



COLORADO CAMPAIGN FINANCE AND BALLOT MEASURE GUIDE

These resources are current as of 5/8/2019. We do our best to periodically update these resources and welcome any comments or questions regarding new developments in the law.

Please email us at advocacy@afj.org.

WHAT'S NEW IN THIS GUIDE

The following changes/additions have been made since the previous version of this guide:

- Updated contribution limits
- Information on statewide initiative petitions, under “Ballot Measures”
- Pre-primary biweekly reporting no longer required, due to change in date of primary elections (SB 11-189)
- Information on requesting a waiver or reduction of campaign finance penalties
- Information on Major Contributor Reports
- Additional information on Independent Expenditure disclaimers Additional information on Electioneering Communications

This guide summarizes key aspects of campaign finance law and regulations *at the state level* (pertaining to state candidates and ballot measures). It is not intended to provide legal advice or to serve as a substitute for legal advice.

In some jurisdictions, city and/or county regulations may also apply to certain political activities. Check with the appropriate local jurisdiction before undertaking any activity.

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CONTRIBUTION LIMITS AND SOURCE RESTRICTIONS

To Candidate Committees* (per election unless noted otherwise – primary and general counted separately)			
From	Governor/Lt. Gov. ¹	Other Statewide ²	Legislative and Certain Other Candidates ³
Individuals	\$625 per election ⁴	\$625 per election	\$200 per election
Political Committees	\$625 per election	\$625 per election	\$200 per election
Small Donor Committees	\$6,750 per election	\$6,750 per election	\$2,675 per election
Corporations ⁵ and Labor Organizations	\$0	\$0	\$0
Political Parties ⁶	\$679,025 per applicable election cycle ⁷	\$135,775 per applicable election cycle	Senate –\$24,425; Others –\$17,625 per applicable election cycle

* The contribution limits contained in this chart are for contributions made to candidate committees (as opposed to standalone candidates, who do not seek or accept contributions). Candidate committees accept contributions under the authority of the candidate, and include the candidate. A candidate may only have one candidate committee. Colo. Const. art. XXVIII, §2(3).

Note: Limits on contributions to local candidates vary by municipality.

To Committees (per two-year cycle unless noted otherwise)

¹ Only candidates for governor run in the primary election. Candidates for governor and lieutenant governor are considered joint candidates, subject to a single contribution limit, for the general election. Colo. Const. art. XXVIII, § 3(1)(a)(I).

² Secretary of State, State Treasurer, and Attorney General. Colo. Const. art. XXVIII, § 3(1)(a)(II).

³ Includes State Senate, State House of Representatives, State Board of Education, Regent of the University of Colorado, and district attorneys. Colo. Const. art. XXVIII, § 3(1)(b).

⁴ Primary and general elections are separate "elections." Contributions for primary election may be made and spent subsequent (as well as prior) to the primary election, and contributions for general election may be made and spent prior (as well as subsequent) to primary election. C.R.S. § 1-45-103.7(3), (4).

⁵ Includes limited liability companies with corporate or labor organization members, or with non-citizen members; those which have elected to be treated as a corporation pursuant to 26 CFR § 301.7701-3; and those with publicly traded shares. C.R.S. § 1-45-103.7(5). Does not include MCFL-type corporations, defined as a corporation formed for the purpose of promoting political ideas and which cannot engage in business activities, has no shareholders or "other persons with a claim on its assets or income," and was not established by and does not accept contributions from business corporations or labor organizations. Colo. Const. art. XXVIII, § 3(4)(b).

⁶ Contribution limits are 20% of applicable candidate voluntary spending limit. Colo. Const. art. XXVIII, § 3(3)(d).

⁷ Election cycle begins 31 days following the general election for that office and ends 30 days following the next general election for that office (or may begin or end within the same time frame after a special legislative election for that office).

