, effective March 15. **L. 2003:** (2) amended, p. 2160, § 5, effective June 3.

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Editor's note: This section was contained in an article that was repealed and reenacted in 1996. Provisions of this section, as it existed in 1996, are similar to those contained in 1-45-118 as said section existed in 1995, the year prior to the repeal and reenactment of this article.

1-45-115. Encouraging withdrawal from campaign prohibited. No person shall offer or give any candidate or candidate committee any money or any other thing of value for the purpose of encouraging the withdrawal of the candidate's candidacy, nor shall any candidate offer to withdraw a candidacy in return for money or any other thing of value.

Source: Initiated 96: Entire article R&RE, effective upon proclamation of the Governor, January 15, 1997.

Editor's note: This section was contained in an article that was repealed and reenacted in 1996. Provisions of this section, as it existed in 1996, are similar to those contained in 1-45-119 as said section existed in 1995, the year prior to the repeal and reenactment of this article.

1-45-116. Home rule counties and municipalities. Any home rule county or municipality may adopt ordinances or charter provisions with respect to its local elections that are more stringent than any of the provisions contained in this act. Any home rule county or municipality which adopts such ordinances or charter provisions shall not be entitled to reimbursement pursuant to subsection 1-45-112 (2). The requirements of article XXVIII of the state constitution and of this article shall not apply to home rule counties or home rule municipalities that have adopted charters, ordinances, or resolutions that address the matters covered by article XXVIII and this article.

Source: Initiated 96: Entire article R&RE, effective upon proclamation of the Governor, January 15, 1997. **L. 2003:** Entire section amended, p. 2161, § 7, effective June 3.

Editor's note: This section was contained in an article that was repealed and reenacted in 1996. Provisions of this section, as it existed in 1996, are similar to those contained in 1-45-120(1) as said section existed in 1995, the year prior to the repeal and reenactment of this article.

1-45-117. State and political subdivisions - limitations on contributions. (1) (a) (I) No agency, department, board, division, bureau, commission, or council of the state or any political subdivision thereof shall make any contribution in campaigns involving the nomination, retention, or election of any person to any public office, nor shall any such entity expend any public moneys from any source, or make any contributions, to urge electors to vote in favor of or against any:

(A) State-wide ballot issue that has been submitted for the purpose of having a title designated and fixed pursuant to section 1-40-106 (1) or that has had a title designated and fixed pursuant to that section;

(B) Local ballot issue that has been submitted for the purpose of having a title fixed pursuant to section 31-11-111 or that has had a title fixed pursuant to that section;

(C) Referred measure, as defined in section 1-1-104 (34.5);

(D) Measure for the recall of any officer that has been certified by the appropriate election official for submission to the electors for their approval or rejection.

(II) However, a member or employee of any such agency, department, board, division, bureau, commission, or council may respond to questions about any such issue described in subparagraph (I) of this paragraph (a) if the member, employee, or public entity has not solicited the question. A member or employee of any such agency, department, board, division, bureau, commission, or council who has policy-making responsibilities may expend not more than fifty dollars of public moneys in the form of letters, telephone calls, or other activities incidental to expressing his or her opinion on any such issue described in subparagraph (I) of this paragraph (a).

(b) (I) Nothing in this subsection (1) shall be construed as prohibiting an agency, department, board, division, bureau, commission, or council of the state, or any political subdivision thereof from expending public moneys or making contributions to dispense a factual summary, which shall include arguments both for and against the proposal, on any issue of official concern before the electorate in the jurisdiction. Such summary shall not contain

a conclusion or opinion in favor of or against any particular issue. As used herein, an issue of official concern shall be limited to issues that will appear on an election ballot in the jurisdiction.

(II) Nothing in this subsection (1) shall be construed to prevent an elected official from expressing a personal opinion on any issue.

(III) Nothing in this subsection (1) shall be construed as prohibiting an agency, department, board, division, bureau, commission, or council of the state or any political subdivision thereof from:

(A) Passing a resolution or taking a position of advocacy on any issue described in subparagraph (I) of paragraph (a) of this subsection (1); or

(B) Reporting the passage of or distributing such resolution through established, customary means, other than paid advertising, by which information about other proceedings of such agency, department, board, division, bureau, or council of the state or any political subdivision thereof is regularly provided to the public.

(C) Nothing in this subsection (1) shall be construed as prohibiting a member or an employee of an agency, department, board, division, bureau, commission, or council of the state or any political subdivision thereof from expending personal funds, making contributions, or using personal time to urge electors to vote in favor of or against any issue described in subparagraph (I) of paragraph (a) of this subsection (1).

(2) The provisions of subsection (1) of this section shall not apply to:

(a) An official residence furnished or paid for by the state or a political subdivision;

(b) Security officers who are required to accompany a candidate or the candidate's family;

(c) Publicly owned motor vehicles provided for the use of the chief executive of the state or a political subdivision;

(d) Publicly owned aircraft provided for the use of the chief executive of the state or of a political subdivision or the executive's family for security purposes; except that, if such use is, in whole or in part, for campaign purposes, the expenses relating to the campaign shall be reported and reimbursed pursuant to subsection (3) of this section.

(3) If any candidate who is also an incumbent inadvertently or unavoidably makes any expenditure which involves campaign expenses and official expenses, such expenditures shall be deemed a campaign expense only, unless the candidate, not more than ten working days after the such expenditure, files with the appropriate officer such information as the secretary of state may by rule require in order to differentiate between campaign expenses and official expenses. Such information shall be set forth on a form provided by the appropriate officer. In the event that public moneys have been expended for campaign expenses and for official expenses, the candidate shall reimburse the state or political subdivision for the amount of money spent on campaign expenses.

