

**COLORADO SECRETARY OF STATE
RULES CONCERNING CAMPAIGN AND POLITICAL FINANCE**

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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. “Foreign Corporation,” as used in Article 45 of Title 1, C.R.S., shall have the same meaning as set forth in section 1-45-103(10.5), C.R.S.
- 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 Article 45 of Title 1, C.R.S., 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, the independent expenditure committee, or the political party. [Sections 1-45-108(3)(b) and 1-45-109(4)(b), C.R.S.]
- 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.]
- 1.16 "Non-public information" means confidential material in any form that is not available to the general public, including a non-public campaign plan, communications plan, campaign budget, specification of unmet and potentially unmet campaign needs, proposed or actual media buy, list or description of households or voters who are to receive or have received materials under a mailing or other distribution program, polling or focus group results, or other propriety material; provided that any such information is material to the creation, production, or dissemination of independent expenditures or electioneering communications. However, "non-public information" does not include:
 - a. Communications dealing solely with candidate positions on legislative or policy issues; and

- b. Any lists, research, or data that are acquired from a common vendor, without discussion between vendor and purchasers about the uses to which such material will be put, and in exchange for each purchaser's payment reflecting the product's fair market value.

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, independent expenditure committee, or political party shall sign the committee's registration form and all disclosure reports. [Sections 1-45-108(3), (4), (5), and (6), C.R.S.]
- 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, independent expenditure 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. [Section 1-45-108(3)(b), C.R.S.]
- 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, independent expenditure 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, independent expenditure 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 a political committee, an independent expenditure committee, and a small donor committee. Each committee is subject to the individual contribution and expenditure limits for that committee, if applicable. A corporation or labor organization may pay for the costs of establishing, administering, and soliciting funds from its own employees or members for a political committee, a small donor committee, or an independent expenditure committee. [Article XXVIII, Sections 2(5)(b) and 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, independent expenditure 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.

- a. Contributions received by a candidate committee, political committee, political party committee, or small donor committee, or donations received by an independent expenditure committee, of any amount, where the identity of the contributor or donor is unknown, shall not be retained. Such contributions or donations must, within 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 \$20 where the identity of the contributor is unknown, shall not be retained. Such contributions must, within 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 Repealed.

4.3 Contributions and donations – when counted.

- a. A contribution or donation is considered made or received as of the date that it is accepted by the committee or party. In the case of a contribution or donation by check or credit card, the date accepted is, at the latest, the date that the contribution or donation is deposited by the committee or party into its account. Any contribution or donation 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, C.R.S., concerning contributions by lobbyists to certain state officers and candidates when legislation is under consideration, a contribution is considered made or promised when possession of the check is transferred to any person not under the control of the issuer.

4.4 All committees and political parties must keep a record of all expenditures, contributions, and donations. All expenditures made by a committee or political party of \$20 or more during a reporting period shall be listed individually on the contribution and expenditure report. All other expenditures, contributions, and donations under \$20 during a reporting period may be reported in total as non-itemized expenditures. [Section 1-45-108(1), C.R.S.]

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”.

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 Repealed.
- 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, independent expenditure committees, and political committees
- a. Membership organizations transferring a portion of a member's dues to a small donor committee, independent expenditure 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, independent expenditure committee, and political committee shall keep records of all contributions or donations received in the form of membership dues transferred by a membership organization to the committee. Such records shall include each contributing or donating member's name, address, and amount of the dues transferred. [Section 1-45-108(1)(a)(I), C.R.S.]
 - 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); Section 1-45-108(1)(a), C.R.S.]

