# COLORADO CAMPAIGN & POLITICAL FINANCE COUNTY MANUAL

Published By

**GIGI DENNIS**
**SECRETARY OF STATE**
**DEPARMENT OF STATE**

May 2006

## *Greetings from the Secretary….*

Dear Coloradoans:

In 2002 the citizens of our state approved Article XXVIII of the Colorado Constitution, which required new filing and registration requirements concerning Campaign and Political Finance (CPF) in Colorado. Navigating the complexities of campaign finance regulations may seem like a very daunting task, however, the Secretary of State's office has created several tools to make filing and researching campaign finance documents much easier.

I encourage citizens to make the most of this manual. This manual puts all of Colorado's CPF regulations available in one document and has been designed to provide easy guidance and tips to help you comply with campaign finance laws and rules.

In addition, the Secretary of State's website, www.elections.colorado.gov, has very valuable information and in the past year we have updated the filing and searching capabilities. Our website also includes Advisory Opinions, complaint information, and committee lists.

Please contact my staff (listed in the Appendix) with any questions or concerns. Your input is very valuable to us. Give us your thoughts on how we may better help you navigate Colorado's campaign finance laws and rules.

Good luck!

Gigi Dennis

Gigi Dennis
Colorado Secretary of State

# Using the 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 Art. XXVIII, CPF/FCPA statutes and rules, and review the filing forms before beginning the training chapters.

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

**Table of Contents**

**Chapter** **Page No.**


I. Registering Your Committee . . . . . 5
- A. Candidate Committees . . . . . 5
- B. Issue Committees . . . . . 7
- C. Political Parties . . . . . 8
- D. Political Committees . . . . . 9
- E. Small Donor committees . . . . . 10
- F. Federal/Multi-State Committees . . . . . 10
- G. Recall Committees . . . . . 11
- H. Registering Your Committee On-Line . . . . . 11

II. Registered Agents . . . . . .12
- A. Amending Committee Registrations Electronically. . . . . 13

III. Candidate Information . . . . . 14

IV. Responsibilities of Candidates, Committees & Parties . . . . . 15

V. Independent Expenditures . . . . . 15

VI. Electioneering Communications . . . . . 16

VII. Contributions . . . . . 16

VIII. Expenditures . . . . . 17

IX. Manual and Electronic Reporting Procedures . . . . . 18
- A. Manual Reporting . . . . . 18
- B. Electronic Reporting . . . . . 22
- C. Trouble Shooting . . . . . 25

X Waiver Process . . . . . 27

XI. Terminating Your Committee . . . . . 27

XII. Conducting Research . . . . . 28

XIII. Filing a Complaint . . . . . 28

XIV. Frequently Asked Questions . . . . . 29

XV. Quick Reference Guides and Charts . . . . . 33
- A. Constitutional & Statutory Quick Reference Guide . . . . . 33
- B. Quick Reference of State Candidate Contribution Limits . . 35
- C. State Voluntary Spending Limits Guide . . . . . 36
- D. Contributions Allowed Between Committees . . . . . 37
- E. Election Cycle / Contribution limits . . . . . 38

XVI. Appendix . . . . . 39
Contact Information . . . . . .40
Article XXVIII, Colorado Constitution. . . . . 41
C.R.S. Title 1, Article 45, Fair Campaign Practices Act (FCPA . . . . . 52
Rules Concerning Campaign and Political Finance. . . . . 72
State, Issue and County/Municipal Filing Calendars (2006) . . . . .Attached
Campaign and Political Finance Forms . . . . . .Attached

(All forms available at www.sos.state.co.us, Elections Center, Campaign Finance, Reporting and Filing Information., Reporting Forms)

# I. Registering Your Committee

Whether you are a candidate committee, issue committee, political party, small donor committee or political committee, you must register **BEFORE** accepting contributions or making expenditures. **[C.R.S. 1-45-108(3)]**

How do you identify your committee "type"? Ask yourself these questions:

1. Are two or more persons (including natural persons) involved?
2. Are you raising or spending money?

If you answered "Yes" to either of these questions, read Sec. 2 (Definitions) of Art. XXVIII to see if you meet the criteria. Electronic registration is available through the Secretary of State's website; however, it may be helpful if you completely review Article XXVIII, C.R.S. Title 1, Article 45, and Campaign and Political Finance Rules prior to registration.

Next, let's examine the different types of committees.

## A. Candidate Committees

If you are a candidate, or working with others to financially support a specific candidate, begin by checking the definition of a **CANDIDATE COMMITTEE** to confirm that you meet the criteria. Next, review the following provisions governing **CANDIDATE COMMITTEES**. A candidate may have only one candidate committee at one time in any jurisdiction. ***Note: Candidates who do not accept contributions but spend their own funds must file disclosure reports itemizing all expenditures of $20 or more. Candidates who do not have a committee and accept no contributions or make no expenditures are not required to file. You may file a voluntary report in order to provide full disclosure to the public. Call your appropriate officer whenever you need assistance.***

| | |
|---|---|
| **Definitions**: | Art. XXVIII, Sec. 2 |
| **Registration/Amendments**: | C.R.S. 1-45-108(3), Campaign and Political Finance Rule 3.1 |
| **Disclosure Requirements**: | C.R.S. 1-45-108, C.R.S. 1-45-109, Campaign and Political Finance Rule 4 |
| **Amended Reports**: | Campaign and Political Finance Rule 4.2 |
| **Filing Dates**: | C.R.S. 1-45-108(2)(a), and Campaign and Political Finance Rule 5 |
| **Sanctions**: | Art. XXVIII, Sec. 10 |

***Tip 1:*** ***Filing Dates for municipal, county and some special district candidates differ from state candidates. Please be certain you have the correct Filing Dates.***

***Tip 2a:*** ***Candidate committees for county offices such as County Clerk and Recorder, Assessor, County Treasurer, Sheriff, Coroner and Surveyor register their committee with the county clerk and recorder's office.***

***Tip 2b:*** ***Candidate committees for school boards file their committee registration with the county clerk and recorder's office of the candidate's residence. Candidate committees for special districts file their committee registration with the county clerk and recorder of the county in which the district court having jurisdiction over the special district pursuant to section 32-1-303 C.R.S. is located.***

***Tip 3:*** ***Only state candidates have contribution limits under Art. XXVIII. Home rule municipalities and counties may impose their own limits. Local candidates check with your municipal or county clerk. RTD candidates do not have contribution limits and are not required to file a personal financial disclosure statement 10 days after filing their candidate affidavit. (Art. XXVIII, Sec. 3)***

***Tip 4:*** ***Corporations or labor organizations <u>cannot</u> contribute to candidate committees (state, local, and municipal). [Art. XXVIII, Sec. 3(4) and Campaign and Political Finance Rule 7.2] (Corporation definition for CPF/FCPA purposes – C.R.S. 1-45-103(7) and Campaign and Political Finance Rule 1.4)***

***Tip 5:*** ***Candidate committees <u>cannot</u> accept contributions from foreign citizens, corporations, or governments. [Art. XXVIII, Sec. 3(12)]***

***Tip 6:*** ***Candidate committees <u>cannot</u> accept contributions from, or make contributions to, another candidate committee. [Art. XXVIII, Sec. 3(6)]***

***Tip 7:*** ***A candidates' candidate committee may reimburse the candidate for expenditures the candidate made on behalf of the candidate committee at any time. [C.R.S. 1-45-108(1)(e)]***

***Tip 8:*** ***A candidates candidate committee may accept and expend contributions received for the general election at any time. [C.R.S. 1-45-103.7(4)]***

***Tip 9:*** ***The candidate or the registered agent may sign the "Report of Contributions and Expenditures" for the candidate committee. (Campaign and Political Finance Rule 2.2)***

***Tip 10:*** ***A candidate committee may only be closed by filing a termination report, indicating a "zero" balance, or by action of the secretary of state. (Article XXVIII, Section 2(3); C.R.S. 1-45-106(1)(a)(III); Campaign and Political Finance Rules 2.10 and 3.4)***

***Tip 11:*** ***No person shall act as a conduit for a contribution to a candidate committee. [Art. XXVIII, Sec. 3(7)]***

## B. Issue Committees

Is there an issue in your community that you and others feel strongly about? Whether you support or oppose the issue, Colorado law requires that you register as an issue committee **BEFORE** accepting contributions or making any expenditures. Please review the definition of **ISSUE COMMITTEE** to confirm that you meet the criteria. Next, read the following statutes:

| | |
|---|---|
| **Definitions**: | Art. XXVIII, Sec. 2(10); Campaign and Political Finance Rule 1.6 |
| **Registration/Amendments**: | C.R.S. 1-45-108(3), Campaign and Political Finance Rule 3.1 |
| **Disclosure Requirements**: | C.R.S. 1-45-108, C.R.S. 1-45-109, Campaign and Political Finance Rule 4 |
| **Amended Reports**: | Campaign and Political Finance Rule 4.2 |
| **Filing Dates**: | C.R.S. 1-45-108(2)(a), and Campaign and Political Finance Rule 5 |
| **Sanctions**: | Art. XXVIII, Sec. 10 |

***Tip 1: Filing Dates for municipalities, counties and some special districts differ from state committees. Please be certain you have the correct filing dates.***

***Tip 2: There are no monetary contribution limits for issue committees. (Art. XXVIII, Sec. 3)***

***Tip 3: Issue committees need not disclose the names of petition circulators paid more than $20. A list of the number of payments with the dates and amounts is sufficient. (Campaign and Political Finance Rule 4.7)***

***Tip 4: Issue committees may return unexpended campaign funds to the contributors or donate them to a charitable organization recognized by the Internal Revenue Service. [C.R.S. 1-45-106(3)]***

***Tip 5: Only the registered agent may sign the committee report***

***Tip 6: Issue committees supporting or opposing ballot questions or ballot issues being voted on in multiple counties register with the Secretary of State's office except for Special District issue committees. Special District issue committees register with the clerk and recorder of the county in which the district court having jurisdiction over the special district pursuant to section 32-1-303 C.R.S. is located.***

***Tip 7: An issue committee may be closed by filing a termination report indicating a "zero" balance or by the appropriate authority. (Campaign and Political Finance Rule 2.10 and 3.4)***

***Tip 8: Any amendments or changes to your registration must be filed with the appropriate officer within five days of the change. (Campaign and Political Finance Rule 3.1)***

## C. Political Parties

By definition, political party refers to either a major or minor political party that nominates candidates to the ballot. They are subject to constitutional and statutory guidelines for registering and reporting their campaign funds.

| | |
|---|---|
| **Definitions**: | Art. XXVIII, Sec. 2(13) |
| **Registration/Amendments**: | C.R.S. 1-45-108(3), Campaign and Political Finance Rule 3.1 |
| **Disclosure Requirements**: | C.R.S. 1-45-108, C.R.S. 1-45-109, Campaign and Political Finance Rule 4 |
| **Amended Reports**: | Campaign and Political Finance Rule 4.2 |
| **Filing Dates**: | C.R.S. 1-45-108(2)(a), and Campaign and Political Finance Rule 5 |
| **Contribution Limits**: | Art. XXVIII, Sec. 3(3) |
| **Sanctions**: | Art. XXVIII, Sec. 10 |

***Tip 1: Filing Dates for county parties differ from state parties. Please be certain you have the correct Filing Dates.***

***Tip 2: Political parties <u>cannot</u> accept contributions from foreign citizens, corporations, or governments. [Art. XXVIII, Sec. 3(12)]***

***Tip 3: Contributions by corporations and labor organizations are prohibited. [Art. XXVIII, Sec. 3(4) and Campaign and Political Finance Rule 7.2] (Corporation definition for CPF/FCPA purposes – C.R.S. 1-45-103(7) and Campaign and Political Finance Rule 1.4)***

***Tip 4: Political parties <u>cannot</u> accept contributions intended for a specific candidate. [Art. XXVIII, Sec. 3(3)(c)]***

***Tip 5: No political party shall accept aggregate contributions from any person – other than a small donor committee – that exceed $3,000 per year at the state, county, district and local levels combined and of such amount no more than $2,500 per year at the state level. [Art. XXVIII, Sec. 3(3)(a)]***