(4) Any violation of this section shall be subject to the provisions of sections 9 (2) and 10 (1) of article XXVIII of the state constitution or any appropriate order or relief, including an order directing the person making a contribution or expenditure in violation of this section to reimburse the fund of the state or political subdivision, as applicable, from which such moneys were diverted for the amount of the contribution or expenditure, injunctive relief, or a restraining order to enjoin the continuance of the violation.

Source: Initiated 96: Entire article R&RE, effective upon proclamation of the Governor, January 15, 1997. **L. 2002:** (4) added, p. 280, § 1, effective August 7. **L. 2008:** (4) amended, p. 350, § 3, effective April 10.

Editor's note: This section was contained in an article that was repealed and reenacted in 1996. Provisions of this section, as it existed in 1996, are similar to those contained in § 1-45-116 as said section existed in 1995, the year prior to the repeal and reenactment of this article.

ANNOTATION

Annotator's note. Since § 1-45-117 is similar to § 1-45-116 as it existed prior to the 1997 repeal and reenactment of this article, relevant cases construing that provision have been included in the annotations to this section.

The purpose of this section is to prohibit the state government and its officials from spending public funds to

influence the outcome of campaigns for political office or ballot issues. *Colo. Common Cause v. Coffman*, 85 P.3d 551 (Colo. App. 2003), *aff'd*, 102 P.3d 999 (Colo. 2004).

This section must be strictly construed. It is an established principle that statutes regarding the use of public funds to influence the outcome of elections are

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strictly construed. *Coffman v. Colo. Common Cause*, 102 P.3d 999 (Colo. 2004).

Moneys in fund administered by the Colorado compensation insurance authority that consisted primarily of premiums paid into the fund by employers constituted "public moneys" for purposes of this section. *Denver Area Labor Fed'n v. Buckley*, 924 P.2d 524 (Colo. 1996).

While the term "public moneys" is not defined, the all-inclusive language "from any source" indicates that the general assembly intended an expansive definition of the phrase. Thus, the term "public moneys" may not be construed to refer only to sums realized from the imposition of taxes. *Denver Area Labor Fed'n v. Buckley*, 924 P.2d 524 (Colo. 1996).

Although moneys collected by the political subdivision were not derived from state-imposed sales, use, property, or income taxes, those moneys may be spent by the political subdivision only for authorized public purposes. The general assembly has in essence declared that the expenditure of moneys in the fund for purposes prohibited by this section are not authorized expenditures for public purposes. *Denver Area Labor Fed'n v. Buckley*, 924 P.2d 524 (Colo. 1996).

This section prohibits the use of "public moneys from any source," not the use of "public funds". The general assembly thus selected a phrase not previously construed in seeking to limit the expenditure of funds by various governmental entities for certain purposes. *Denver Area Labor Fed'n v. Buckley*, 924 P.2d 524 (Colo. 1996).

This section tends to promote public confidence in government by prohibiting the use of moneys authorized for expenditure by political subdivisions for specified public purposes to advance the personal viewpoint of one group over another. A political subdivision's use of moneys that were authorized for expenditure for the benefit of an insured to oppose the passage of an amendment proposed by an insured is the type of conduct the general assembly intended to prohibit by the enactment of this section. *Denver Area Labor Fed'n v. Buckley*, 924 P.2d 524 (Colo. 1996).

What is of "official concern" to school district board of education is to be determined by reference to the official powers and duties delegated by the general assembly in the school laws. *Mountain States Legal Found. v. Denver Sch. Dist. No. 1*, 459 F. Supp. 357 (D. Colo. 1978).

A matter of official concern is one which at the very least involves questions which come before the officials for an official decision. *Campbell v. Joint Dist. 28-J*, 704 F.2d 501 (10th Cir. 1983).

Proposed constitutional amendment not of official concern. A proposed amendment to the state constitution on a general election ballot is not a matter of official concern. *Campbell v. Joint Dist. 28-J*, 704 F.2d 501 (10th Cir. 1983).

1-45-118. Severability. If any provision of this article or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the article which can be given effect without the invalid provision or application, and to this end the provisions of this article are declared to be severable.

Source: Initiated 96: Entire article R&RE, effective upon proclamation of the Governor, January 15, 1997.

Not determined solely by board. The characterization of a campaign issue as being of "official concern" is not a judgment which can be made solely by the board of education; such an interpretation of this section would give unlimited discretion to the school board to use school funds and school facilities whenever it suited the personal preference of the majority of the members. *Mountain States Legal Found. v. Denver Sch. Dist. No. 1*, 459 F. Supp. 357 (D. Colo. 1978).

This section allows an employee with policy-making responsibility to expend public funds up to the \$50 limit in expressing an opinion about a pending ballot issue. *Regents of the Univ. of Colo. v. Meyer*, 899 P.2d 316 (Colo. App. 1995).

Paid staff time is a contribution in kind for purposes of this section. Time spent by the state treasurer's staff during work hours on a non-volunteer basis preparing and disseminating press releases expressing the state treasurer's opposition to a statewide ballot issue therefore violated this section to the extent that the value of that time exceeded \$50. *Coffman v. Colo. Common Cause*, 102 P.3d 999 (Colo. 2004).