- d. On each disclosure report, the candidate or registered agent of a candidate committee, political party committee, political committee, small donor committee, independent expenditure 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 or donations received in a reporting period, including contributions or donations 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 (donations, expenditures, or contributions) to report during the reporting period.
- 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
- a. A candidate committee, issue committee, political committee, small donor committee, independent expenditure committee, or political party may invest the committee’s funds in any type of account or instrument of a government regulated financial institution.
 - b. 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, donation, 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.:
- a. Pursuant to section 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.”
 - b. Political organizations shall file according to the filing schedules set forth in section 1-45-108(2), C.R.S.
 - i. For the purposes of this Rule, “off-election year” for a political organization shall mean every odd numbered year.
 - ii. For the purposes of this Rule, “major election” shall mean an election held in November of an even numbered year.
 - c. Political organizations shall not be required to file disclosure reports for reporting periods when no contributions were received and spending was less than \$20.
 - d. Political organizations shall file all applicable disclosure reports required by section 1-45-108.5, 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.
 - e. Political organizations engaging in express advocacy shall register as a political committee or an independent expenditure committee, as appropriate, pursuant to the definitions of those entities contained in Article XXVIII, Section 2(12)(a) and section 1-45-103(11.5), C.R.S.
- 4.21 Disclosure of contributions by Limited Liability Companies (LLCs). [1-45-103.7(5), (6), (7), and (8)]
- 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 Repealed.

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.

4.25 Reimbursement of expenditures – payments by credit card or payment intermediary service.

a. When reporting a reimbursement to a candidate or to any other person, the committee or party shall separately disclose each such expenditure of \$20 or more, including the purpose, payee, and amount of each expenditure as of the date of the expenditure, regardless of the date of reimbursement.

b. For the purpose of reporting an expenditure, simply disclosing that a payment was made to a credit card company or a payment intermediary service such as PayPal is not adequate. All expenditures \$20 or more made by credit card or payment intermediary service must be itemized, including the name and address of the payee, amount, original date of expenditure, and purpose of the expenditure.

c. Nothing in this Rule shall be construed to permit contributions or reimbursements of contributions prohibited by article XXVIII, section 3(11).

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

4.26 For disclosure required pursuant to section 1-45-108(1)(a)(III), C.R.S., if the person making the expenditure for electioneering communications is a corporation or labor organization, disclosure of the names and addresses of persons contributing \$250 or more used to make electioneering

communications shall only be required if such moneys are specifically intended to be used for electioneering communications.

4.27 In accordance with the decision of the Tenth Circuit Court of Appeals in *Sampson v. Buescher*, Nos. 08-1389, 08-1415 (10th Cir. 2010), an issue committee shall not be subject to any of the requirements of Article XXVIII of the Colorado Constitution or Article 45 of Title 1, C.R.S., until the issue committee has accepted \$5,000 or more in contributions or made expenditures of \$5,000 or more during an election cycle. An issue committee that accepts \$5,000 or more in contributions or makes expenditures of \$5,000 or more during an election cycle shall register with the appropriate officer within 10 calendar days of accepting or making such contributions and expenditures.

- a. Contributions received and expenditures made prior to reaching the \$5,000 threshold are not required to be reported. Contributions received and expenditures made after reaching the \$5,000 threshold shall be reported in accordance with the reporting schedule specified in section 1-45-108(2)(a), C.R.S.
- b. An issue committee shall provide the committee's balance on the date of committee registration as a "beginning balance" on the committee's initial Report of Contributions and Expenditures.
- c. For purposes of this rule, an election cycle shall be the two-year house of representatives election cycle.

[\[Comment: In accordance with the decision in case *Colo. Common Cause v. Gessler*, No. 2011CV4164, slip op. \(Denver Dist. Ct., Nov. 17, 2011\), this Rule 4.27 is no longer in effect.\]](#)

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 Repealed.

5.6 Reports filed electronically.

- a. For the purpose of section 1-45-109(2)(a), C.R.S., "close of business" for electronic filing shall mean 11:59 p.m.