***Tip 6: No political party shall accept aggregate contributions from any small donor committee that exceed $15,000 per year at the state, county, district and local levels combined and of such amount no more than $12,500 at the state level. [Art. XXVIII, Sec. 3(3)(b)]***

***Tip 7: Only the registered agent may sign the committee reports.***

***Tip 8: Any amendments or changes to your registration must be filed with the appropriate officer within five days of the change. (Campaign and Political Finance Rule 3.1)***

***Tip 9: County parties file with the County Clerk and Recorder for their jurisdiction. [Article XXVIII, Section 2(13) & Section 7].***

# D. Political Committees (PCs)

Perhaps you and your friends want to support or oppose candidates or make independent expenditures. You may wish to register as a **POLITICAL COMMITTEE**. After reviewing the definition, please read the following:

| | |
|---|---|
| **Definition**: | Art. XXVIII, Sec. 2(12) |
| **Registration/Amendments**: | C.R.S. 1-45-108(3), Campaign and Political Finance Rule 3.1 |
| **Disclosure Requirements:** | C.R.S. 1-45-108, C.R.S. 1-45-109, Campaign and Political Finance Rule 4 |
| **Amended Reports**: | Campaign and Political Finance Rule 4.2 |
| **Filing Dates**: | C.R.S. 1-45-108(2)(a), and Campaign and Political Finance Rule 5 |
| **Contribution limits**: | Art. XXVIII, Sec. 3 |
| **Sanctions**: | Art. XXVIII, Sec. 10 |

***Tip 1: Filing Dates for municipal, county and some special district committees differ from state committees. Please be certain you have the correct filing dates.***

***Tip 2: Definition of a political committee includes person, other than a natural person, or any group of two or more persons including natural persons that has received or spent $200 or more to support or oppose the nomination or election of one or more candidates. [Art. XXVIII, Sec. 2(12)(a)]***

***Tip 3: Political committees <u>cannot</u> accept contributions from foreign citizens, corporations, or governments. [Art. XXVIII, Sec. 3(12)]***

***Tip 4: Political committees may not accept more than $500 per contributor per House of Representatives election cycle (every two years). [Art. XXVIII, Sec. 3(5)]***

***Tip 5: 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. [Art. XXVIII, Sec. 2(12)]***

***Tip 6: Only the registered agent may sign committee reports.***

***Tip 7: A political committee may only be closed by filing a termination report indicating a "zero" balance or by the appropriate authority. (Campaign and Political Finance Rule 2.10 and 3.4)***

## E. Small Donor Committees (SDC's)

Small Donor Committees are a form of a political committee that only accepts contributions of $50 or less from natural persons per year. Please review the following before registering as a small donor committee:

| | |
|---|---|
| **Definitions**: | Art. XXVIII, Sec. 2(14) |
| **Registration/Amendments**: | C.R.S. 1-45-108(3), Campaign and Political Finance Rule 3.1 |
| **Disclosure Requirements**: | C.R.S. 1-45-108, C.R.S. 1-45-109, Campaign and Political Finance Rule 4 |
| **Amended Reports**: | Campaign and Political Finance Rule 4.2 |
| **Filing Dates**: | C.R.S. 1-45-108(2)(a), and Campaign and Political Finance Rule 5 |
| **Contribution Limits**: | Art. XXVIII, Sec. 2(14) and Sec. 3 |
| **Sanctions**: | Art. XXVIII, Sec. 10 |

***Tip 1: Small donor committees will be treated as a "single" committee if established by the same group of persons. [Art. XXVIII, Sec. 2 (14)(c)]***

***Tip 2: Small donor committees are allowed higher to contribute more to state candidate committees than other political committees. (Art. XXVIII, Sec. 3)***

## F. Federal and Multi-State Committees

These committees may not be required to file as frequently as state committees, provided they meet certain criteria provided in the Rules Concerning Campaign and Political Finance. If registered with the Federal Election Commission (FEC) and the registration contains the information required by C.R.S. 1-45-108(3), a committee need not file a committee registration form or reports with the Colorado Secretary of State. The reports are accessible via the Internet and available to the public for Internet viewing in the lobby of the Department of State. (Campaign and Political Finance Rule 2.8) **Please contact the FEC at 1-800-424-9530 for more information or visit their website at www.fec.gov.**

| | |
|---|---|
| **Registration/Amendments**: | C.R.S. 1-45-108(3), Campaign and Political Finance Rules 2.8 and 3.1 |
| **Disclosure Requirements**: | C.R.S. 1-45-108, C.R.S. 1-45-109, Campaign and Political Finance Rule 4 |
| **Amended Reports**: | Campaign and Political Finance Rule 4.2 |
| **Filing Dates**: | C.R.S. 1-45-108(2)(a), and Campaign and Political Finance Rule 5 |
| **Contribution limits**: | Art. XXVIII, Sec. 3 |
| **Sanctions**: | Art. XXVIII, Sec. 10 |

## G. Recall Committees

A recall committee **is an issue committee** formed to support the recall of a public officer. [C.R.S. 1-45-108(6)] **Note: Committees authorized by a candidate are still candidate committees**.

***Tip 1: Filing calendars for recall committees are determined by the date of the election. The filing officer will prepare and issue the calendar. [C.R.S. 1-45-108(6)]***

## H. Registering Your Committee On-Line

Did you know that you can register your state and county committees on-line using the Secretary of State's website? Instead of having to drive down or mail your registration to the Secretary of State's office or your County Clerk and Recorder's office you may do it from the comfort of your own home. Just log onto to www.sos.state.co.us.

- Select ***Campaign Finance*** located under the ***Elections Center*** link.

- Select ***Campaign Finance Filing and Inquiry*** located under ***Campaign Finance Home - Login***. This will take you to the Campaign Finance Home page.

- Select ***Committee Registration***.
  - Indicate the type of committee being registered using the drop down box
  - Input the committee's information: Full committee name, address, phone and e-mail address
  - Select the proper Jurisdiction for the committee
  - Acronyms - this is optional
  - Purpose or Nature of committee is required and must be specific: Running for Secretary of State or County Commissioner District 3; Supporting Ballot Issue # 3B, etc.

- Complete the Registered Agent Information - Name and mailing Address and then click on Save.

- A Committee Confirmation page will appear; unless a candidate committee. A candidate committee must indicate which office the committee will be associated with (Example: Secretary of State 2006) before receiving a confirmation page.

At this point the committee's information is submitted to the jurisdiction indicated on the registration for approval. If approved, the committee will receive their committee id number and login information by e-mail to the e-mail address submitted on the registration. If declined, the committee will be notified by e-mail to the e-mail address

submitted on the registration, of the reason the committee registration was declined. The committee would follow the above steps to register the declined committee making sure to include all required information. **Before accepting or making contributions on behalf of the committee your registration must have been accepted by the proper jurisdiction.** Please contact the proper jurisdiction for questions regarding your registration.

# II. Registered Agents

The **REGISTERED AGENT** plays a pivotal role in the success of every committee. The registered agent must be a natural person and is responsible for maintaining all committee records as well as filing all reports on time. The registered agent must keep track of all the money coming in – and all the money going out. However, all constitutional/statutory requirements must be adhered to in order to avoid complaints against the committee. It is recommended that you thoroughly review Sections 7 – 10 of Art. XXVIII and C.R.S. 1-45-108 (Disclosure), 1-45-109 (Filing).

| | |
|---|---|
| **Definition**: | C.R.S. 1-45-108(3)(b) |
| **Registration**: | C.R.S. 1-45-108(3), Campaign and Political Finance Rules 2.2 and 3.1 |
| **Disclosure Requirements**: | C.R.S. 1-45-108, and Campaign and Political Finance Rule 4 |
| **Amendments to Reports**: | Campaign and Political Finance Rule 4.2 |
| **Deposits and record keeping**: | Campaign and Political Finance Rule 4 |
| **Filing Dates**: | C.R.S. 1-45-108(2)(a), and Campaign and Political Finance Rule 5 |
| **Contribution Limits**: | Art. XXVIII, Sec. 3 |
| **Sanctions**: | Art. XXVIII, Sec. 10 |

***Tip:*** ***You remain the registered agent until the committee files an amended registration appointing a new agent or the registered agent files a letter of resignation with the County Clerk and Recorder. (Campaign and Political Finance Rules 2.3 and 3.1)***

# A. Amending Committee Registrations Electronically

Amending your committee registration electronically was introduced in July 2000. Since then, many committees have valued the ability to change the name of the committee, address, or registered agent information on the SOS web site in just a few minutes. You will need your committee login and password from the County Clerk and Recorder to amend electronically. If you do not have your committee's login and password, **and** you are the registered agent and/or candidate, you may obtain them by faxing your request to your County Clerk and Recorder.

***Tip 1: If a registered agent is amended electronically or resigns, the County Clerk and Recorder may send verification of the change and a new login and password will be issued for security purposes. (Campaign and Political Finance Rule 2.3 and 3.1)***

## AMENDING COMMITTEE REGISTRATION INFORMATION ELECTRONICALLY

Why bother with paper, when you can file it electronically. The electronic filing system allows you to amend your committee information on the Secretary of State's web site in just a few minutes. Just log onto www.sos.state.co.us

- Select **Campaign Finance** located under Elections Center.
- Select **Campaign Finance Filing and Inquiry** located under **Campaign Finance Home - Login**.
- Select **Login** (located in the left-hand margin), and enter your assigned User ID, and Password (case sensitive). If you do not have your committee's user id and password, **and** you are the registered agent and/or candidate, you may obtain them from your County Clerk and Recorder's election staff by faxing them a request.
- Select **Reporting**
- Select **Committee Maintenance**
- Now you may change or add any information. Once you have completed your changes, select **Next** and this will save your information, and bring you back to the Committee Center Menu.

Please contact a member of your County Clerk and Recorder's election staff with any questions.

# III. Candidate Information

If you are considering running for public office, you, your agent, fundraisers, and campaign manager need to 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. Here are some helpful tips to get you started:

***Tip 1: You become a candidate when you publicly announce and thereafter accept a contribution or make an expenditure on behalf of your candidacy. [Art. XXVIII, Sec. 2(2) and Campaign and Political Finance Rule 1.10]***

***Tip 2: You must file a notarized candidate affidavit with the appropriate officer within 10 days of publicly announcing an intention to seek election or retention to public office. (C.R.S. 1-45-110)***

***Tip 3: Candidates for county offices such as County Clerk and Recorder, Assessor, County Treasurer, Sheriff, Coroner and Surveyor file their candidate affidavit with the county clerk and recorder's office of their county.***

***Tip 4: Candidates for school board file their candidate affidavit with the county clerk and recorder's office of their residence. Candidates for special district file their candidate affidavit with the county clerk and recorder of the county in which the district court having jurisdiction over the special district pursuant to section 32-1-303 C.R.S. is located.***

***Tip 5: You remain a candidate – for campaign finance purposes – as long as your committee is open. [Art. XXVIII, Sec. 2(2)]***

***Tip 6: Unexpended contributions to candidate committees may be used only for specific purposes. (C.R.S. 1-45-106)***

Please read Article XXVIII, Sec.10 Sanctions and C.R.S. 1-45-112 Duties of municipal clerk and county clerk and recorder very carefully before registering.

# IV. Responsibilities of Candidates, Committees & Parties

**Don't drop the ball! Know your responsibilities.** Listed below are general guidelines of candidate, committee and party responsibilities regarding campaign finance. This list is a starting point, not a comprehensive list, and *does not* limit the candidate, committee or party to only the responsibilities listed here.