FROM	Political Committee	Small Donor Committee	Parties (annual – Jan. 1-Dec. 31) ⁸	Issue Committee	Independent Expenditure Committee
Individuals	\$625 per two-year House of Rep. election cycle	\$50 per year	\$4,025 per year (with no more than \$3,350 to state level)	No limit	No limit
Political Committees	\$625 per two-year House of Rep. election cycle ⁹	\$0 (prohibited)	\$4,025 per year (with no more than \$3,350 to state level)	\$0 (prohibited)	No limit
Small Donor Committees	\$625 per two-year House of Rep. election cycle	\$0 (prohibited)	\$20,325 per year (with no more than \$16,925 to state level)	\$0 (prohibited)	No limit
Corporations ¹⁰ and Labor Organizations	\$625 per two-year House of Rep. election cycle	\$0 (prohibited)	\$0 (prohibited)	No limit	No limit
Political Parties	\$625 per two-year House of Rep. election cycle	\$0 (prohibited)	n/a	No limit	No limit
Issue Committees	\$0 (prohibited)	\$0 (prohibited)	\$0 (prohibited)	No limit	\$0 (prohibited)
Independent Expenditure Committees	\$0 (prohibited)	\$0 (prohibited)	\$0 (prohibited)	\$0 (prohibited)	No limit

⁸ State, county, district and local level combined.

⁹ Political committees are required to identify the kinds of candidates they intend to support in their registration statements of purpose (e.g., Democratic candidates for the Colorado House of Representatives) . They should only contribute to other committees whose statements of purpose include the same kinds of candidates.

¹⁰ Includes limited liability companies with corporate or labor organization members, or with non-citizen members; those which have elected to be treated as a corporation pursuant to 26 CFR § 301.7701-3; and those with publicly traded shares. C.R.S. § 1-45-103.7(5). Does not include MCFL-type corporations, defined as a corporation formed for the purpose of promoting political ideas and which cannot engage in business activities, has no shareholders or "other persons with a claim on its assets or income," and was not established by and does not accept contributions from business corporations or labor organizations. Colo. Const. art. XXVIII, § 3(4)(b).

Restrictions on contributions

Aggregation – There are no aggregate limits on contributions by individuals or committees.

Lobbyists – No professional lobbyist, volunteer lobbyist, or principal of a professional lobbyist or volunteer lobbyist may make or promise to make a contribution to, or solicit or promise to solicit a contribution for, a member of the General Assembly, the Lt. Governor, the Secretary of State, the Attorney General, or a candidate for any such office, when the General Assembly is in regular session, nor to or for the Governor or a candidate for Governor when the General Assembly is in regular session or when a measure adopted by the General Assembly is pending before the Governor for approval or disapproval. C.R.S. § 1-45-105.5.

Cash – Contributions or expenditures in currency or coin may not exceed \$100. Colo. Const. art. XXVIII, § 3(10).

Campaign Surplus – A candidate committee may retain unexpended campaign contributions for use in a subsequent election cycle, or for a different public office, but must count these contributions toward the limit on contributions from a political party to that candidate committee in the subsequent election. Colo. Const. art. XXVIII, § 3(3)(e); C.R.S. § 1-45-106(1)(a)(I)(B). Candidate committees may also donate surplus to an IRS-recognized charitable organization or to a political party, return the contributions to contributors, or, if elected to office, use them for voter registration, political issue education, postsecondary education scholarships, communications with constituents, and for various specified office expenses. C.R.S. § 1-45-106(1).

Conduits – No person may act as a "conduit" for a contribution to a candidate committee, *i.e.*, transmitting contributions from more than one person directly to the candidate committee. This does not include delivery of contributions from the contributor's immediate family, delivery by the candidate or campaign treasurer, a volunteer fundraiser hosting an event for the candidate committee, or a professional fundraiser compensated at a usual and customary rate. Colo. Const. art. XXVIII, §§ 2(4), 3(7).

Reimbursements for Contributions – No person may make a contribution with the expectation that all or part of it will be reimbursed by another person, nor may such reimbursement be made. Colo. Const. art. XXVIII, § 3(11).

Foreign Nationals – Political committees, issue committees, candidate committees, small donor committees, and political parties may not knowingly accept contributions from persons who are not citizens of the United States, foreign governments, or corporations organized under the laws of another country. Colo. Const. art. XXVIII, § 3(12).

Treatment of in-kind contributions

- "Contributions" are defined to include [Colo. Const. art. XXVIII, § 2(5)(a)] a payment, loan,¹¹ pledge, gift, or advance of money or anything of value, whether given directly or indirectly, including payments made to a third party to benefit a candidate or committee. A gift or loan of property to a candidate or committee is a contribution valued at the property's fair market value.
- "Contributions" do not include [Colo. Const. art. XXVIII, § 2(5)(b)]:

¹¹ Notwithstanding this definition, a "contribution" to a candidate committee in the form of a commercial bank loan would not count towards the applicable contribution limit. Colo. Const. art. XXVIII, § 3(8).