State treasurer's press conference and press releases opposing a statewide ballot issue violated this section. The press releases were not balanced factual summaries of the ballot issue and were not resolutions because they were not formal expressions of a voting body. The state treasurer expended more than \$50 in preparing the press releases and was not permitted to expend more than that to take a position of advocacy. *Colo. Common Cause v. Coffman*, 85 P.3d 551 (Colo. App. 2003), *aff'd*, 102 P.3d 999 (Colo. 2004).

Public school payroll deduction system for teachers' union dues, a portion of which was given by the union to a political action committee, did not constitute a "contribution in kind" because it did not support a specific "issue" or "candidate" that the political action committee supported or opposed during the time that the district made the payroll deductions. *Mountain States v. Secretary of State*, 946 P.2d 586 (Colo. App. 1997) (decided under law in effect prior to 1997 amendment).

Brochure mailed by metropolitan districts explaining proposed improvements violated this section. The brochure, when read in its entirety, did not present arguments for and against the issue. In fact, it took a position exclusively in favor of the issue, presented no contrary arguments, and expressly advocated the passage of the bond initiative that was titled only days after the mailing of the brochure. Thus, it urged voters to vote for the initiative. *Skruch v. Highlands Ranch Metro. Dists.*, 107 P.3d 1140 (Colo. App. 2004).

Although brochure did not mention ballot initiative by name, administrative law judge appropriately concluded that the language of this section does not require that level of specificity. The section prohibits "the urging of electors to vote a certain way." *Skruch v. Highlands Ranch Metro. Dists.*, 107 P.3d 1140 (Colo. App. 2004).

COLORADO SECRETARY OF STATE
RULES CONCERNING CAMPAIGN AND POLITICAL FINANCE
As Amended September 17, 2009

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SECRETARY OF STATE
[8 CCR 1505-6]
RULES CONCERNING CAMPAIGN AND POLITICAL FINANCE

1. Definitions

- 1.1 “Business Activities”. For the purposes of Article XXVIII, Section 3(4)(b)(I) and Rule 4.12 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”.
- a. “Contribution” does not include an endorsement of a candidate or an issue by any person.
 - b. The exception stated in section 2(5)(b) of the State Constitution that “‘Contribution’ does not include services provided without compensation by individuals volunteering their time”, applies only to services provided solely on the basis of time (such as legal advice, bookkeeping, computer consulting and programming, web mastering, etc.). The exception may include time-based services volunteered by an individual as a member of any firm, association, or other business entity, including a corporation, if such individual receives no direct or indirect compensation for the time volunteered. If a tangible product is produced as a result of such services, “contribution” includes the reasonable value of the materials involved, unless such value is negligible.
- 1.4 “Corporation”, as used in Article XXVIII, shall have the same meaning as set forth in section 1-45-103(7), C.R.S.
- 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 Repealed.
- 1.7 “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).

1.8 “Person”.

- a. A “natural person” is a human being.
- b. For the purpose of Article XXVIII, Section 7, “person” shall mean any natural person.

1.9 “Per year” means “per calendar year”.

1.10 “Political Committee” does not include a married couple.

1.11 “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.

1.12 “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)]

1.13 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)]

1.14 “Signature”, for purposes of any report filed electronically with the secretary of state, means the designated representative has electronically submitted the report through the online filing system.

1.15 A “member”, as used in Article XXVIII, Sections 2(5)(b), 2(8)(b)(IV), and 2(14)(a) only, is a person who:

- a. Pays membership dues; and
- b. At least annually gives the membership organization specific written permission to transfer dues to a political committee or small donor committee. [This paragraph b. expires effective May 10, 2007.]

2. Committee Registration

2.1 When a committee registration form is received and deemed complete by the appropriate filing officer, an identification number will be assigned and a letter or email of acknowledgement will be sent by the appropriate filing officer to the registered agent on file. The registered agent for any issue committee,

political committee, small donor committee, or political party shall sign the committee's registration form and all disclosure reports. [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 appropriate filing officer and the committee or party via certified mail. A registered agent for a candidate committee, who is not the candidate, shall file a letter of resignation with the appropriate filing officer and the candidate of the candidate committee via certified mail. The letter of resignation to the appropriate filing officer shall be filed within seven business days of resignation and shall include the certified mail receipt number sent to the committee or party and the contact information for 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 receipt of the letter of resignation. If the registered agent does not provide the committee notice of resignation as required by this rule, the committee shall file the amended committee registration form within five days of becoming aware that the agent has resigned. [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 name of the candidate and the specific elective office sought upon registration. A political committee or small donor committee shall identify the types of candidates being supported or opposed, such as party affiliation or public policy position, and if known, the specific candidates being supported or opposed. Terms describing types of candidates shall be descriptive in providing disclosure of the committee's purpose. It is not sufficient to identify candidate types by listing the jurisdiction or office sought, such as "legislative candidates" or "statewide candidates."
- 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 at such time as an issue meets the provisions of section 1-45-108(7), C.R.S.; no generic phraseology may be used once such an issue is known (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, or accept contributions from, 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, or accept contributions from, 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, C.R.S., 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 section 1-45-108, C.R.S., the political committee shall be considered to have registered with the appropriate officer for purposes of subsection (3) of section 1-45-108, C.R.S. 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 (FEC) 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 section 1-45-108, C.R.S. Pursuant to the requirement of section 1-45-108 (3.5) that such committees are subject to “all other legal requirements”, committees filing reports with the FEC in accordance with this Rule are subject to the following:

- a. Itemization of all contributions and expenditures of twenty dollars (\$20) or more on reports filed with the FEC.
- b. The occupation and employer of any person who has made a contribution of one hundred dollars or more must be disclosed on reports filed with the FEC.
- c. Only contributions received by the committee that are within contribution limits established by Colorado Law shall be used to support or oppose state or local candidates in Colorado.
- d. The committee shall deposit funds into a separate account in accordance with Article XXVIII, section 3(9) and Rule 4.18 and may, but shall not be required to, segregate funds intended to support or oppose state or local candidates in Colorado.