- b. If the electronic filing system is unavailable for filing for a total of more than one hour 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. [Sections 1-45-108(2.3) and 1-45-109(6), C.R.S.]
- 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.
 - a. Reports relating to special district elections 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 Reports for former officeholders or persons not elected to office
 - a. For purposes of section 1-45-108(2)(d), C.R.S., 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. [Sections 1-45-108(2)(c) and (2)(d), C.R.S.]
 - i. State candidate committees shall file such report not later than January 15th of the following year.
 - ii. 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.
 - b. The reporting exemption set forth in section 1-45-108(2)(d), C.R.S., applies only to reports for which the entire reporting period occurs after the election in which the candidate's name appeared on the ballot.
- 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.
- 5.13 The requirement of section 1-45-108(2)(a)(I)(B), C.R.S., to file reports of contributions and expenditures biweekly rather than monthly beginning in July before the primary election, was rendered infeasible by the enactment of Senate Bill 11-189, which moved the date of the primary election from August to June. Therefore, monthly filing as required by section 1-45-108(2)(a)(I)(C), C.R.S., remains applicable through the primary election and until biweekly reporting begins in September before the November election as required by section 1-45-108(2)(a)(I)(D), C.R.S.

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 Office of Administrative Courts 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. This rule shall not apply if the special district cancels the election.
- 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.

9.6 Repealed.

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 designated election official through 30 days following the date of the recall election. In the event that no recall election is held because the petition is determined to be insufficient, the recall election cycle ends 30 days after the final determination of insufficiency, including passage of the time for protest and final disposition of any protest or appeal of such determination. In the event that no recall election is held for any other reason, the recall election cycle ends 30 days after the deadline for filing the recall election petition.

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 Repealed.

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 Repealed.
- 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.
- a. 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 every four years 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.
- b. 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 \$25.
- 12.2 Adjusted limits made in the first quarter of 2011 and effective until the next adjustment is made in 2015:
- a. 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.

- b. 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:
 - (i) \$550 to any one:
 - 1. Governor candidate committee for the primary election, and governor and lieutenant governor candidate committee, as joint candidates under section 1-1-104, C.R.S., or any successor section, for the general election;
 - 2. Secretary of state, state treasurer, or attorney general candidate committee.
 - (ii) 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.
- c. 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:
 - (i) \$5,675 to any one:
 - 1. Governor candidate committee for the primary election, and governor and lieutenant governor candidate committee, as joint candidates under section 1-1-104, C.R.S., or any successor section, for the general election;
 - 2. Secretary of state, state treasurer, or attorney general candidate committee; and
 - (ii) \$2,250 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.
- d. 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:
 - (i) \$3,400 per year at the state, county, district, and local level combined; and
 - (ii) Of such, no more than \$2,825 at the state level.
- e. 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:
 - (i) \$17,075 per year at the state, county, district, and local level combined; and
 - (ii) Of such, no more than \$14,225 at the state level.
- f. 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 \$550 per house of representatives election cycle.

- g. The voluntary spending limits for a candidate described in section 4(1), Article XXVIII of the Colorado Constitution are adjusted as follows:
 - (i) The spending limit for governor, and governor and lieutenant governor as joint candidates under section 1-1-104, C.R.S., or any successor section shall be adjusted to \$2,847,650.
 - (ii) The spending limit for a candidate for secretary of state, attorney general, or treasurer shall be adjusted to \$569,525.
 - (iii) The spending limit for a candidate for state senate shall be adjusted to \$102,500.
 - (iv) 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 \$74,025.

12.3 Adjusted limits made in the first quarter of 2007 and effective through the first quarter of 2011:

- a. There is no adjustment to the contribution limit on individual donations to small donor committees outlined in section 2(14), Article XXVIII of the Colorado Constitution.
- b. 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:
 - (i) \$525 to any one:
 - 1. Governor candidate committee for the primary election, and governor and lieutenant governor candidate committee, as joint candidates under section 1-1-104, C.R.S., or any successor section, for the general election;
 - 2. Secretary of state, state treasurer, or attorney general candidate committee.
 - (ii) 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.
- c. 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:
 - (i) \$5,300 to any one:
 - 1. Governor candidate committee for the primary election, and governor and lieutenant governor candidate committee, as joint candidates under section 1-1-104, C.R.S., or any successor section, for the general election;
 - 2. Secretary of state, state treasurer, or attorney general candidate committee; and