- services provided without compensation by volunteers;¹²
- a transfer by a membership organization of a portion of a member's dues to a small donor committee or political committee sponsored by the membership organization;¹³
- 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;¹⁴ or
- endorsements of candidates or issues [8 CCR 1505-6, §1.4.1].

Contributions by business entities and labor organizations

- Corporations and labor organizations are prohibited from contributing to candidates or political parties. Colo. Const. art. XXVIII, § 3(4)(a). In the wake of the United States Supreme Court's decision in *Citizens United v. Federal Election Commission*, corporations and labor organizations are now permitted to make independent expenditures and electioneering communications. C.R.S. §1-45-107.5.
 - MCFL Exception – this prohibition does not apply to corporations that are formed for the purpose of promoting political ideas and which cannot engage in business activities, have no shareholders or "other persons with a claim on its assets or income," and were not established by and do not accept contributions from business corporations or labor organizations. Colo. Const. art. XXVIII, § 3(4)(b).
- A limited liability company (LLC) may not make contributions to candidate committees or political parties if one or more of the individual members of the limited liability company is:
 - a corporation;
 - a labor organization;
 - a natural person who is not a citizen of the United States;
 - a foreign government;
 - a professional lobbyist, volunteer lobbyist, or principal of a professional or volunteer lobbyist and the contribution is made, promised, or solicited
 - to or for a member of the General Assembly, the Lt. Governor, the Secretary of State, the Attorney General, or a candidate for any such office, when the General Assembly is in regular session, or
 - to or for the Governor or a candidate for Governor when the General Assembly is in regular session or when a measure adopted by the General Assembly is pending before the Governor for approval or disapproval; or

¹² This exception includes time-based services volunteered by an individual as a member of any firm, association, or other business entity, including a corporation, if the individual receives no direct or indirect compensation for the time volunteered. Any unpaid services that create a thing of value are exempted. If volunteer services yield a thing of value, "contribution" only includes the reasonable value of the materials involved, unless the value is de minimis. 8 CCR 1505-6, §§1.4.2.

¹³ A "member" is required to pay membership dues. 8 CCR 1505-6, § 1.11. The membership organization must provide the political committee or small donor committee with the member's name, address, amount of dues transferred, and date of the transfer, and the committee must maintain such records and itemize and report the name and address of every member whose dues are contributed in an amount of \$20 or more and must certify that to the best of its knowledge the transferred dues are from a permissible source. 8 CCR 1505-6, § 13.2.

¹⁴ A corporation or labor organization is permitted to establish a political committee, an independent expenditure committee, and a small donor committee. 8 CCR 1505-6, § 13.1.

- otherwise prohibited by law from making the contribution. C.R.S. §§ 1-45-103.7(5)(a), 1-45-105.5.¹⁵
- A limited liability company may not make contributions to candidate committees or political parties if it has elected to be treated as a corporation by the Internal Revenue Service, or if its shares are publicly traded. C.R.S. § 1-45-103.7(5)(c).
- A limited liability company may not contribute to a political committee if one or more of its individual members is: (a) an entity formed under and subject to the laws of a foreign country, (b) a natural person who is not a citizen of the United States, or (c) a foreign government. C.R.S. § 1-45-103.7(5)(b).
- A limited liability company with a single natural person member (and that does not elect to be treated as a corporation by the Internal Revenue Service) will have any contribution attributed only to the single natural person member, and must so advise the recipient at the time it makes the contribution. C.R.S. §§ 1-45-103.7(5)(c), (d)(II).
- Contributions by a limited liability company shall be attributed to each of its members (and allocated against the individual contribution limits applicable to each such individual member) in amounts proportionate to their individual share of the total capital invested in the limited liability company. C.R.S. § 1-45-103.7(d)(II).

COMMUNICATIONS

Membership Communications

- Communications made by a membership organization solely to members and their families are not “expenditures.” Colo. Const. art. XXVIII, §2(8)(b)(III).