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 Procedure Act” (Article 4 of Title 24, Colorado Revised Statutes), the secretary of state may close an inactive committee after two years of non-reporting. A committee shall be deemed inactive for the purpose of this rule after such committee has failed to file any reports with the appropriate filing officer for two consecutive years. [Article XXVIII, Section 2(3), and C.R.S. 24-4-105]

2.10.1 A municipal clerk designated as a committee’s appropriate filing officer pursuant to section 1-45-109, C.R.S., may request the secretary of state to close a committee pursuant to this Rule. Such request shall be submitted in writing and contain a statement from the county clerk and recorder or municipal clerk that no disclosure reports have been received for at least two years either manually or electronically from such committee, and any other information that is relevant.

2.11 Repealed.

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 appropriate filing officer. 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 or assets on hand and no outstanding debts or obligations; and the candidate or committee files a termination statement of contributions and expenditures. Assets remaining in possession of a committee prior to termination may be disposed of in the same manner as allowed for unexpended contributions. 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 candidate committees not subject to the limits set forth in Article XXVIII, Section 3 may not be contributed to a candidate committee that is subject to such limits.
- 3.8 Multi-purpose issue committees – termination of status. In the case of an issue committee whose purposes are not limited to supporting or opposing ballot issues or ballot questions (a “multi-purpose issue committee”), such multi-purpose issue committee may terminate its status as an issue committee by filing a termination statement of contributions and expenditures with the appropriate filing officer. In accordance with Rule 3.4, a termination statement may be filed at any time if the following conditions are met:
 - a. the multi-purpose issue committee no longer has a major purpose of supporting or opposing any ballot issue or ballot question and no longer intends to accept or make contributions or expenditures to support or oppose a ballot issue or ballot question; and
 - b. the committee's separate account maintained in accordance with Article XXVIII, section 3(9) has achieved a zero balance by having no cash on hand and no outstanding debts or obligations.
- 3.9 Contributions Where the Identity of the Contributor is Unknown.

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- a. Contributions received by a candidate committee, political committee, political party committee, or small donor committee, of any amount, where the identity of the contributor is unknown, shall not be retained. Such contributions must, within thirty (30) days, be donated to any charitable organization recognized by the Internal Revenue Service, or transmitted to the State Treasurer for deposit into the unclaimed property fund or such other fund as the State Treasurer may direct.
- b. Contributions received by an issue committee in excess of twenty dollars (\$20) where the identity of the contributor is unknown, shall not be retained. Such contributions must, within thirty (30) days, be donated to any charitable organization recognized by the Internal Revenue Service, or transmitted to the State Treasurer for deposit into the unclaimed property fund or such other fund as the State Treasurer may direct.

3.10 Disposition of debt in anticipation of committee termination

- a. Notwithstanding any negative balance for a prior election cycle, all contributions received by a candidate committee in the current election cycle shall be subject to the limits on contributions for the current election cycle and shall be reported as contributions for the current election cycle.
- b. Any financial obligations incurred by a candidate committee in an election cycle that are not paid within a commercially reasonable period of time, not to exceed six (6) months after the close of that election cycle, shall be treated as “contributions” from the service provider or vendor extending credit.

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 manually 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 or credit card, the date accepted is the date that the contribution is deposited into the committee’s or party’s account. Any contribution in the form of a check received by a committee or 527 political organization at least five business days prior to the end of a reporting period must be deposited or returned to the contributor by the close of that reporting period.
 - 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.

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- 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 Loans received by a committee or party
- a. All loans received by a committee or party must be reported continuously until repaid. [Article XXVIII, Section 3(8)]
 - b. Notwithstanding Article XXVIII, Section 3(8), a candidate may make a loan to his or her candidate committee. Such loan shall be at no interest. In accordance with the definition of “contribution” in Article XXVIII, section 2(5), the amount of the loan is a contribution from the candidate to the committee, but the interest-free use of such loan by the committee is not a contribution to the committee.
 - c. Any repayment of a loan shall be considered a returned contribution, except that interest repaid for a loan made pursuant to Article XXVIII, Section 3(8) shall be reported as an expenditure by the committee.
 - d. A loan made by a candidate to the candidate’s own committee may be forgiven by the candidate. The amount of unpaid debt forgiven by the candidate shall remain a contribution and shall not be considered a returned contribution.
 - e. Loans made from a financial institution to a candidate committee pursuant to Article XXVIII, Section 3(8) shall not be forgiven.
- 4.6 Contributions by candidate – voluntary spending limits - loans.
- 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).
 - c. Candidates who have accepted voluntary spending limits may make loans to his or her candidate committee whose aggregate total may exceed the allowable limit established in Article XXVIII, Section 3 and Section 4(2) so long as the unpaid balance of any loans does not exceed the allowable limit at any time.
- 4.7 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”.