- (ii) \$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.
- d. 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:
 - (i) \$3,175 per year at the state, county, district, and local level combined; and
 - (ii) Of such, no more than \$2,650 at the state level.
- e. 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:
 - (i) \$15,900 per year at the state, county, district, and local level combined; and
 - (ii) Of such, no more than \$13,250 at the state level.
- f. 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 \$525 per house of representatives election cycle.
- g. The voluntary spending limits for a candidate described in section 4(1), Article XXVIII of the Colorado Constitution are adjusted as follows:
 - (i) The spending limit for governor, and governor and lieutenant governor as joint candidates under section 1-1-104, C.R.S., or any successor section shall be adjusted to \$2,650,000.
 - (ii) The spending limit for a candidate for secretary of state, attorney general, or treasurer shall be adjusted to \$530,000.
 - (iii) The spending limit for a candidate for state senate shall be adjusted to \$95,400.
 - (iv) 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 \$68,900.

13. Personal Financial Disclosures [Sections 1-45-110 and 24-6-202, C.R.S., Colorado Constitution Article XXVIII, Section 10(2)]

- a. 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 90 days prior to filing a candidate affidavit.
- b. If a candidate affidavit is filed 90 days or more after filing a disclosure statement, an amended disclosure statement shall satisfy the disclosure requirements. An amended disclosure statement shall also satisfy the disclosure requirements if an individual files a candidate affidavit for a second office, as long as all necessary amended statements have been filed since the filing of the original disclosure statement.
- c. 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 Repealed.

14.2 Repealed.

14.3 Repealed.

14.4 Repealed.

14.5 Any nonbroadcast communication that constitutes an independent expenditure and is subject to the requirements of section 1-45-107.5(5), C.R.S., shall contain 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 printed at the end of the communication in text that is no less than one-quarter of the size of the largest font used in the communication, but in no event less than eight point font.

14.6 The registration of a committee as an independent expenditure committee does not exempt the committee from existing statutory and constitutional provisions limiting the source, amount, or use of funds, nor does such registration exempt a committee from statutory and constitutional provisions relating to coordination.

14.7 For the purpose of determining whether an expenditure is an independent expenditure as defined in Article XXVIII, Section 2(9), expenditures and spending are coordinated with a candidate committee or political party if:

- a. A person makes an expenditure or engages in spending at the request, suggestion, or direction of, in consultation with, or under the control of:
 - i. That candidate committee or political party;
 - ii. An agent, employee, board member, director, or officer of that candidate committee or political party; or
 - iii. A common consultant who provides, or has provided during the election cycle, professional services to that candidate committee or political party and the person making the expenditure or engaging in the spending;
- b. That candidate's or political party's non-public information is given to:
 - i. The person making the expenditure or engaging in the spending;
 - ii. An agent, employee, board member, director, or officer of the person making the expenditure or engaging in the spending; or
 - iii. A common consultant who provides, or has provided during the election cycle, professional services to the person making the expenditure or engaging in the spending, as well as the candidate committee or political party.
- c. This rule shall not apply to an attorney, accountant, bookkeeper, or registered agent who provides services within the scope of his or her profession.

- d. An expenditure is not coordinated if effective barriers (i.e., “firewalls”) to transmission of non-public information are placed between:
 - i. The candidate committee or political party; and
 - ii. The person making an independent expenditure or engaging in spending.

Such firewalls shall be physical or technological, or both, shall include appropriate security measures, and shall be set forth in a written policy that is distributed to all affected agents, employees, board members, directors, officer, and consultants. The existence of the firewalls does not make an expenditure independent if non-public information is nonetheless directly or indirectly transmitted to the person making an expenditure or engaging in spending.