***Tip 1:*** ***Prior to registration of a committee/party or filing of candidate paperwork, carefully read and make sure you understand all of the constitutional/statutory provisions and rules of campaign finance for Colorado.***

***Tip 2:*** ***Candidate committees and political parties must register prior to accepting contributions. [C.R.S. 1-45-108(3)]***

***Tip 3:*** ***Make sure campaign finance reports are filed timely regardless of the filing method. It is the responsibility of the candidate, committee or party to verify that reports are filed timely. If filing reports manually, be reminded that the appropriate officer does not recognize postmark dates for campaign finance purposes. Manual reports are considered filed when the office receives them. Please give yourself plenty of mailing time.***

***Tip 4:*** ***Update the appropriate filing office of changes (such as purpose, registered agent, address, e-mail etc) made to the original registration or filing of the candidate, committee or party. (Campaign and Political Finance Rule 3.1)***

# V. Independent Expenditures

Independent expenditures provide individuals, political parties and political committees the opportunity to support or oppose candidates **INDEPENDENTLY** of candidates, candidate committees or their agents. To ensure that you follow the appropriate statutory guidelines for **INDEPENDENT EXPENDITURES**, please review the following statutes and rules:

**Definition**: Art. XXVIII, Sec. 2(9)
**Reporting**: Art. XXVIII, Sec. 5

***Tip 1:*** ***Expenditures made by a candidate committee, or controlled by or coordinated with a candidate or their agent, are NOT "independent expenditures." [Art. XXVIII, Sec. 2(9)]***

***Tip 2:*** ***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 an issue. [Art. XXVIII, Sec. 2(9)]***

***Tip 3: Special reporting requirements for independent expenditures DO NOT apply to expenditures made by a candidate committee or the agent of a candidate.***
***Tip 4: Independent Expenditure reports are filed with the Colorado Secretary of State.***

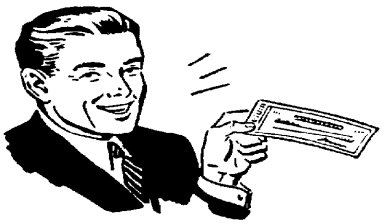
# VI. Electioneering Communications

Any person spending $1000 or more per calendar year for broadcast or print messages that "unambiguously" refer to any candidate and distributed within 30 days before a primary or 60 days before a general election is now required to report these expenditures.

| | |
|---|---|
| **Definition**: | Art. XXVIII, Sec. 2(7) |
| **Reporting**: | Art. XXVIII, Sec. 6, C.R.S. 1-45-108 |
| **Sanctions**: | Art. XXVIII, Sec. 10 |

***Tip 1: Reports are due at the same time as committee reports, but are filed with the Secretary of State. (Art. XXVIII, Sec. 6; C.R.S. 1-45-108)***
***Tip 2: Reports must include all expenditures and the name and address of contributors giving more than $250 per year. [Art. XXVIII, Sec. 6(1)]***
***Tip 3: Reports must include occupation and employer of "natural persons" contributing more than $250 per year. [Art. XXVIII, Sec. 6(1)]***
***Tip 4: It is unlawful for a corporation or labor organization to provide funding for electioneering communications. [Art. XXVIII, Sec. 6(2)] (Corporation definition for CPF/FCPA purposes – C.R.S. 1-45-103(7) and Campaign and Political Finance Rule 1.4)***

# VII. Contributions



There are two main types of **CONTRIBUTIONS: monetary and non-monetary**. To ensure compliance with the law for all **CONTRIBUTIONS**, please review the following:

| | |
|---|---|
| **Definitions**: | Art. XXVIII, Sec. 2(5) |
| **Limits**: | Art. XXVIII, Sec. 3 |
| **Major Contributors**: | C.R.S. 1-45-108(2.5) |
| **Unexpended Campaign Funds**: | C.R.S. 1-45-106 |
| **Sanctions**: | Art. XXVIII, Sec. 10 |

***Tip 1:*** ***All contributions of $20 or more per reporting period must be itemized. [C.R.S. 1-45-108(1)(a)(I) and Campaign and Political Finance Rule 4.1]***

***Tip 2:*** ***Volunteer services by an individual are not considered contributions. [Art. XXVIII, Sec. 2(5)(b)]***

***Tip 3:*** ***Contribution does not include transfer of member dues to a small donor committee. [Art. XXVIII, Sec. 2(5)(b)]***

***Tip 4:*** ***Contributions to candidates or political parties from corporations are prohibited. [Art. XXVIII, Sec. 3(4)(a)]***

***Tip 5:*** ***A contribution by check is considered received on the date the check is deposited. [Campaign and Political Finance Rule 4.3(a)]***

***Tip 6:*** ***For checks from natural persons the contributor is the person who signed the check.***

***Tip 7:*** ***No committee may accept contributions of cash or coin for more than $100. [Art. XXVIII, Sec. 3(10)]***

***Tip 8:*** ***All contributions received must be deposited in a financial institution in a separate account with a title that includes the name of the committee or political party. [Art. XXVIII, Sec. 3(9)]***

# VIII. Expenditures

Simply stated, **EXPENDITURES** refer to the money an individual or committee spends. To ensure that your committee follows the law for making and reporting **EXPENDITURES**, please review the following statutes and rules:

**Definitions**: Art. XXVIII, Sec. 2(8)
**Sanctions**: Art. XXVIII, Sec. 10

***Tip 1:*** ***An expenditure is made when the actual spending occurs or when there is a contractual agreement requiring such spending and the amount is determined. [Art. XXVIII, Sec. 2(8)]***

***Tip 2:*** ***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. [Art. XXVIII, Sec. 2(9)]***

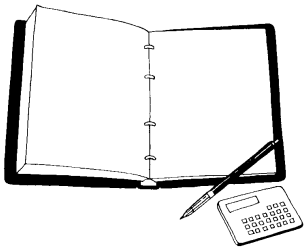
***Tip 3:*** ***Use the state per diem rate for mileage.***

***Tip 4:*** ***No committee may spend more than $100 in cash or coin. [Art. XXVIII, Sec. 3(10)]***

***Tip 5:*** ***All expenditures of $20 or more must be itemized. [C.R.S. 1-45-108(1)(a)(I), Campaign and Political Finance Rule 4.4]***

# IX. Manual and Electronic Reporting

## A. Manual Reporting



There are two options for filing; manual and electronic. We encourage you to file electronically - you'll even have two extra days to file! While some committees have opted for the convenience of electronic filing, others prefer to file paper or "manual" reports. As with all reporting, it is important that your record keeping procedures are as simple as possible. For current filers the following section will be a valuable refresher; for first-time filers, please thoroughly study the statutes on disclosure and reporting before you begin.

**Disclosure requirements:** Art. XXVIII, Sec. 7, and C.R.S. 1-45-108
**Reporting requirements:** Art. XXVIII, Sec. 8, and C.R.S. 1-45-109

**Report of Contributions and Expenditures (Cover Page):** This page is designed to provide contribution and expenditure totals and past/current balances at a glance and to verify the committee name and address, the current reporting period, report status (current or amended) and the current registered agent.

***Tip 1:*** ***All requested information on the Cover Page is required by statute and, therefore, mandatory.***
***Tip 2:*** ***Committee information (name, address, etc.) shall be amended within five days of any change by filing an amended committee registration form with the appropriate authority (secretary of state, county clerk or municipal clerk). (Campaign and Political Finance Rule 3.1)***
***Tip 3:*** ***Only the registered agent may sign the report. (Campaign and Political Finance Rule 2.3) An exception is made for candidate committees, allowing either the candidate or the registered agent to sign. (Campaign and Political Finance Rule 2.2)***
***Tip 4:*** ***File contributions and expenditures for the reporting period indicated only.***
***Tip 5:*** ***When filing an amended report of contributions and expenditures, a new form should be completed that includes the cover page of the report, the Detailed Summary page and any updated Schedules listing <u>only</u> the amended information. (Campaign and Political Finance Rule 4.2)***
***Tip 6:*** ***Type or print legibly. Please, no fonts smaller than 12 pt.***

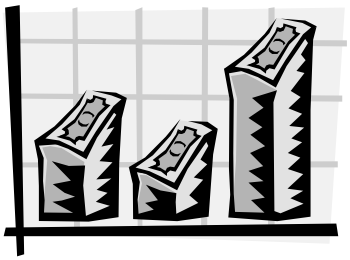
**Detailed Summary:** The Detailed Summary gives filers an opportunity to bring forward the totals of all the individual contribution and expenditure pages. These totals then are brought forward to the "Report of Contributions and Expenditures".

***Tip 1: Do not include "Non-Monetary" totals on the Report of Contributions and Expenditures cover page.***

***Tip 2: Be sure to total all "Non-Itemized" amounts (contributions and expenditures under $20) on the detailed summary <u>only</u> if they have not been itemized on "Schedule A" or "Schedule B".***

***Tip 3: Contribution and expenditure totals on the "Detailed Summary" should match totals on the "Report of Contributions and Expenditures" cover page.***

**Schedule A – Contributions:** All monetary contributions of $20 or more are reported on this form. It also allows committees to track and report aggregate totals for all contributors. (It may help manual filers to keep internal contribution records in alphabetical order by contributor.) Be sure that you know the appropriate election cycle for your committee to ensure that you do not exceed contribution limits. Please consult Art. XXVIII Sec. 2(5), or with your appropriate elections official for clarification. ***Avoid relying on "hearsay" advice.***



***Tip 1: Do not report "Non-Monetary" amounts on Schedule A - monetary contributions. Use the "Statement of Non-Monetary Contributions" reporting form for this purpose.***

***Tip 2: Candidates, small donor committees, political parties and political committees <u>cannot</u> accept contributions from foreign citizens, corporations or governments. [Art. XXVIII, Sec. 3(12)]***

***Tip 3: A contribution made by check is considered "received" on the date the check is deposited into the committee account. Contributions by lobbyists to state officers and candidates are considered accepted "when possession of the check is transferred to any person not under the control of the issuer." [Campaign and Political Finance Rule 4.3(a) and (b)]***

***Tip 4: For checks from natural persons the contributor is the person who signed the check.***

***Tip 5: State law prohibits making a contribution with the expectation that some or all will be reimbursed by another person. [Art. XXVIII, Sec. 3(11)]***

**Notice of Major Contributor:** A Major Contributor Report is in addition to regular reporting requirements. All committees are required to file a major contributor report for contributions of $1,000 or more received within 30 days before the primary or general election. [C.R.S. 1-45-108(2.5)] This notice is file with the secretary of state.

***Tip 1: Do not file "major contribution" reports for contributions of more than $1,000 received before the 30-day cut-off.***
***Tip 2: Contributions filed as "major contributions" should also be included on the Schedule A in the regular reports.***

**Schedule B – Expenditures:** All expenditures of $20 or more per reporting period are itemized on this form. Expenditure also includes expenditures made by a third party on behalf of a candidate or committee.

***Tip 1: Third-party expenditures are reported as non-monetary contributions.***
***Tip 2: Reimbursements to candidates, staff, and volunteers are reported as expenditures.***

**Schedule C - Loans:** Candidates may receive loans from financial institutions, "if the loan bears the usual and customary interest rate…" [Article XXVIII, Sec. 3(8)]. This form gives committees a vehicle for reporting and tracking repayment until the loan is repaid in full.

***Tip 1: Contribution limits shall not apply to loans. [Art. XXVIII, Sec. 3(8)]***
***Tip 2: Loans <u>cannot</u> be forgiven. [Art. XXVIII, Sec. 3(8)]***

**Schedule D - Returned Contributions & Expenditures:** This form has been designed to accommodate both committees returning contributions and committees reporting returned contributions or expenditures. It should be filed with a Report of Contributions and Expenditures reflecting the revised totals and either Schedule A or Schedule B.

***Tip 1: Amended reports with Returned Contribution statements may be filed at any time. They need not be held until the next filing date.***

**Statement of Non-Monetary Contributions:** All non-monetary contributions are reported on this form. It also allows committees to track and report aggregate totals for all contributors. Be sure that you know the appropriate election cycle for your committee to ensure that you do not exceed contribution limits. Please consult with your appropriate officer for clarification.