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- 4.8 For any contribution received in excess of contribution limits, neither the contributor nor the receiving committee shall be liable for exceeding the contribution limit if the excess amount is returned to the contributor within thirty (30) days.
- 4.9 Disclosure of Occupation and Employer
- 4.9.1 The requirement to disclose the occupation and employer of a contributor in Article XXVIII, Section 7 of the Colorado Constitution and section 1-45-108, C.R.S., applies to any one-time contribution of \$100 or more, and not to aggregate contributions totaling \$100 or more.
- 4.9.2 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 31st day after receipt.
- 4.10 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).
- 4.11 Repealed.
- 4.12 Article XXVIII, Section 6(2), concerning the prohibition against 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.
- 4.13 A candidate who does not accept contributions but who expends money for campaign purposes shall not be required to form a candidate committee, but shall file disclosure reports for the reporting periods during which expenditures are made, in accordance with sections 1-45-108 and 1-45-109.
- 4.14 Membership dues transferred to small donor committees and political committees

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- a. Membership organizations transferring a portion of a member's dues to a small donor committee or political committee shall provide the respective committee with the member's name, address, amount of dues transferred, and the date of the dues transfer.
- b. Each small donor committee and political committee shall keep records of all contributions received in the form of membership dues transferred by a membership organization to the 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. Each small donor committee and political 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 committee. [Article XXVIII, Section 2(14)(a); C.R.S. 1-45-108(1)(a)]
- d. On each disclosure report, the candidate or registered agent of a candidate committee, political party committee, political committee, small donor committee, or issue committee shall certify and declare, under penalty of perjury, that to the best of his or her knowledge or belief all contributions received in a reporting period, including contributions received in the form of membership dues transferred by a membership organization, are from permissible sources. [Article XXVIII, Section 3.]

4.15 Multi-purpose issue committees. In the case of an issue committee whose purposes are not limited to supporting or opposing ballot issues or ballot questions (a "multi-purpose issue committee"):

- a. Such multi-purpose issue committee shall report only those contributions accepted, expenditures made, and obligations entered into for the purpose of supporting or opposing ballot issues or ballot questions. A multi-purpose issue committee shall not be required to report donations, membership dues, or any other receipts except to the extent they are designated or intended to be used for the purpose of supporting or opposing one or more ballot issues or ballot questions.
- b. Contributions accepted for the purpose of supporting or opposing ballot issues or ballot questions shall be deposited in an account separate from other funds of the issue committee in accordance with Article XXVIII, Section 3(9). If the issue committee accepts contributions relating to more than one ballot issue or ballot question, such contributions may be deposited in a separate account for each ballot issue or ballot question.
- c. If a multi-purpose issue committee receives general, non-earmarked donations, membership dues, or other payments, and later chooses to allocate some or all of such non-earmarked contributions to support or oppose a ballot issue or ballot question, then it must transfer the funds into a separate campaign account maintained in accordance with Article XXVIII, Section 3(9) and report the transfer as a contribution from the committee itself.

4.16 Until terminated in accordance with these rules, a committee shall file a disclosure report for every reporting period, even if the committee has no activity (expenditures or contributions) to report during the reporting period

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- 4.17 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.
- 4.18 In accordance with Article XXVIII, section 3(9) of the Colorado Constitution, the requirement that committee funds be deposited into “a financial institution” shall not mean that all committee funds must be deposited into one single bank, credit union, or other commercial financial institution.
- 4.19 Investment of funds
- 4.19.1 A candidate committee, issue committee, political committee, small donor committee, or political party may invest the committee’s funds in any type of account or instrument of a government regulated financial institution.
- 4.19.2 Any 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 is not a contribution or an expenditure and shall not be subject to contribution limits, but shall be disclosed as miscellaneous income or expense on any disclosure report for which the interest, dividend, or service fee was received or charged.
- 4.20 Political organizations. In the case of political organizations as defined in section 1-45-103(14.5), C.R.S.:
- 4.20.1 Pursuant to 1-45-108.5, C.R.S., political organizations shall only report contributions and expenditures for the purpose of “influencing or attempting to influence the selection, nomination, election, or appointment of any individual to any state or local public office.”
- 4.20.2 Political organizations shall file according to the filing schedules set forth in section 1-45-108(2), C.R.S.
- a. For the purposes of this Rule, “off-election year” for a political organization shall mean every odd numbered year.
- b. For the purposes of this Rule, “major election” shall mean an election held in November of an even numbered year.
- 4.20.3 Political organizations shall not be required to file disclosure reports for reporting periods when no contributions were received and spending was less than twenty dollars (\$20).
- 4.20.4 Political organizations shall file all applicable disclosure reports required by section 1-45-103(14.5), C.R.S., with the appropriate filing officer. For the purposes of this rule, the appropriate filing officer shall be the same for political organizations as for political committees as outlined in section 1-45-109, C.R.S.
- [1-45-108.5]
- 4.21 Disclosure of contributions by Limited Liability Companies (LLCs). [1-45-103.7(5), (6), (7), and (8)]