15. Requests for Waiver or Reduction of Campaign Finance Penalties

- a. A request for waiver or reduction of campaign finance penalties imposed under Article XXVIII, Section 10(2) must state the reason for the delinquency. The filer should provide an explanation that includes all relevant factors relating to the delinquency and any mitigating circumstances, such as measures taken to avoid future delinquencies. Before a request will be considered, the report must be filed, and a request including the information required by this paragraph must be submitted.
- b. Requests for waiver or reduction of campaign finance penalties imposed under Article XXVIII, Section 10(2) must be considered by the Secretary of State and Administrative Law Judges according to the following guidelines:

| Scenario - applied in numerical order (i.e. if #1 doesn't apply, move to #2) | | Result |
|--|---|--|
| #1 | A waiver is requested and establishes good cause that made timely filing impracticable (For example, -was in the hospital, got in a car accident, was stranded by a blizzard, etc.). The event or events that made timely filing impracticable must occur within a reasonable time of the date on which the report was filed. | Waive penalty in full. A waiver will be granted without consideration of previous delinquencies. |
| #2 | A waiver is requested but does not present circumstances that made timely filing impracticable (For example, forgot, was out of town, electronic calendar crashed), and: | This scenario #2 applies only to penalties of \$100 or more. |

| | | |
|--|--|--|
| | <p>(a) Filer had contributions and/or expenditures during the reporting period.</p> | <p>First delinquency in 24 months: The penalty will be reduced to \$50.</p> <p>Second delinquency in 24 months: The penalty will be reduced by 50%.</p> <p>Third (or subsequent) delinquency in 24 months: A reduction in penalty will not be granted.</p> <p>Penalties imposed under this section are capped at the higher of the contributions or expenditures made during the reporting period. If a delinquency is found to be willful, the penalty cap may be increased to two to five times the higher of the contributions or expenditures made during the reporting period.</p> <p>For purposes of this analysis, previous delinquencies exclude those for which a waiver under scenario #1 was granted.</p> |
| | <p>(b) Filer has no activity (contributions OR expenditures) during the reporting period and the committee balance is zero.</p> | <p>The penalty will be reduced to \$50.</p> |
| | <p>(c) Filer has a fund balance greater than zero and filer has no activity (contributions OR expenditures) during the reporting period.</p> | <p>First delinquency in 24 months: The penalty will be reduced to \$50.</p> <p>Second delinquency in 24 months: The penalty will be reduced by 50%, subject to a cap of 10% of the fund balance.</p> <p>Third (or subsequent) delinquency in 24 months: The penalty is capped at 10% of the fund balance, and a minimum penalty of \$100 will be imposed.</p> <p>If a delinquency is found to be willful, the penalty cap may be increased to 20% to 50% of the fund balance.</p> <p>For purposes of this analysis, previous delinquencies exclude those for which a waiver under scenario #1 was granted.</p> |

| | | |
|----|---|--|
| | (d) Filer seeks to terminate active status, has a fund balance of \$1,000 or less, and has no activity (contributions OR expenditures) during the reporting period(s) in question. | Penalties are subject to a cap equal to the total amount of the filer's fund balance as of the date on which the delinquent report was filed, if the committee is promptly terminated. |
| #3 | A waiver is requested, but submitted more than 30 days after the date of penalty imposition. For purposes of this analysis, a filer has 30 days from the date on which the final notice of penalty imposition is issued following the filing of the delinquent report. Until an outstanding report is filed, penalties shall continue to accrue at a rate of \$50 per day and no request for waiver will be considered. | A request will not be considered unless good cause has been shown for failure to meet the 30-day waiver filing requirement. |

- c. For waiver requests that apply to more than one penalty, the guidelines will be applied separately to each penalty in chronological order using the single request as the basis for each.
- d. Filers may request that the Secretary of State reconsider a request for waiver or reduction of campaign finance penalties. Any request for reconsideration must present additional material facts that are significantly different than those alleged in the original request for reduction or waiver, and must be submitted to the Secretary of State, in writing, within 30 days of the date on which the waiver decision was mailed.
- e. The Secretary of State or Administrative Law Judge may consider any additional factors that establish good cause or may otherwise be relevant to the request for waiver or reduction of campaign finance penalties. In considering a request, The Secretary of State or Administrative Law Judge may request additional information, including but not limited to financial or other records maintained by the filer.
- f. The Secretary of State will respond to requests for waiver or reduction of campaign finance penalties within 60 days. Failure to respond within 60 days, however, will not constitute an approval of the request.