***Tip 1: Non-monetary contributions of one hundred dollars or more must list the occupation and employer of natural persons. [Art. XXVIII, Sec. 7, C.R.S. 1-45-108(a)(II)]***

**Notice of Independent Expenditure In Excess Of One Thousand Dollars:** Any person making an independent expenditure of $1,000 or more must file the Notice of Independent Expenditure form. If the Independent Expenditure is made within thirty days of a primary or general election, the form must be filed within 48 hours after obligating funds for the expenditure. This notice is filed with the Secretary of State. (Art. XXVIII, Sec. 5)

***Tip 1: Independent expenditures made by political parties and committees must still be reported on "Schedule B" within the correct reporting period.***
***Tip 2: Any expenditure made by a candidate committee or a candidate's agent is not considered an "independent expenditure". [Art. XXVIII, Sec. 2(9)]***

**Candidate Statement of Non-Receipt of Contributions or Non-Expenditures Funds:** Candidates that accept no contributions and make no expenditures are not required to register a committee or file disclosure reports. Candidates, however, may wish to file this form to publicly disclose their "zero" contribution and expenditure status.

***Tip 1: This filing is voluntary but may prevent the perception that a candidate has failed to file reports.***

**Statement of Personal Expenditures by a Candidate:** Candidates who do not have a candidate committee and accept no contributions but prefer to expend *only* their own funds are required to disclose the amount of any expenditure. ***(Campaign and Political Finance Rule 4.14)***

***Tip 1: This filing is mandatory and may also prevent the perception that a candidate has failed to file reports.***
***Tip 2: This report is filed according to the same filing schedule as candidate committees.***

**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."**

***Tip 1: If an error is identified in a previous report, all reports that follow must be amended to reflect the subsequent amended totals.***
***Tip 2: When amending a report, file only the first page of the Report of Contributions and Expenditures, the second page titled Detailed Summary Page, and any updated schedules listing only the amended information. (Campaign and Political Finance Rule 4.2)***

# B. Electronic Reporting – It's Quick and Easy!

The Secretary of State introduced state committees to electronic campaign finance reporting in July 2000. Since then many committees have enjoyed the convenience of filing their reports directly via the Internet. You will need to obtain a login and password from the County Clerk and Recorder to file electronically.

***Tip 1: Electronically filed reports are due two days <u>after</u> manual reports!! [C.R.S. 1-45-108(2.3)(a)]***

***Tip 2: If you file electronically, file your report no later than 11:59 PM on the electronic due date. If an electronic report is filed late, a fine of $50 per day will begin the day after the manual due date. (Campaign and Political Finance Rule 5.10)***

***Tip 3: Keep your e-mail address current with your County Clerk and Recorder's office because confirmations of reports filed electronically are sent via E-mail. If you do not receive the electronic confirmation, please call the County Clerk and Recorder.***

## ELECTRONIC FILING INSTRUCTIONS

The electronic filing system makes filing your Detailed Summary Report of Contributions and Expenditures easier, and gives you two additional days to file your report with the County Clerk and Recorder using the Secretary of State's website (see filing calendar). Just log onto www.sos.state.co.us

- Select **Campaign Finance** located under Elections Center.
- Select **Campaign Finance Filing and Inquiry** located under **Campaign Finance Home – Login**.
- Select **Login** (located in the left-hand margin), and enter your assigned User ID, Password (case-sensitive). The Committee Center for your committee will be displayed.
- Select **Work on a Report**, and click on **Start Date** of the current reporting period (verify on your filing calendar). *<u>If entering an Amended Filing select Adjustment Reporting (See instructions for Adjustment Reporting)</u>*.
- Once you have clicked on the Start Date you will be taken to the **Report Entry Wizard** page. This page will allow you to select options of Enter Sum Totals or Enter Line Items.
- Select **Enter Sum Totals** to report non-itemized ($19.99 or less) contributions or expenditures. When you go to enter non-itemized totals the page will display entry boxes for Contributions, Expenditures and Non- Itemized Contributions. **Enter non-itemized totals** and **click on Save** which will return you to the Report Entry Wizard page.

🗁 Select **Enter Line Items** to report itemized ($20.00 or more) contributions, expenditures, non-monetary contributions or loans. When you go to Enter Line Items you will have the option to select: Enter Loans, Enter Loan Payments, Enter Contribution Returns, Enter Itemized Contributions and Enter Itemized Expenditures. The two most commonly used links are Enter Itemized Contributions and Enter Itemized Expenditures. Each entry will be given its own transaction number.

- To enter itemized contributions select **Enter Itemized Contributions** which will take you to the Contributions Entries page. If you have not entered any contributions on the specific report you will have a message stating Found 0 Matching Records. Once you have made entries on this page and saved them they will appear in a summary format.
- Select **Add** to input your contributions which will take you to the Contribution Entry page. On this page you may enter up to six (6) contributions (items). Each item entry will ask for Date, Amount (for the report period and aggregate amount during either a candidates election cycle or time period for contribution limits, if applicable), Contribution Type, Contributor Name, Contributor Type, the number of members if a membership organization, Address, City, State, Zip Description, Employer and Occupation.
  - **Date** (Required) – Input the date in which the committee received the contribution.
  - **Amount** (Required) – The amount of the contribution received followed by the Total Amount, this cycle. For example: John Smith's contribution was $100 during this report period and it this was his first contribution during the election cycle the Total Amount this cycle could be $100. If Mr. Smith had contributed $50 in a different report period the Total Amount this cycle would be $150.
  - **Contribution Type** (Required) – Determines if the contribution is monetary (cash, check, money order and/or credit card) or non-monetary (for example: office supplies – use fair market value to determine the value of non-monetary contributions).
  - **Contributor Name** (Required) – Input name of the contributor. For checks from natural persons the contributor is the person who signed the check. Should not be Mr. and Mrs. Smith.
  - **Contributor Type** (Required) – Select one type of contributor.
  - **Number of Members** (Required, if applicable) – Used by Small Donor Committees which has itemized out its non-itemized totals from a transfer of members dues. For example: If a SDC shows a $100 in transfers from member's dues and the amount each contributed was $10 for the report period the number of members entered would be 10. Skip this field if you are not a SDC.
  - **Address, City, State, Zip** (Required Fields) – Input the contributors address
  - **Description** (Optional; except for state candidates) **–** If a state candidate must state if contribution is for the primary or general election or both.
  - **Employer and Occupation** –Required for contributors who are natural persons (human beings).
- Select **Save** after entering contributions. (This saves the data so you may return to it later *without* it being viewed by the public.) This will take you to the Contributions Entry page and let you review the entries you have made. If satisfied, you may continue to enter more contributions by selecting Add. If you need to correct an entry click on the id number for that entry and make the necessary changes and click on save; you will be returned to the Contributions Entry page. If done with itemized contributions select the Back action

button below the displayed entries. This will take you back to the Report Entry page where you may select a different action such as Enter Itemized Expenditures. The Report Entry page keeps updating the totals for the report as more entries are made.

- To enter itemized expenditures select **Enter Itemized Expenditures** which will take you to the Itemized Expenditures page. If you have not entered any expenditures on the specific report you will have a message stating Found 0 Matching Records. Once you have made entries on this page and saved them they will appear in a summary format.

- Select **Add** to input your expenditures which will take you to the Expenditure Entry page. On this page you may enter up to six (6) expenditures (items). Each item entry will ask for Date Expended, Amount, Name, Recipient Type, Address, City, State, Zip and Comment.

  - **Date Expended** (Required) – Input the date in which the committee made the expenditure.
  - **Amount** (Required) – Input the amount of the expenditure
  - **Recipient Type** (Required) – Select one recipient type. They system defaults to Non-Committee. You must select Committee otherwise Non-Committee will be reflected.
  - **Address, City, State, Zip** (Required Fields) – Input address of whom the expenditure was made.
  - **Comment** (Required) – Purpose of the expenditure

- Select **Save** after entering expenditures. (This saves the data so you may return to it later *without* it being viewed by the public.) This will take you to the Itemized Expenditures page and let you review the entries you have made. If satisfied, you may continue to enter more expenditure by selecting Add. If you need to correct an entry click on the name for the expenditure and make the necessary changes; click Save to be returned to the Itemized Expenditures page. Once done with itemized expenditures select the Back action button below the displayed entries. This will take you back to the Report Entry page where you may select a different action. The Report Entry page keeps updating the totals for the report as more entries are made.

- A process similar to entering itemized contributions and itemized expenditures is used for loans, loan payments and returned contributions.

- Once all the information has been saved the report is ready to be filed. On the Report Entry page scroll to the bottom of the page and select the action button **Back to Report** returning you to the Report Entry Wizard page.

- Enter the Committee's financial institution information. *Just below the committee's financial institution information is a box to check only if the report being filed is a termination report and shows a zero balance; otherwise, **do not** check this box.*

  Select **File My Report** ONLY IF YOU ARE READY TO FILE! YOUR REPORT IMMEDIATELY BECOMES PUBLIC ONCE IT IS FILED. **(REPORTS ARE NOT OFFICIALLY RECEIVED BY UNTIL YOU SELECT FILE MY REPORT)**

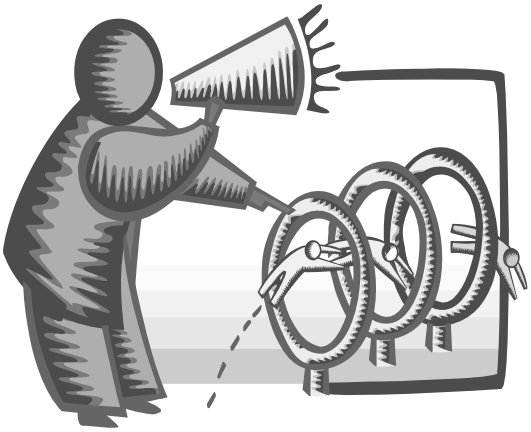
Please contact your County Clerk and Recorder for any questions.

## C. **Trouble Shooting -** Electronic Challenges

Does the thought of electronic filing have you running for the hills? Don't put those sneakers on yet! Listed below are some common problems experienced by all levels of computer users. Before contacting your filing office try using the chart below. This may save you and your filing office valuable time.

| Problem | Solution |
|---|---|
| User ID and or Password are not recognized | The login is not case sensitive; however the password is. Check and make sure you're using the correct case.<br><br>If your login or password contains the letters L, O or I or the numbers one or zero make sure that the letters should be letters and not numbers or vice versa.<br><br>A change in registered agent may have prompted a change in the user id and password. You may contact the designated election office to confirm your user id and password. The user id and password may only be given to the registered agent or candidate. You may be required to submit a written request to obtain this information for security measures. |
| Accessing the Web or the SOS Website | Can you get to other sites on the web? Check with your internet provider to make sure there is not a connectivity problem occurring with your provider.<br><br>If using a dial-up modem and you have call waiting you may want to disable your call waiting during your internet use. Information on this process may be found in the information pages of your telephone book.<br><br>From time to time we may upgrade portions of the Secretary of State's website. Upgrades do not always display a new or different look. If you have bookmarked the SOS website and do not update your bookmark periodically, you may be returning to an "old" version of the website. Try accessing the website without using your bookmark.<br><br>Avoid using the Secretary of State's website during maintenance hours. Maintenance hours are 2:20 a.m. – 6:00 a.m. Monday – Friday and 2:20 a.m. – 6:00 a.m. Saturday and Sunday. |

| Problem | Solution |
|---|---|
| My report shows “past” or is not showing as filed; I can see the report link but cannot access it. | The last step to file an electronic report is to click on the action button “File My Report”. If this action is not completed, the report will not be filed and could cause the candidate or committee to miss a report filing deadline, resulting in penalties being assessed. In most cases, the report information has been saved and is just waiting to be filed. A report that has not been filed will prevent the user from filing the current or next report showing due until the previous report is filed. File the past report to access the current report. |
| I did not receive an e-mail confirmation of electronic filing. | An outdated e-mail address may be to blame. As long as the candidate or committee maintains a current e-mail address with the appropriate election office you should receive, almost immediately, an e-mail confirming your electronic report filing. You may check the e-mail address on record by using the Committee Maintenance link. The Committee Maintenance screen allows you to update important information about the candidate or committee. |



## X. Waiver Process

If a state candidate, committee or party receives a penalty pursuant to Article XXVIII, Section 10 of the Colorado Constitution, 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. The Secretary of State's office must receive the request no later than 30 days after the date the notice was mailed. Mail waiver requests to Colorado Secretary of State, Attn: Elections Division, 1700 Broadway, Suite 270, Denver, CO 80290.