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- 4.21.1 The written affirmation provided by an LLC in accordance with section 1-45-103.7, C.R.S., shall include the names and addresses of the LLC's members and describe how the contribution is to be attributed to the LLC's members.
- 4.21.2 The affirmation shall include the occupation and employer of any member to whom a contribution of one hundred dollars (\$100) or more is attributed.
- 4.21.3 A committee that receives a contribution from an LLC shall report as separate contributions the amount attributed to each member. For such contribution, the contributor shall be identified by the name of the member, together with the name of the LLC.
- 4.21.4 Any contributions received by a committee from an LLC that does not comply with the affirmation requirements set forth in section 1-45-103.7, C.R.S., and this Rule 4.21 shall be returned to the contributor within thirty (30) days.
- 4.21.5 Notwithstanding the provisions of Rule 4.1, each contribution received from an LLC shall be listed individually on disclosure reports, regardless of the dollar amount. Disclosure shall include the name and address of the LLC.
- 4.21.6 Pursuant to section 1-45-103.7(5)(d)(II), C.R.S., any contribution from an LLC that is attributed to its individual member(s) shall be subject to the contribution limits established in section 3 of Article XXVIII of the Colorado Constitution, as adjusted by Rule 12, for the LLC and for the individual member(s) that the contribution is attributed to.
 - 4.21.6.1 Notwithstanding the amounts attributed to each individual member of an LLC, no LLC shall be permitted to make a contribution that exceeds the limit for a "person" established in section 3 of Article XXVIII of the Colorado Constitution, as adjusted by Rule 12.
- 4.22 In accordance with Article XXVIII, sections 2(8), 2(9), and 3(4)(a) of the Colorado Constitution, corporations or labor organizations shall not make expenditures, including independent expenditures, that expressly advocate the election or defeat of a candidate.
- 4.23 Redaction of Personal Sensitive Information from Disclosure Reports
 - 4.23.1 Any person who believes their safety or the safety of an immediate family member may be in jeopardy as a result of information disclosed on any campaign finance report filed with the Secretary of State pursuant to Title 1, Article 45, C.R.S., may apply to the Secretary of State to redact sensitive personal information from the online versions of such report(s). The Secretary of State, upon a showing of good cause, may redact the minimum amount of sensitive information necessary to protect the safety of such person or his or her immediate family. If the Secretary of State redacts sensitive information disclosed on a campaign finance report, the original unredacted report shall remain a public record pursuant to Title 24, Article 72, C.R.S.
 - 4.23.2 Applications for redaction of sensitive information shall be submitted in writing and shall include the requestor's name, the identified entry(s) of concern, a justification for the application, and the committee to whom the contribution(s) was made or expenditure(s) received.

- 4.24 If a primary election is cancelled in accordance with section 1-4-104.5(1), a candidate committee may accept the contribution limit specified in article XXVIII, section 3(1) for the primary election in which the candidate whose name the candidate committee is accepting contributions for is eligible to be on the primary election ballot. In accordance with section 1-45-103.7(3) such contributions may be accepted at any time before or after the primary election was cancelled.

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 15th, July 15th, October 15th and January 15th - 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 30th 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 manually. All disclosure reports filed manually with the secretary of state pursuant to section 1-45-108 C.R.S., shall be filed using the provided form, or if the report is filed in another permitted format, it shall be type written and the font size shall be no less than 12 point.
- 5.6 Reports filed electronically.
- a. Reports filed electronically are due on the same date as manually filed reports and are due no later than close of business pursuant to section 1-45-109(2), C.R.S. Close of business for the purpose of electronic filing shall mean 11:59 p.m.
 - c. 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 filing a report, the secretary of state may extend the due date for an additional day for electronically filed reports. [1-45-108(2.3), 1-45-109(6)]
- 5.7 The reporting period for any report begins on the first day following the last day of the reporting period for the previous report filed with the appropriate officer. [1-45-108(2)(c)]
- 5.8 Special district elections.

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- a. Reports relating to special district elections that are required to be filed with the county clerk and recorder, reports shall be required on the 21st day prior to, and on the Friday prior to, and on the 30th day after the date of the regular election. [1-45-109(1)(a)(II) and (1)(c)]
- b. Repealed.

5.9 The reporting period for any report that is required to be filed pursuant to section 1-45-109(1)(a)(II) and (1)(c) shall close five calendar days prior to the date that the report is due.

5.10 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, C.R.S., except that such candidate committee shall file an annual report for each calendar 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)]

- a. State candidate committees shall file such report not later than January 15th of the following year.
- b. All other candidate committees shall file such 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.

5.11 Repealed.

5.12 Once a committee has declared its committee status as active or inactive in a particular year, the committee shall follow the appropriate filing schedule for the remainder of that calendar year, except that an inactive committee may change its status to active at any time.

6. Violations and Complaints

6.1 If the appropriate officer, as defined in Section 2(1) of Article XXVIII, discovers in the ordinary course of his or her duties in maintaining a campaign finance filing system 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 (if the complainant is represented by counsel, such counsel's name, address, and signature shall be included along with 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)]

6.4 Repealed.

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 Secretary of State the self-nomination and acceptance forms and letters, and affidavits of intent to be a write-in candidate no later than the date established for certification of the special district's ballot pursuant to section 1-5-203(3)(a), C.R.S.