Issue Advocacy vs. Express Advocacy

- "Express advocacy" has been defined by Colorado's intermediate appellate court as "the use of the words and phrases listed in *Buckley v. Valeo*, 424 U.S. 1, 44 n. 52 (1976), i.e., "express words of advocacy of election or defeat, such as 'vote for,' 'elect,' 'support,' 'cast your ballot for,' 'Smith for Congress,' 'vote against,' 'defeat,' 'reject,'" and other substantially similar or synonymous words." *League of Women Voters v. Davidson*, 23 P.3d 1266, 1277 (Colo. App. 2001).
- The court rejected on vagueness and overbreadth grounds, as well as difficulty of application, the looser "context-based standard" propounded in *Federal Election Comm'n v. Furgatch*, 807 F.2d 857, 863-64 (9th Cir. 1987). *Id.* at 1275-76. There is no constitutional, statutory, or regulatory definition of the term “express advocacy.”
- Political committee status is triggered when any organization or any group of two or more people accepts contributions and makes contributions or expenditures on "express advocacy"; a "political committee" is subject to contribution limits. Colo. Const. art. XXVIII, § 2(12)(a). *But see* "[Independent Expenditure Committees](#)" below.

¹⁵ A written affirmation of authority to make the contribution must be provided with the contribution, to include a statement of the names and addresses of all of the individual members of the limited liability company. This written affirmation must be retained by the recipient for one year following the end of the election cycle during which the contribution was received. C.R.S. § 1-45-103.7(5)(d)(I).

- There is disagreement as to whether such persons or groups may be held retroactively liable for exceeding those contribution limits prior to the "expenditure" on "express advocacy."

Electioneering Communications

- "Electioneering communication" is any communication:
 - broadcast 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 unambiguously refers to a candidate in a primary or general election;
 - within 30 days before a primary election or 60 days before a general election; and
 - is distributed to an audience that includes voters for that office. Colo. Const. art. XXVIII, § 2(7)(a).
- "Electioneering communications" do not include:
 - communications by a membership organization solely to members and their families; or
 - any communication that refers to any candidate only as part of the popular name of a bill or statute.
 - Colo. Const. art. XXVIII, § 2(7)(b)(III)

Independent Expenditures

- Definition – "Independent expenditures" are "expenditures" on "express advocacy" that are not controlled by or coordinated with any candidate or agent of a candidate or political party. Colo. Const. art. XXVIII, § 2(9), §5(3). Independent expenditures are regulated by detailed non-coordination requirements. See 8 CCR 1505-6, Rule 21.
- Independent Expenditure Committees –Colorado permits the formation of "independent expenditure committees" that may receive unlimited contributions from any source and engage in independent expenditures and electioneering communications (though they are not permitted to make contributions to candidates or other entities). C.R.S. §§ 1-45-103(11.5), 1-45-107.5. See below for Independent Expenditure Committee [registration and reporting requirements](#).
 - Any person making an independent expenditure over \$1,000 per calendar year must report to the Secretary of State each expenditure, as well as the amount and a detailed description of the use, specifically stating the name of the candidate who the independent expenditure is intended to support or oppose. If the expenditure is made within 30 days of a primary or general election, the report shall be delivered within 48 hours after obligating the funds. Colo. Const. art. XXVIII, § 5(1). The report form is available on the Secretary of State [website](#). See also "[Independent Expenditure Reporting](#)" below with regard to required reports by donors to Independent Expenditure Committees.

If within six months before becoming a candidate, a person actively solicits funds for an independent expenditure committee with the intent of benefitting his or her future candidacy, any expenditure made by that independent expenditure committee in that candidate's race is presumed to be controlled by or coordinated with that candidate and deemed to constitute both a contribution by the maker of the expenditures and an expenditure by the candidate committee. C.R.S. §1-45-103.7(11).

- Disclaimers – Any person making an "independent expenditure" in excess of \$1,000 must prominently disclose in the communication, or by direct link from an online communication, the name of the person making the expenditure and a specific statement that the advertisement or material is not authorized by a candidate. Colo. Const. art. XXVIII, §5(2). If the independent expenditure is made by an independent expenditure committee (*i.e.*, an entity other than a natural person), the registered agent of that committee must also be identified in the disclaimer. C.R.S. § 1-45-107.5(5). For independent expenditures made on non-broadcast materials, the disclaimer must be no less than 15% of the size of the largest font used in the communication, or at least 8-point font. 8 CCR 1505-6, § 5.1.