The Secretary 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 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 complete understanding of the complaint and appeals process. ***Municipal clerks and county clerk and recorders do not have the ability to waive or reduce penalties sanctioned by Article XXVIII of the Colorado Constitution.***

# XI. Terminating Your Committee

It is very important that committees terminate properly to end all filing requirements and avoid fines and penalties for non-reporting. A committee may only terminate by filing a Report of Contributions and Expenditures indicating a "zero" balance. The disbursement of unexpended campaign funds is unregulated for political parties, political committees and small donor committees; specific guidelines are given for candidate and issue committees. (C.R.S. 1-45-106)

***Tip 1: A committee which has a loan cannot be terminated until the loan has been paid and the committee has reached a zero balance.***

***Tip 2: Inactive candidate committees must terminate after nine years. [C.R.S. 1-45-106 (1)(a)(III)]***

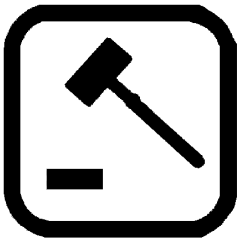
***Tip 3: A federal committee may terminate their active status with the Secretary of State if the committee submits a letter of termination. A termination letter may be filed at any time. (Campaign and Political Finance Rule 3.2)***

# XII. Conducting Research

Researching campaign reports has become easier than ever with the implementation of our website at www.sos.state.co.us. Data is updated daily providing the most current and accurate information available to everyone with access to the Internet. For those without Internet access, data may be obtained at the **Colorado Department of State, 1700 Broadway, Suite 270 Denver, CO 80290 (downtown Denver)**. If coming to the office is not convenient or feasible, please send your written request to the above address, attention Elections Division. All requests are processed in the order received; pre-paid copies are available for $0.50 per page. Please allow five to ten days for large orders. You may also submit a request via the Elections Division e-mail sos.elections@sos.state.co.us, or by fax at **303-869-4861**.

# XIII. Filing Campaign & Political Finance Complaints

Anyone who believes that there have been intentional violations of the provisions listed in Art. XXVIII or Title 1, Article 45, C.R.S., may file a complaint with the Secretary of State. All complaints must be filed with the Secretary of State and are reviewed for strict compliance with the guidelines in Campaign and Political Finance Rule 6 and then forwarded to an administrative law judge for a hearing. Once a Campaign and Political Finance complaint has been submitted to the Office of Administrative Courts all subsequent communication, correspondence, pleadings, etc., must be directed to that office **only**. The Office of Administrative Courts main office is located at 633 17th Street, Suite 1300, Denver, CO 80202 or you may contact them by phone at 303-866-2000 or by fax at 303-866-5909. The Office of Administrative Courts may also be located on the World Wide Web at www.colorado.gov/dpa/oac/. Complaints must be filed within 180 days of the alleged violation. Anyone considering filing a complaint should first thoroughly review Article XXVIII, Sec. 9 and 10, C.R.S. 1-45-112 and Campaign and Political Finance Rule 6. 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.



***Tip 1: The attorney general will investigate complaints concerning a candidate for secretary of state. [Art. XXVIII, Sec. 9(2)(b)]***

***Tip 2: Municipal and county clerks must notify any person under their jurisdictions of any Campaign and Political Finance complaint filed against them. [C.R.S. 1-45-112(1)(e)]***

# XIV. Frequently Asked Questions (FAQ's)

Q: When do you become a candidate under Article XXVIII?
A: You become a candidate when you publicly announce AND THEREAFTER receive a contribution or make an expenditure in support of your candidacy.

Q: May governor and lieutenant governor candidates maintain separate candidate committees?
A: No. Article XXVIII combines these two candidate committees into one and the contribution and spending limits for governor apply to the committee.

Q: May state or local candidates accept corporate and labor money under Article XXVIII?
A: No. Contributions from corporations and labor organizations to candidates are prohibited. Except for local public offices in certain home rule counties or home rule municipalities, Section 3(4)(a) of Article XXVIII and Rule 7.2 of the Secretary of State's "Rules Concerning Campaign and Political Finance" prohibit contributions and expenditures by corporations and labor organizations for candidates for office in local elections, including school board elections.

Q: Is a political committee required to segregate the contributions it receives from corporations and labor organizations from the contributions it receives from natural persons?
A: No.

Q: How long do we keep our committee records?
A: Committees must keep their records for 180 days following any general election in which the committee or party received contributions, unless a complaint is filed, then the records must remain available until the matter is resolved.

Q: What is "electioneering communication"?
A: This term refers to print, radio, TV and any other communications that unambiguously refer to any candidate and are distributed within 30 days of the primary and 60 days of the general election.

Q: Do I have to report what I spend on "electioneering communications"?
A: Yes. Anyone, other than the candidate or candidate committee, spending $1,000 or more per calendar year on "electioneering communications" must report to the secretary of state, using the manual or electronic Report of Electioneering Communications form. Reports must detail spending on Electioneering Communications as well as the name and address of each person contributing $250 or more per year. If the contributor is a natural person you must also provide the contributor's occupation and employer information.

Q: May a corporation or labor organization contribute or provide funding for electioneering communications?

A: No. Article XXVIII prohibits corporations or labor organization from funding this type of activity; however, a political committee or small donor committee established by a corporation or labor organization may provide funding for electioneering communication.

Q: Are conduit contributions prohibited?

A: Yes. Contributions delivered to a candidate committee by a third party are prohibited.

Q: Are organizations, such as the Colorado Federation of Republican Women, which are social in nature, considered part of the Colorado Republican Party for reporting purposes? If not, under what circumstances are affiliates considered part of the Colorado Republican party for purposes of Article XXVIII?

A: If the organizations are solely social in nature and not part of the party's formal nominating process they are not considered part of the party for reporting purposes. Social organizations associated with a particular political party are not considered "affiliates" of the party for reporting purposes under Article XXVIII, Sec. 2(13) of the Colorado Constitution. There may be other provisions, however, of Article XXVIII of the Colorado Constitution that may apply depending on the activities of the organizations.

Q: May lobbyists or principals of lobbyists contribute to a member of the General Assembly who is a candidate for office in a home rule city or county when the General Assembly is in session?

A: Section 1-45-105.5, C.R.S. precludes lobbyists or <u>principals of lobbyists</u> from contributing to a member of the General Assembly who is a candidate for office in a home rule city or county when the General Assembly is in session.

Q: May a political committee make a contribution to a member of the General Assembly while in session? And what if the political committee has a lobbyist?

A: Political Committees may contribute to a legislator during the session, <u>unless</u> the political committee "employs, retains, engages, or uses, with or without compensation, a professional or volunteer lobbyist".

Q: Does the prohibition on the receipt of campaign contributions from lobbyists while the Colorado General Assembly is in session apply to federal lobbyist or individuals who lobby in other states who are not registered as lobbyists with the Colorado Secretary of State?

A: The prohibition on lobbyist contributions applies only to persons who are professional or volunteer lobbyists and who are subject to C.R.S. 24-6-301, etc. A note of caution: these individuals covered by the law could also be "federal" lobbyists or lobbyists subject to the laws of other states. In other words, "lobbyists" that do not lobby in Colorado are not covered. They do not try to

influence members of the General Assembly, so the purpose behind the law does not apply to out-of-state lobbyists who do not lobby in Colorado.

Q: May corporations and labor organizations make direct contributions to "Small Donor" committees?

A: No, only their employees or members may make contributions to Small Donor Committees.

Q: How do "Small Donor" committees work?

A: Small Donor Committees are a form of political committee. The contribution limit from their supporters is lower than political committees at only $50 per natural person per year, but they may make larger contributions to candidates: $5,000 (statewide office) and $2,000 (all other state candidates including District Attorney) for the primary and general elections.

Q: May a Small Donor Committee transfer a portion of the Balance of Funds on Hand back to the Local Union for regular union expenditure use?

A: No

Q: May the transfer of membership dues from a membership organization to a small donor committee be excluded from the $50 limitation set forth in Section 2(14)(a) based upon the exclusive language contained in Section 2(5)(b), which states, that"…Contribution *does not include*…a transfer by a membership organization of a portion of a member's dues to a small donor committee sponsored by such membership organization"?

A: The transfer, itself, of membership dues from a membership organization to a small donor committee is excluded from the $50 limitation set forth in Article XXVIII, Sec. 2(14)(a) of the Colorado Constitution based upon the exclusive language contained in Article XXVIII, Sec. 2(5)(b) of the Colorado Constitution. However, that portion of a member's dues transferred from a small donor committee is considered a pro-rata contribution from the individual members to a small donor committee.

Q: Is a membership organization required to segregate the dues it receives from corporations from the dues it receives from natural persons?

A: Not if the dues received from corporations are for the membership dues of natural persons. If the dues are received from corporations for their own corporate memberships, then such dues must be segregated and cannot be transferred to a small donor committee.

Q: May a membership organization transfer dues to a small donor committee paid to it by a member's corporation on behalf of one or more individual members?

A: Yes. The dues transferred by such membership organization to the small donor committee sponsored by such organization will be treated as pro-rata

contributions from the individual members whose portion of membership dues was transferred. It is not considered to be a contribution from the corporation paying the member's dues, but rather a contribution from the member.

Q: How does a small donor committee list a membership transfer from a membership organization since they are not contributions?

A: If a small donor committee (SDC) receives $20 or more in dues and other contributions from any individual during a reporting period; the small donor committee should list each such individual. The total amount received from each individual that totals less the $20 during a reporting period should be reported on Schedule A as one entry from the membership organization with the description of "dues transfer". The membership organization must provide to the small donor committee a list of the members and the amount of dues transferred for each member and the small donor committee must keep that list for audit purposes to be sure that individuals do not exceed the $50 per year contribution limit.

Q: May a candidate make a contribution to a (Federal) 527 organization from the candidate's candidate committee?

A: No. Candidate committees are formed to support the nomination or election of a candidate to a state or local office: 527 organizations are allowed to support issues as well as candidates. They are not limited to solely supporting the candidate from whom they received the contribution. Therefore, this type of contribution is not allowed. Any such contributions made by a candidate committee to a 527 organization must be returned to the candidate committee.

Q: Unexpended campaign contributions for candidate committees are allowed to be used for Political Issue Education under C.R.S. 1-45-106(II). May a candidate committee contribute unexpended campaign contributions to (Federal) 527 organizations for political issue education?

A: No. 527 organizations may support or oppose a wide variety of issues. Political Issue Education [as referred to in C.R.S. 1-45-106(II)] is issue education that is personal to the candidate. In other words, political issue education is to be limited to specifically educating the elected official on legislative issues directly affecting their constituents or the elected official educating his/her constituents about the elected official or legislative issues directly affecting those constituents.

# XV. Quick Reference Guides and Charts

This section contains constitutional and statutory references and charts. While you should thoroughly read all of Colorado's campaign finance laws and rules, this section directs you to some of the most frequently requested campaign finance information. As always, if you have questions please contact the appropriate filing officer for clarification.