- 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 Secretary of State shall mail the special district a copy of the notification to the candidate regarding pending disqualification sent pursuant to section 1-45-110(3).
- 8.3 The Secretary of State'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. 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.
- 8.4 If the special district candidate affidavit, the filed self-nomination and acceptance form or letter, or the affidavit of intent to be a write-in candidate contains a statement substantially stating, "I shall not, in my campaign for this office, receive contributions or make expenditures exceeding twenty dollars (\$20) in the aggregate, however, if I do so, I shall thereafter file all disclosure reports required under the fair campaign practices act," then no filing of disclosure reports is required unless and until the twenty dollar (\$20) threshold has been met. [Article XXVIII, Section 2(2) and 1-45-108(1)]

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 and spending made for electioneering communications. All expenditures and spending 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 Pursuant to the decisions of the Colorado Court of Appeals in the case of Harwood v. Senate Majority Fund, LLC, 141 P.3d 962 (2006), and of the United States Supreme Court in the case of FEC v. Wisconsin Right to Life, 127 S. Ct. 2652 (2007), a communication shall be deemed an electioneering communication only if it is susceptible to no reasonable interpretation other than as an appeal to vote for or against a specific candidate. In making this determination, (1) there can be no free-ranging intent-and-effect test; (2) there generally should be no discovery or inquiry into contextual factors; (3) discussion of issues cannot be banned merely because the issues might be relevant to an election; (4) in a debatable case, the tie is resolved in favor of not deeming a matter to be an electioneering communication.
- 9.5 Submission of Electioneering Communication Disclosure Reports
- 9.5.1 Candidate committees, political committees, political party committees, small donor committees, and political organizations shall not be required to file electioneering communication reports separate from the committee's regularly filed disclosure reports so long as any expenditure or

spending subject to section 6, Article XXVIII of the Colorado Constitution and rule 9.4 is identified as an electioneering communication. The disclosure of such expenditures or spending on a regularly filed report shall include the name of the candidate referred to in the electioneering communication.

10. Recall Elections

- 10.1 The election cycle for a recall election shall be from the date the recall petition is approved for circulation by the appropriate officer through thirty days following date of the recall election.
- 10.2 The reporting period for committees participating in the recall election shall begin on the date the recall petition is approved by the designated election official for circulation pursuant to section 1-12-108, C.R.S. Reporting periods for all reports relating to the recall election shall close five calendar days prior to the date that the report is due.
- 10.3 The incumbent in a recall election is not a candidate for the successor election according to C.R.S. 1-12-117; therefore, the incumbent may open an issue committee to oppose the recall.
- 10.4 The aggregate contribution limits specified for a general election in section 3 of article XXVIII shall apply to the recall election with respect to each successor candidate.
- 10.5 Notwithstanding section 1-45-108(6), C.R.S., any issue committee whose purpose is to support or oppose the recall of any elected official shall register within ten calendar days of accepting or making contributions or expenditures in excess of two hundred dollars in accordance with section 1-45-108(3.3), C.R.S. Such committee shall otherwise follow the filing calendar established in section 1-45-108 (6), C.R.S.
- 10.6 Any political committee supporting or opposing any candidate, in a recall election, shall follow the filing calendar established in section 1-45-108 (2.7), C.R.S.

11. Electronic Filing.

- 11.1 All disclosure reports filed with the secretary of state pursuant to Article XXVIII of the Colorado Constitution and Article 45 of Title 1 of the Colorado Revised Statutes shall be filed electronically. Reports required to be filed electronically with the secretary of state under this rule that are presented for manual filing shall not be accepted. This Rule shall not apply to personal financial disclosure reports required by section 1-45-110, C.R.S.,
- 11.2 In accordance with section 24-21-111, C.R.S., reports are not required to be filed electronically in either of the following circumstances:
 - 11.2.1 The secretary of state has granted an exception to the electronic filing requirement after written application based on hardship or other good cause shown. All applications for an exception shall include a brief statement of the hardship or good cause for which the exception is sought. Applications must be received by the secretary of state at least fifteen (15) calendar days prior to the first applicable filing deadline in the election cycle, unless the exception is based on

emergency circumstances arising after such deadline, in which case the nature of the emergency shall be described in the application. The filing of an application for exception based on emergency circumstances does not delay any reporting deadlines, however, if a penalty is imposed for failure to file a report on the date due, the penalty may be set aside or reduced in accordance with section 10(2) of Article XXVIII. The Secretary of State shall review and respond in writing to all applications for an exception within three (3) business days.

11.2.2 The report is filed using the secretary of state's Electronic Data Interface (EDI) upon approval of the secretary of state.

11.3 For the purposes of this rule 11, "electronic filing" is defined as the filing of reports required by Article XXVIII of the Colorado Constitution and Article 45 of Title 1 of the Colorado Revised Statutes utilizing the internet system created by the secretary of state pursuant to section 1-45-109(6), C.R.S.

11.4 For the purposes of this rule 11, "entry" is defined as any contribution, expenditure, returned contribution, returned expenditure, loan, loan repayment, or in connection with a political organization, spending.

11.5 The Transparency in Contribution and Expenditure Reporting electronic filing system, known as "TRACER", will attempt to identify potential violations as an aid to filing by displaying warning messages when contributions or expenditures appear to violate Article XXVIII of the Colorado Constitution or Article 45 of Title 1, C.R.S. However, filers are ultimately responsible for compliance with the law and these rules regardless of whether the system identifies or fails to identify a potential violation.

12. Inflationary Adjustments to Contribution and Voluntary Spending Limits

12.1 Calculation of adjustments.

12.1.1 In accordance with sections 3(13) and 4(7) of Article XXVIII of the Colorado Constitution, limits on contributions set forth in section 2(14) and subsections (1), (2), (3), and (5) of section 3, and the voluntary limits on spending set forth in section 4(1), are adjusted in the first quarter of 2007 and shall be adjusted every four years thereafter, based on the percentage change in the consumer price index for the Denver-Boulder-Greeley area, over the four year period immediately preceding the adjustment.