## A. Constitutional & Statutory Quick Reference Guide

DEFINITIONS: Colorado Constitution Article XXVIII, Section 2

| | |
|---|---|
| Candidate | (2) |
| Candidate Committee | (3) |
| Contribution | (5) |
| Election Cycle | (6) |
| Expenditure | (8) |
| Independent Expenditure | (9) |
| Electioneering Communications | (7) |
| Issue Committee | (10) |
| Person | (11) |
| Political Committee | (12) |
| Political Party | (13) |
| Small Donor Committee | (14) |
| Unexpended Contributions | (15) |

| | |
|---|---|
| CONTRIBUTION LIMITS | Art. XXVIII, Sec. 3 and C.R.S. 1-45-103.7 |
| VOLUNTARY SPENDING LIMTS | Art. XXVIII, Sec. 4 |
| LOBBYIST CONTRIBUTIONS TO GENERAL ASSEMBLY / GOVERNOR | C.R.S. 1-45-105.5 |
| UNEXPENDED CAMPAIGN CONTRIBUTIONS | Art. XXVIII, Sec. 2 (15) & C.R.S. 1-45-106 |
| INDEPENDENT EXPENDITURE | Art. XXVIII, Sec. 5 |
| ELECTIONEERING COMMUNICATIONS | Art. XXVIII, Sec.6 |
| DISCLOSURE (WHEN AND WHAT TO REPORT) | C.R.S. 1-45-108 |

| | |
|---|---|
| WHERE TO FILE (JURISDICTION) | C.R.S. 1-45-109 |
| CANDIDATE AFFIDAVIT / FINANCIAL DISCLOSURE | C.R.S. 1-45-110 |
| DUTIES OF SECRETARY OF STATE/ COMPLAINTS | Art. XXVIII, Sec. 9 |
| DUTIES OF CLERKS (COUNTY & MUNICIPAL) | C.R.S. 1-45-112 |
| SANCTIONS (Penalties) / WAIVER REQUESTS | Art. XXVIII, Sec. 10 |
| HOME RULE COUNTIES & MUNICIPALITIES | C.R.S. 1-45-116 |
| LIMITS ON GOVERNMENT ACTIVITY | C.R.S. 1-45-117 |

## B. Quick Reference of State Candidate Contribution Limits

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. This graph **does not** show double contribution limits. *** Political Party contribution limits 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 that are carried forward to a subsequent election are also counted as political party contributions.

The governor and lieutenant governor are considered one committee and the contribution and spending limits for governor apply to the joint committee.

**MAXIMUM CONTRIBUTION LIMITS FOR CANDIDATES PER ELECTION CYCLE**

| OFFICE SOUGHT | INDIVIDUAL & POLITICAL COMMITTEE TO CANDIDATE | | POLITICAL PARTY TO CANDIDATE* | SMALL DONOR COMMITTEE TO CANDIDATE | | CORPORATE & UNION CONTRIBUTIONS TO CANDIDATES |
|---|---|---|---|---|---|---|
| | PRIMARY | GENERAL | | PRIMARY | GENERAL | |
| GOVERNOR/LT. GOVERNOR | $500 | $500 | $500,000 | $5,000 | $5,000 | PROHIBITED |
| SECRETARY OF STATE | $500 | $500 | $100,000 | $5,000 | $5,000 | PROHIBITED |
| STATE TREASURER | $500 | $500 | $100,000 | $5,000 | $5,000 | PROHIBITED |
| ATTORNEY GENERAL | $500 | $500 | $100,000 | $5,000 | $5,000 | PROHIBITED |
| STATE SENATE | $200 | $200 | $ 18,000 | $2,000 | $2,000 | PROHIBITED |
| STATE HOUSE OF REPRESENTATIVES | $200 | $200 | $ 13,000 | $2,000 | $2,000 | PROHIBITED |
| STATE BOARD OF EDUCATION | $200 | $200 | $ 13,000 | $2,000 | $2,000 | PROHIBITED |
| CU BOARD OF REGENTS | $200 | $200 | $ 13,000 | $2,000 | $2,000 | PROHIBITED |
| DISTRICT ATTORNEY | $200 | $200 | $ 13,000 | $2,000 | $2,000 | PROHIBITED |

## C. State Voluntary Spending Limits Guide

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. Please contact your county clerk and recorder or town/city clerk to see if your county or municipality has spending limit guidelines or restrictions.

### VOLUNTARY SPENDING LIMITS

| OFFICE / CANDIDATE | VOLUNTARY SPENDING LIMIT |
|---|---|
| Governor / Lieutenant Governor | $2,500,000 |
| Secretary of State | 500,000 |
| Attorney General | 500,000 |
| State Treasurer | 500,000 |
| State Senate | 90,000 |
| State House of Representatives | 65,000 |
| State Board of Education | 65,000 |
| Regent of the University of Colorado | 65,000 |
| District Attorney | 65,000 |

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.

# D. Contributions Allowed Between Committees

The chart below assists you in determining if a contribution between different types of committees is allowed. **Remember contribution limits outlined in Art. XXVIII, Sec. 3 of the Colorado Constitution for state committees must be adhered to.** Using the chart below, find in the first column the type of committee wishing to make a contribution and then using the top row find the committee type receiving the contribution, where the column and row meet gives the answer as to whether the contribution is allowed. For example, may a candidate committee give to a small donor committee? The answer is no. Small Donor Committees may only receive contributions of $50 per year per natural person. *Please also review Campaign Finance Rules 2.6 and 2.7 (listed below the chart) relating to issue and political committee contributions.*

**REFERENCE GUIDE FOR COMMITTEE/PARTY CONTRIBUTIONS TO OTHER COMMITTEES/PARTIES**

| Committee or Party Receiving the Contributions → / Committee / Party Making a Contribution ↓ | Candidate Committee | Political Party | Issue Committee | Small Donor Committee (SDC) | Political Committee (PC) |
|---|---|---|---|---|---|
| Candidate Committee | No | Yes | No | No | No |
| Political Party | Yes | Yes | Yes | No | Yes |
| Issue Committee | No | No | Yes* | No | No |
| Small Donor Committee (SDC) | Yes | Yes | No | No | Yes |
| Political Committee (PC) | Yes | Yes | No | No | Yes* |

* Rule 2.6 states: Issue committees shall not contribute to political parties, political committees or candidate committees. An issue committee shall not contribute to other issue committees that do not support or oppose issues supported or opposed by the issue committee making the contribution. [Article XXVIII, Section 2(10)(b)]

* Rule 2.7 states: Political committees shall not contribute to issue committees. In addition, political committees shall not contribute to other political committees that do not support or oppose candidates supported or opposed by the political committee making the contribution. [Article XXVIII, Section 2(12)(a)]

# E. Election Cycle / Contribution Limits

Contribution limits may not necessary be based on election cycles. If contribution limits apply to your committee please review all applicable laws thoroughly and carefully.

| Committee Type | Election Cycle | Contribution Limits |
|---|---|---|
| **Candidate Committee** | Starts 31 days following a general election for the particular office and ends 30 days following the next general election for that office. | ***Municipal/County candidates:*** Contribution limits do not apply to municipal or county candidates; other than the corporate/labor union ban. Contribution limits may or may not apply to Home Rule municipal or county candidates. Check with the municipality or county to see if Home Rule charters or ordinances apply. |
| **Political Party** *(state, county, district and local level combined)* | NA | $3,000 per year; no more than $2,500 to the state party from any person (does not include issue committees) other than SDC.<br><br>$15,000 per year; no more than $12,500 to the state party from any SDC.<br><br>Per year (calendar year) - January 1st thru December 31st. |
| **Political Committee** | NA | $500 per (Colorado) House of Representatives election cycle (2 years) *– this applies to state, county and local political committees*. |
| **Small Donor Committee** | NA | $50 maximum contribution by **natural persons only** per year (calendar year) January 1st thru December 31st *– this applies to state, county and local small donor committees*. |
| **Issue Committee** | NA | ***Municipal/County issue committees:*** Please check with the designated election official to see if contribution limits apply. |

# XVI. Appendix

- Contact Information
- Article XXVIII, Colorado Constitution (CPF)
- Title 1, Article 45, Fair Campaign Practices Act (FCPA)
- Rules Concerning Campaign and Political Finance
- Registration and Filing Forms – Hard copies are attached or listed below are links to the Secretary of State's website for committee registration and campaign finance forms.

  *Electronic Committee Registration Link*
  http://www.sos.state.co.us/cpf/CommReg1common.do;jsessionid=0000T8SiXzA5mwllyCfxNqk1G8H:10ld2d7fv

  *Campaign Finance Forms Link*
  http://www.elections.colorado.gov/DDefault.aspx?tid=177

  State, County & Municipal Filing Calendars – Hard copies are attached or may be accessed by the following link through the secretary of state's website.

  *Campaign Finance Reporting Calendars*
  http://www.elections.colorado.gov/DDefault.aspx?tid=85

# Appendix - Contact Information

## Department of State, Elections:

| | |
|---|---|
| **Elections Director:** | **Holly Lowder** |
| **Address:** | **1700 Broadway, Suite 270, Denver, CO 80290** |
| **Phone:** | **303-894-2200** |
| **FAX:** | **303-869-4861** |
| **Email:** | **sos.elections@sos.state.co.us** |
| **CPF/FCPA Voicemail:** | **303-894-2200 ext. 6383** |

**CPF/FCPA Staff:**

| | |
|---|---|
| **Christi Heppard:** | **ext. 6306** |
| **Kristine Reynolds:** | **ext. 6309** |
| **Juan Melendez:** | **ext. 6310** |
| **Lori Lennartz:** | **ext. 6315** |

# 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.

(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.

(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.

**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.

(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.

**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

**As amended by:**
**House Bill 03-1132 effective June 3, 2003, and House Bill 04-1121 effective May 21, 2004**

# ARTICLE 45

## Fair Campaign Practices Act

**Editor's note:** (1) This article was originally enacted in 1974. The substantive provisions of this article were repealed and reenacted by initiative in 1996, causing some 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 prior amendments, consult the red book table distributed with the session laws; the 1980 replacement volume and the original volume of C.R.S. 1973 and annual supplements to these volumes prior to 1996; and the comparative table located at the back of the index.

**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).


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

**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.

(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.

(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.

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

(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.

(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.

(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.

**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.

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. Colorado for Family Values v. Meyer, 936 P.2d 631 (Colo. App. 1997).

**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". Colorado 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).

**1-45-103.7. Contribution limits.** (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.

**Source: L. 2003:** Entire section added, p. 2160, § 6, effective June 3. **L. 2004:** Entire section amended, p. 863, § 1, effective May 21.

**Editor's note:** Section 4 of chapter 248, Session Laws of Colorado 2004, provides that the requirements of the act amending this section apply to the portion of any election cycle or for the portion of the calendar year remaining after May 21, 2004, and for any election cycle or calendar year commencing after May 21, 2004, whichever is applicable.

**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.

**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:** (1) This section was formerly numbered as 1-45-104 (13).

(2) Section 13 of chapter 36, Session Laws of Colorado 2000, provides that the act enacting this section is effective March 15, 2000, and applies to limits on contributions and contributions in kind by any natural person, corporation, labor organization, candidate committee, political party, political committee, or authorized committee subject to the limits of this section for the portion of any election cycle or for the portion of the year remaining after such effective date and for any election cycle or calendar year commencing after such effective date. Said section 13 further provides that such limits shall not apply to any contributions and contributions in kind made prior to March 15, 2000.

**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).

### 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 - repeal.** (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.

(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 (2.3), (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 if reports can be filed electronically through a website on the internet with the secretary of state by July 1, 2000; except that nothing in this sub-subparagraph (B) shall require filing by such means;

(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 county clerk and recorder or with the municipal clerk 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 county clerk and recorder or with the municipal clerk shall close five calendar days prior to the effective date of filing.

(2.3) (a) A candidate committee, political committee, issue committee, small donor committee, political party, or any other person that utilizes the electronic filing system described in section 1-45-109 (6) to file reports with the secretary of state shall have two additional days after each due date prescribed in paragraph (a) of subsection (2) of this section in which to file such reports.

(b) This subsection (2.3) is repealed, effective January 1, 2007.

(2.5) In addition to any report required to be filed with the secretary of state 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, issue 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, issue 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.

(3.5) 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 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.

**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.

**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) Section 4 of chapter 248, Session Laws of Colorado 2004, provides that the requirements of the act enacting subsections (1)(e) and (3.5) and amending the introductory portion to subsection (3) apply to the portion of any election cycle or for the portion of the calendar year remaining after May 21, 2004, and for any election cycle or calendar year commencing after May 21, 2004, whichever is applicable.

ANNOTATION

**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).

**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).

**1-45-109. Filing - where to file - timeliness.** (1) For the purpose of meeting the filing and reporting requirements of this article, candidates for state wide office, the general assembly, district attorney, district court judge, or any office representing more than one county, except candidates for school district director; 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 shall file with the secretary of state. 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. Candidates in special district elections, except candidates for director of the regional transportation district; 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 candidate shall file with the clerk and recorder of the county in which the district court having jurisdiction over the special district pursuant to section 32-1-303, C.R.S., is located. All other candidates, candidate committees, issue committees, political committees, and small donor committees shall file with the county clerk and recorder of the county of their residence. However, a report required to be filed with a county clerk and recorder shall be deemed properly filed if filed electronically pursuant to subsection (8) of this section.

(2) 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.

(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 establish, operate, and maintain a web site on the internet, or modify, operate, and maintain an existing 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 on said web site within forty-eight hours after filing. In addition, 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. 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) No later than September 1, 2000, or as near to such date as is practicable, the secretary of state shall establish, operate, and maintain a system that enables electronic filing of the reports required by this article by utilizing the internet. 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 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) (a) No later than January 1, 2002, the secretary of state shall either modify the web site operated and maintained pursuant to subsection (5) of this section or establish, operate, and maintain an additional web site so as to allow any person who wishes to review reports filed with a county clerk and recorder pursuant to this article and electronically transmitted to the secretary of state or electronically filed in accordance with subsection (8) of this section electronic read-only access to such reports free of charge.

(b) Within forty-eight hours after receiving in electronic form from a candidate, candidate committee, issue committee, political committee, small donor committee, person expending one thousand dollars or more per calendar year on electioneering communications, or county clerk and recorder any report required to be filed with a county clerk and recorder pursuant to this article, the secretary of state shall make the report available on the web site described in paragraph (a) of this subsection (7). 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. The secretary of state may promulgate rules necessary for the implementation of this subsection (7). The rules shall be promulgated in accordance with article 4 of title 24, C.R.S.

(8) (a) No later than January 1, 2002, or as near to such date as practicable, the secretary of state shall either modify the electronic filing system operated and maintained pursuant to subsection (6) of this section or establish, operate, and maintain an additional system to enable electronic filing, through

utilization of the internet, of reports required to be filed with a county clerk and recorder pursuant to this article.

(b) (I) Before January 1, 2006, each county clerk and recorder who has the technology available to access the internet may use the electronic filing system described in paragraph (a) of this subsection (8) to transmit any report filed with the county clerk and recorder to the secretary of state.

(II) On and after January 1, 2006, each county clerk and recorder shall use the electronic filing system described in paragraph (a) of this subsection (8) to transmit any report filed with the county clerk and recorder to the secretary of state.

(III) A county clerk and recorder shall transmit any report to be transmitted to the secretary of state pursuant to subparagraph (I) or (II) of this paragraph (b) as quickly as practicable. The county clerk and recorder shall convert any report that is not electronically filed into electronic format before transmitting the report to the secretary of state. A county clerk and recorder that does not have the technology available to access the internet shall not transmit reports to the secretary of state pursuant to subparagraph (I) of this paragraph (b). The rules for the 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.

(c) (I) Before January 1, 2006, any person required to file reports with a county clerk and recorder pursuant to this article may meet the filing requirements by using the electronic filing system described in paragraph (a) of this subsection (8) if the county clerk and recorder has the technology available to access the internet. If the county clerk and recorder does not have the technology available to access the internet, reports shall not be filed electronically.

(II) On and after January 1, 2006, any person required to file reports with a county clerk and recorder pursuant to this article may meet the filing requirements by using the electronic filing system described in paragraph (a) of this subsection (8).

(9) Subsections (1), (7), and (8) of this section shall not be construed to require the secretary of the state to review reports electronically filed by persons required to file reports with a county clerk and recorder pursuant to this article or to impose any enforcement duties upon the secretary of state beyond the duties specified in section 1-45-111.

**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.

**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 1-45-104 as said section existed in 1995, the year prior to the repeal and reenactment of this article.

**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.

**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. 3609.

**1-45-111.5. Duties of the secretary of state - enforcement.** (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.

(2) The prevailing party in a private action brought to enforce the provisions of article XXVIII of the state constitution or of this article shall be entitled to the recovery of such party's reasonable attorney fees and costs.

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

**1-45-112. Duties of municipal clerk and county clerk and recorder.** (1) The municipal clerk and county clerk and recorder 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) Report apparent violations of law to appropriate law enforcement authorities.

(2) The secretary of state shall reimburse the municipal clerk and the county clerk and recorder of each county 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.

**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 1-45-115 as said section existed in 1995, the year prior to the repeal and reenactment of this article.

**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.

**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 sanctions authorized in section 1-45-113 or any appropriate order or relief, including 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.

**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, __ P.3d __ (Colo. App. 2003).

**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 Foundation v. Denver School 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).

**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 Foundation v. Denver School 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).

**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, __ P.3d __ (Colo. App. 2003).

**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).

**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.

**SECRETARY OF STATE**

**RULES CONCERNING CAMPAIGN AND POLITICAL FINANCE**

[8 CCR 1505-6]

**As adopted October 31, 2005**

**Rules**


1. Definitions
2. Committee Registration
3. Responsibility of Candidate Committees, Issue Committees, Political Committees, Small Donor Committees and Political Parties
4. Disclosure – Contributions and Expenditures
5. Filing Dates and Reporting Periods
6. Violations and Complaints
7. Applicability of Constitutional and Statutory Provisions to Local Offices and Home Rule Elections
8. Candidate Affidavits from Special District Director Candidates
7. Electioneering Communications


1. **Definitions**

1.1 "Business Activities". For the purposes of Article XXVIII, Section 3(4)(b)(I) and Rule 4.13 of these rules:

a. "Business activities" means any commercial activity involving the sale or exchange of goods or services, whether or not for profit, and any activity conducted for the production of revenue, other than the solicitation of voluntary donations.

b. "Cannot engage in business activities," means that the articles of incorporation and by-laws, either expressly or implicitly, prohibits the corporation from engaging in any business activities.

1.2 "Contribution in support of the candidacy" shall include all contributions given directly or indirectly for a specific public office, including those to a person who maintains a candidate committee after an election cycle, but who has not publicly announced an intention to seek election to public office in the next or any subsequent election cycle. [Article XXVIII, Section 2(2)]

1.3 "Contribution" does not include an endorsement of a candidate or an issue by any person.

1.4 "Corporation", as used in Article XXVIII only, means a domestic corporation incorporated under and subject to the "Colorado Business Corporation Act", Articles 101 to 117 of Title 7, C.R.S., a domestic nonprofit corporation incorporated under and subject to Articles 121 to 137 of Title 7, C.R.S., or any corporation incorporated under and subject to the laws of another state or foreign country.

1.5 "Foreign Corporation", as used in Article XXVIII, Section 3(12)(c), means a corporation organized under the laws of another country. The term does not apply to a corporation organized under the laws of another state.

1.6 "Issue committee"

a. "Issue committee" does not include a married couple.

b. A person or group of persons is an issue committee only if it meets <u>both</u> of the conditions in Article XXVIII, Section 2(10)(a)(I) <u>and</u> 2(10)(a)(II).

1.7 "Person

a. A "natural person" is a human being.

b. For the purpose of Article XXVIII, Section 7, "person" shall mean any natural person.

1.8 "Per year" means "per calendar year".

1.9 "Public office" means any office voted for in this state at any election. "Public office" does not include the office of president or vice president of the United States, the office of senator or representative in the Congress of the United States, or any office in a political party.

1.10 "Publicly announced an intention to seek election to public office or retention of a judicial office" means that a person has made a statement signifying an interest in the office by means of a speech, advertisement, or other communication reported or appearing in public media or in any place accessible to the public. Such statement includes a stated intention to explore the possibility of seeking an office. The registration of a candidate committee shall also constitute a public announcement of an intention to seek election or retention. [Article XXVIII, Section 2 (2)]

1.11 A registered agent or a committee or party treasurer for the purposes of Title 1, Article 45, shall be an individual or candidate designated to receive mailings and to address concerns and/or questions regarding the candidate committee, the political committee, the small donor committee, the issue committee, or the political party. [1-45-108(3)(b) and 1-45-109(4)(b)]

1.12 "Signature", for purposes of any report filed electronically with the secretary of state, means the committee's identification number, and "signing", means the electronic transmission of the committee's identification number to the secretary of state with the report being filed.

2. **Committee Registration**

2.1 When a committee registration form is received by the secretary of state's office, an identification number will be assigned and a letter of acknowledgement will be sent to the registered agent on file informing him/her of the identification number. [1-45-108(3) through (6)]

2.2 A candidate may serve as the candidate committee's registered agent or appoint someone to be the registered agent. The candidate and the registered agent shall sign the candidate committee registration form, and only the registered agent or the candidate may sign the contribution and expenditure report. [1-45-108(3)(b)]

2.3 A registered agent resigning from a political committee, issue committee, small donor committee, or political party shall file a letter of resignation with the secretary of state and the committee or party via certified mail. The letter of resignation to the secretary of state shall include the certified mail receipt number sent to the committee or party. In accordance with Rule 3.1, the committee or party shall file an amended committee registration form within five days of such change. [1-45-108(3)(b)]

2.4 The purpose or nature of interest of the committee or party shall be included. A candidate committee shall identify the specific elective office sought upon registration. A political committee or small donor committee shall identify the candidates being supported or opposed.

2.5 An issue committee may support or oppose more than one issue without having to open numerous campaign accounts and file numerous committee registration forms if the following conditions are met: the specific issues are included on the committee registration form; no generic phraseology is used (i.e.: Support or oppose issues affecting the basic rights of cattle); and the registration form states whether the committee will be supporting or opposing said issues. [Article XXVIII, Section 2(10)(a)(I) and (2)(10)(a)(II)]

2.6 Issue committees shall not contribute to political parties, political committees or candidate committees. An issue committee shall not contribute to other issue committees that do not support or oppose issues supported or opposed by the issue committee making the contribution. [Article XXVIII, Section 2(10)(b)]

2.7 Political committees shall not contribute to issue committees. In addition, political committees shall not contribute to other political committees that do not support or oppose candidates supported or opposed by the political committee making the contribution. [Article XXVIII, Section 2(12)(a)]

2.8 A political committee that is subject to reporting pursuant to both section 1-45-108 and the "Federal Election Commission Act of 1971" may file with the appropriate officer a copy of the registration filed with the federal election commission and, insofar as such registration contains substantially the same information required by subsection (3) of C.R.S. 1-45-108, the political committee shall be considered to have registered with the appropriate officer for purposes of subsection (3) of C.R.S. 1-45-103. The political committee shall not be

required to file disclosure reports if copies of the reports required to be filed with the Federal Election Commission pursuant to the "Federal Election Commission Act of 1971", as amended, are filed with the appropriate officer or are electronically available in the office of the appropriate officer and if such reports include the information required by C.R.S. 1-45-108.

2.9 A corporation or labor organization may establish both a political committee and a small donor committee. Each committee is subject to the individual contribution and expenditure limits for that committee. [Article XXVIII, Section 2(14)(b)]

2.10 In accordance with the procedures set out in the "State Administrative Procedures Act" (Article 1 or Title 24, Colorado Revised Statutes), the secretary of state may close an inactive committee after two years of non-reporting. [Article XXVIII, Section 2(3), and C.R.S. 24-4-105]

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

3.1 Whenever any of the information disclosed on the committee registration form changes, the change must be reported within five days by filing an amended committee registration form with the secretary of state. When filing an amendment to the committee registration form, a new form should be completed that includes any updated information. The form must be signed by the registered agent, and, if for a candidate committee, the candidate must also sign the form. [1-45-108(3)]

3.2 Any political committee that has registered with the Federal Election Commission, and filed a copy of the registration filed with the Federal Election Commission with the appropriate officer, may terminate its active status with the appropriate officer if the committee submits a letter of termination. A termination letter may be filed at any time.

3.3 A candidate committee that changes elective office sought shall terminate the existing candidate committee and register a new candidate committee not later than ten days after such change. If the new elective office is for a state candidate, then all contributions received shall be subject to contribution limits and restrictions set forth in Article XXVIII, Section 3 for the new office.