12.1.2 In determining the adjusted amount, the percentage change in the consumer price index is rounded to the nearest whole percentage point. In accordance with sections 3(13) and 4(7), Article XXVIII of the Colorado Constitution, the adjusted limits are rounded to the nearest, lowest twenty-five dollars (\$25).

12.2 There is no adjustment to the contribution limits on individual donations to small donor committees outlined in section 2(14), Article XXVIII of the Colorado Constitution.

12.3 The aggregate limits on contributions from any person for a primary or a general election, described in section 3(1), Article XXVIII of the Colorado Constitution, are adjusted as follows:

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- a. Five hundred twenty-five dollars (\$525) to any one:
 - (I) Governor candidate committee for the primary election, and governor and lieutenant governor candidate committee, as joint candidates under 1-1-104, C.R.S., or any successor section, for the general election;
 - (II) Secretary of state, state treasurer, or attorney general candidate committee.
 - b. There is no adjustment to the limits on contributions to any one state senate, state house of representatives, state board of education, regent of the university of Colorado, or any district attorney candidate committee.
- 12.4 The aggregate limits on contributions from a small donor committee for a primary or a general election, described in section 3(2), Article XXVIII of the Colorado Constitution, are adjusted as follows:
- a. Five thousand three hundred dollars (\$5,300) to any one:
 - (I) Governor candidate committee for the primary election, and governor and lieutenant governor candidate committee, as joint candidates under 1-1-104, C.R.S., or any successor section, for the general election;
 - (II) Secretary of state, state treasurer, or attorney general candidate committee; and
 - b. Two thousand one hundred, twenty-five dollars (\$2,125) to any one state senate, state house of representatives, state board of education, regent of the university of Colorado, or any district attorney candidate committee.
- 12.5 The aggregate limits on contributions from any person to a political party, described in section 3(3)(a), Article XXVIII of the Colorado Constitution, are adjusted as follows:
- a. Three thousand one hundred seventy-five dollars (\$3,175) per year at the state, county, district, and local level combined; and
 - b. Of such, no more than two thousand six hundred fifty dollars (\$2,650) at the state level.
- 12.6 The aggregate limits on contributions from a small donor committee to a political party, described in section 3(3)(b), Article XXVIII of the Colorado Constitution, are adjusted as follows:
- a. Fifteen thousand nine hundred dollars (\$15,900) per year at the state, county, district, and local level combined; and
 - b. Of such, no more than thirteen thousand two hundred fifty dollars (\$13,250) at the state level.
- 12.7 The aggregate limits on pro-rata contributions or dues made to political committees, described in section 3(5), Article XXVIII of the Colorado Constitution, are adjusted to five hundred twenty-five dollars (\$525) per house of representatives election cycle.

- 12.8 The voluntary spending limits for a candidate described in section 4(1), Article XXVIII of the Colorado Constitution are adjusted as follows:
- a. The spending limit for governor, and governor and lieutenant governor as joint candidates under 1-1-104, C.R.S., or any successor section shall be adjusted to two million six hundred fifty thousand dollars (\$2,650,000).
 - b. The spending limit for a candidate for secretary of state, attorney general, or treasurer shall be adjusted to five hundred thirty thousand dollars (\$530,000).
 - c. The spending limit for a candidate for state senate shall be adjusted to ninety five thousand four hundred dollars (\$95,400).
 - d. The spending limit for a candidate for state house of representatives, state board of education, regent of the university of Colorado or district attorney shall be adjusted to sixty eight thousand, nine hundred dollars (\$68,900).

13. Personal Financial Disclosures [C.R.S. 1-45-110, C.R.S. 24-6-202, Colorado Constitution Article XXVIII, Section 10 (2)]

- 13.1 In accordance with the disclosure requirements set forth in section 1-45-110 (2)(a) and (b), C.R.S., a candidate shall not be required to file a disclosure statement if the candidate filed either a complete or amended disclosure statement less than ninety days prior to filing a candidate affidavit.
- 13.2 If a candidate affidavit is filed ninety days or more after filing a disclosure statement, an amended disclosure statement shall satisfy the disclosure requirements.
- 13.3 If a candidate withdraws from candidacy by submitting appropriate documentation before filing the disclosure statement required in section 1-45-110 (2)(a), C.R.S., such candidate shall not be required to file a disclosure statement, but any fines that the candidate accrued, for failure to file a disclosure statement prior to withdrawing shall remain in effect.

14. Independent Expenditures

- 14.1 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.
- 14.2 For the purposes of section 5, article XXVIII, a candidate committee, political committee, small donor committee, political party, or 527 political organization that is registered with the Secretary of State or a county clerk and recorder that obligates funds exceeding \$1,000 for any single independent expenditure more than 30 days prior to a primary or general election shall notify the Secretary of State by disclosing

such expenditure on the committee's or organization's regularly scheduled disclosure report for that reporting period.

- 14.3 For the purposes of section 5, article XXVIII, any person who is otherwise not required to file reports with the Secretary of State or county clerk and who obligates funds exceeding \$1,000 for any single independent expenditure more than 30 days prior to a primary or general election shall deliver notice to the Secretary of State in accordance with the reporting schedule established for political parties in section 1-45-108 (2), C.R.S.
- 14.4 Notwithstanding rules 14.1 and 14.2, any person (including a natural person, entity, candidate committee, political committee, small donor committee, political party, or 527 political organization) who obligates funds in any amount for an independent expenditure, fewer than 31 days before a primary or general election, shall deliver notice to the Secretary of State within 48 hours of obligating funds for such expenditure.