3.4 A committee may terminate if the following conditions are met: the candidate or committee no longer intends to receive contributions or make expenditures; a zero balance is achieved by having no cash on hand and no outstanding debts or obligations; and the candidate or committee files a termination statement of contributions and expenditures. A termination statement may be filed at any time. [Article XXVIII, Section 2(3) and 1-45-106]

3.5 A political committee may change status to a small donor committee without terminating the political committee if the political committee has never accepted contributions over the amount of $50 per natural person per year.

3.6 Unexpended campaign contributions to a candidate committee may be contributed to a candidate committee established by the same candidate for a different public office, subject to the limitations set forth in Article XXVIII, Section 3(3)(e), if the candidate committee making such a contribution is affirmatively closed by the candidate no later than ten days after the date such a contribution is made.

3.7 Unexpended campaign contributions to local candidate committees may not be contributed to a state candidate committee.

## 4. **Disclosure – Contributions and Expenditures**

4.1 All committees must keep a record of all contributions. All contributions received of $20 or more during a reporting period shall be listed individually on the contribution and expenditure report. All other receipts and contributions under $20 may be reported in total as non-itemized contributions for the reporting period. [1-45-108(1)]

4.2 When filing an amended report of contributions and expenditures, a new form shall be completed that includes the cover page of the report of contributions and expenditures, the detailed summary page, and any updated schedules listing only the amended information. [C.R.S. 1-45-109(4)(b)]

4.3 Contributions – when counted.

a. A contribution is considered made or received as of the date that it is accepted by the committee or party. In the case of a contribution by check, the date accepted is the date that the check is deposited into the committee's or party's account.

b. However, for purposes of section 1-45-105.5, concerning contributions by lobbyists to certain state officers and candidates when legislation is under consideration, a contribution is considered made or promised when possession of the check is transferred to any person not under the control of the issuer.

4.4 All committees must keep a record of all expenditures. All expenditures made of $20 or more during a reporting period shall be listed individually on the contribution and expenditure report. All other expenditures under $20 during a reporting period may be reported in total as non-itemized expenditures. [1-45-108(1)]

4.5 All loans received by a committee or party must be reported continuously until repaid. [Article XXVIII, Section 3(8)]

4.6 Contributions by candidate – voluntary spending limits.

a. Contributions to a candidate's own committee by a candidate who does not accept voluntary spending limits shall not be subject to the contribution limits of Article XXVIII, Section 3.

b. Contributions to a candidate's own committee by a candidate who does accept voluntary spending limits shall be counted toward the limit on political party contributions set forth in Article XXVIII, Section 3(3)(d), and Section 4(2).

4.7 Pursuant to the decision of the United States Supreme Court in the case of Buckley v. American Constitutional Law Foundation, Inc., 520 U.S. 182, 119 S.Ct., 636 (1999), an issue committee that makes an expenditure of $20 or more in payment to a petition circulator is not required to disclose the name of the paid circulator. Instead, it is sufficient to list "payment to petition circulator" and the date and amount of the payment. [1-40-121(1)]

4.8 Candidate committees may share expenditures for costs of brochures, offices, office equipment, etc. if each candidate committee pays for its proportionate cost of the expense. If one candidate committee pays the entire cost, the reimbursement by the other candidate committee(s) shall be made within thirty (30) days. Such reimbursement is not a "contribution" from one committee to the other; it shall be reported as an expenditure by the reimbursing committee and as a returned expenditure by the reimbursed committee. If sharing expenditures results in a price discount based on volume or quantity, such discount shall not be considered a "contribution".

4.9 Any contributions received in excess of contribution limits shall be returned to the contributor within thirty (30) days.

4.10 If occupation and employer information as required by Article XXVIII, Section 7 is not provided, and the committee is unable to gather the information within 30 days after receipt of the contribution, the contribution shall be returned to the contributor no later than the 31st day after receipt.

4.11 The following rules relate to Article XXVIII, Section 3(3)(e), concerning the counting and reporting of unexpended campaign contributions retained for use in a subsequent election cycle.

a. A candidate committee shall not list such retained amounts expressly on disclosure reports as "contributions from a political party" or as contributions from any specific political party.

b. If the amount retained is less than the limit on contributions from a political party specified in Section 3(3)(d), then the total of all political party contributions to the candidate committee during the subsequent election cycle shall not exceed the difference between the amount retained and the limit on political party contributions. At such time as the total amount of all political party contributions to the candidate committee during the subsequent election cycle equals or exceeds the difference between the retained amount and the limit on political party contributions, then any subsequent or additional contribution by a political party to the candidate committee during the subsequent election cycle shall constitute a violation of Section 3(3)(d).

4.12 For purposes of complying with the requirement of Article XXVIII, Section 5, that a notice of independent expenditure include "a detailed description of the use of such independent expenditure", such notice is sufficient if it includes an identification of the payee of the expenditure, the medium used for the communication, the date or dates for broadcast, delivery, or publication of the communication, and either the complete written text or transcript of the communication produced by the expenditure or a summary of the major points contained within the communication.

4.13 Article XXVIII, Section 6(2), concerning funding by corporations and labor organizations for electioneering communications, shall not apply to any corporation that:

a. Was formed for the purpose of promoting political ideas and cannot engage in business activities;

b. Has no shareholders with a claim on its assets or other income; and

c. Was not established by, and does not accept contributions from business corporations or labor organizations.

4.14 A candidate who does not accept contributions but who expends money for campaign purposes shall file disclosure reports in accordance with sections 1-45-108 and 1-45-109.

4.15 Membership dues transferred to small donor committees

a. Membership organizations transferring a portion of a member's dues to a small donor committee shall provide the small donor committee with the member's name, address, amount of dues transferred, and the date of the dues transfer.

b. A small donor committee shall keep records of all contributions received in the form of membership dues transferred by a membership organization to the small donor committee. Such records shall include each contributing member's name, address, and amount of the dues transferred. [C.R.S. 1-45-108(1)(a)(I)]

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

## 5. **Filing Dates and Reporting Periods**

5.1 Quarterly reporting periods close on the last day of the month. The report shall be filed on or before April 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 electronically.

a. Reports filed electronically are due two days after the due date for reports filed manually, after taking into account any extension of the due date of a manually filed report because the filing deadline falls on a Saturday, Sunday, or legal holiday. If the filing deadline for a report filed electronically falls on a Saturday, Sunday, or legal holiday, the deadline is not extended to the next business day. Reports filed electronically before midnight shall be considered filed on that day.

b. If the electronic filing system is unavailable for filing for a total of more than one hour after 4:00 p.m. on the due date for electronically filed reports, the secretary of state may extend the due date for an additional day. [1-45-108(2.3), 1-45-109(6)]

5.6 The reporting period for any quarterly, monthly, or biweekly report begins on the first day following the last day of the reporting period for the previous report filed with the secretary of state. [1-45-108(2)(c)]

5.7 Special district elections.

a. For reports relating to special district elections that are required to be filed with the county clerk and recorder, reports shall be required only on the 21st day prior to, and on the Friday prior to, and on the 30th day after the date of the regular election.

b. Reports relating to special district elections that are required to be filed with the secretary of state shall be subject to quarterly, monthly, and biweekly reporting as provided in section 1-45-108(2)(a)(I) if the major elections for such special district occur on the date of the general election. If the major elections for such special district occur at any other time, then reports shall be required only on the 21st day prior to, on the Friday prior to, and on the 30th day after the date of the regular election.

5.8 The reporting period for any report that is required to be filed with the county clerk and recorder shall close five calendar days prior to the date that the report is due.

5.9 For purposes of section 1-45-108(2)(d), which exempts a candidate committee for a former officeholder or person not elected to office from reporting if there is no change in the balance of funds maintained by such committee and if certain other conditions are met, a change in the balance of funds resulting solely from the accrual of interest or dividends to the account and/or the automatic deduction of periodic service fees does not subject such candidate committee to the reporting requirements of section 1-45-108, except that such candidate committee shall file an annual report for each calendar year not later than January 15th of the following year. Candidate committees that choose this option must notify, in writing, the appropriate filing officer of their intent. [1-45-108(2)(c) and (2)(d)]

5.10 If a required report is not filed by 11:59 PM on the due date for electronic filing, then the daily penalty imposed pursuant to Article XXVIII, Section 10(2)(a) shall begin on the day following the due date for reports filed manually.

5.11 County political party organizations shall file required reports pursuant to section 1-45-108 (2)(a)(II) with the county clerk and recorder for their jurisdiction. State political party organizations shall file required reports pursuant to section 1-45-108 with the secretary of state.

## 6. **Violations and Complaints**

6.1 If the appropriate officer, as defined in Section 2(1) of Article XXVIII, discovers a possible violation of Article XXVIII or Title 1, Article 45, and no complaint alleging such violation has been filed with the secretary of state pursuant to Article XXVIII, Section 9(2)(a), then the appropriate officer shall:

a. Provide the person believed to have committed the violation with written notice of the facts or conduct that constitute the possible violation, and

b. Allow seven business days to correct the violation or to submit written statements explaining the reasons that support a conclusion that a violation was not committed.

6.2 If, within the time allotted pursuant to Rule 6.1, the person fails to correct the violation or to offer a satisfactory explanation, then the appropriate officer may file a complaint pursuant to Article XXVIII, Section 9(2)(a).

6.3 A written complaint filed with the secretary of state pursuant to Article XXVIII, Section 9(2) (a) shall include the following: the name, address, and signature of the complainant; the name and address of each respondent alleged to have committed a violation; and the particulars of the violation. A complaint may be submitted by fax or electronic mail if a signed original is received by the secretary of state no later than five calendar days thereafter. If the complaint is complete, the secretary of state shall promptly transmit the complaint to the Division of Administrative Hearings in the Department of Personnel and Administration for the consideration by an administrative law judge, which will notify the respondents of the filing of the complaint and which will issue all other appropriate notices to the parties. [Article XXVIII, Section 9(2)(a)]

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

7.1 The requirements of Article XXVIII of the State Constitution and of Article 45 of Title 1, Colorado Revised Statutes, shall not apply to home rule counties or home rule municipalities that have adopted charters, ordinances, or resolutions that address any of the matters covered by Article XXVIII or Title 1, Article 45.

7.2 The provisions of Section 3(4) of Article XXVIII of the State Constitution relating to contributions and expenditures of corporations and labor unions apply to elections to every state and local public office, except local public offices in home rule counties or home rule municipalities that have adopted charters, ordinances, or resolutions that address any of the matters covered by Article XXVIII or Title 1, Article 45.

7.3 The provisions of section 1-45-105.5, relating to a prohibition on lobbyist contributions to members of the General Assembly during legislative sessions, apply to members of the General Assembly who are candidates for any state or local office, including any office in home rule municipalities that have adopted charters, ordinances, or resolutions that address any of the matters covered by Article XXVIII or Title 1, Article 45.

7.4 A political party, as defined in Section 2(13) of Article XXVIII of the State Constitution, at the level of a home rule county or home rule municipality that has adopted a charter, ordinance, or resolution that addresses any of the matters covered by Article XXVIII or Title 1, Article 45, may establish a separate account that is used solely for contributions made to the party, and expenditures made by the party, for the purpose of supporting the party's county or municipal candidates for offices within the county or municipality. Contributions to and expenditures from such account shall not be included for purposes of any limitations or reporting contained in Article XXVIII or Title 1, Article 45.

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

8.1 The special district designated election official or, as applicable, the presiding officer or the secretary of the board of directors, under section 32-1-804.3(5), C.R.S., shall provide to the county clerk and recorder of the county in which the district court having jurisdiction over the special district pursuant to section 32-1-303, C.R.S., is located. Either a list of the board of director candidates, or the self-nomination and acceptance forms and letters, and

affidavits of intent to be a write-in candidate, within ten days of their filing with the designated election official, presiding officer, or secretary as applicable.

8.2 If a candidate for a special district office fails to file a candidate affidavit, or the filed self-nomination and acceptance form or letter, or the affidavit of intent to be a write-in candidate does not contain the statement required by section 1-45-110(1), C.R.S., the county clerk and recorder shall mail the special district a copy of the notification to the candidate regarding pending disqualification sent pursuant to section 1-45-111(3).

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

## 9 **Electioneering Communications**

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

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

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

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