Disclaimers

- Disclaimers are required for "independent expenditure" communications ([see above](#)) or communications made by issue committees.
- Communications by issue committees that cost more than \$1,000 must contain a disclaimer including the name of the issue committee. C.R.S. § 1-45-108.3.
- The Federal Communications Commission (F.C.C.) regulates political advertising for television and radio and may require a "Paid for by" statement. For more information, visit their website at www.fcc.gov. In some instances a newspaper or other publication may require you to include a "Paid for by" statement as a condition of publishing your advertisement; such a requirement is made at the discretion of the publication.
- Although disclaimers are not specifically required in the contexts of other forms of communication, entities often do include such information.

REGISTRATION AND REPORTING REQUIREMENTS

Types of Committees

- *Political Committee* – Any entity or group of people or entities that accepts contributions or makes contributions or expenditures to support or oppose a candidate totaling more than \$200. Colo. Const. art. XXVIII, § 2(12)(a).
 - Federal and Other States' PACs – All entities that support or oppose Colorado candidates are considered "political committees" under state law if they otherwise meet the definition of "political committee." They must register and report, and will be regulated, as Colorado political committees, irrespective of their activities in other states or at the federal level. Contributions received by the federal PAC that the PAC has not designated for use to support or oppose candidates in Colorado do not have to be disclosed on reports filed in Colorado and are not subject to the Colorado source and amount limits and prohibitions. Otherwise, the PAC may use only contributions within the source and contribution limits established by Colorado law to support or oppose Colorado candidates. 8 CCR 1505-6, § 7.1.

- *Independent Expenditure Committee* – An entity or group that accepts contributions or makes independent expenditures (but not contributions) to support or oppose a candidate totaling more than \$1,000. C.R.S. §§ 1-45-103(11.5), 1-45-107.5.
- *Issue Committee* – An entity or group of people that has a “major purpose” of supporting or opposing any ballot issue or ballot question *and* that has accepted contributions or made expenditures in excess of \$200 to support or oppose a ballot measure. “Major purpose” is determined with reference to the organization’s stated objectives and its pattern of conduct (to include annual expenditures on ballot measures). C.R.S. §1-45-103(12).
- *Small scale issue committee* – an issue committee that has accepted or made contributions or expenditures in an amount that does not exceed \$5,000 during an applicable election cycle. C.R.S. §1-45-103(16.3).
- *Small Donor Committee* – Any political committee that has accepted (or will accept) contributions only from natural persons who each contribute no more than \$50 in the aggregate per calendar year. Corporations and labor organizations may establish small donor committees, and their members may contribute; however corporations and labor organizations themselves cannot contribute to small donor committees. Small donor committees are permitted to make larger contributions to candidates than other committees. ([See chart above](#)).
- *Political Party* – Any group of registered electors who, by petition or assembly, nominate candidates for the official general election ballot. Political parties cannot accept contributions intended for a specific candidate.

Registration

- Authorities – Committees must register with the official who has authority over the elections the committee intends to influence:
 - Committees supporting or opposing state candidates or ballot measures: Secretary of State;
 - Committees supporting or opposing municipal candidates: municipal clerk;
 - All other Committees: Secretary of State.
 - C.R.S. §1-45-109(1).
- Timing –
 - Political committees, small donor committees, and candidate committees must register *before* accepting contributions or making any contributions. C.R.S. §1-45-108(3).
 - Independent expenditure committees must register within two business days after an independent expenditure committee accepts donations reaching \$1,000. C.R.S. §1-45-107.5(3).
 - Issue committees must register within 10 calendar days of accepting contributions or making expenditures in excess of \$200 to support or oppose any ballot issue or ballot question. C.R.S. 1-45-108(3.3).
 - Any amendments or changes to the information provided in the registration form must be filed with the appropriate officer within 10 days. 8 CCR 1505-6, § 12.1.
- Federal PACs may submit their FEC Statement of Organization. C.R.S. 1-45-108(3), (3.5).

- Purpose of nature or interest – For committees supporting or opposing a candidate, the registration statement must identify the types of candidate being supported or opposed by the political committee. A federal PAC must submit a supplemental statement in addition to their FEC form to identify the candidate or candidates supported or opposed. Issue committees may support or oppose more than one issue, but specific issue must be included on the issue committee's registration form, no generic phraseology may be used for known issues, and the committee must specify whether they are support or opposing an issue. 8 CCR 1505-6, §§ 4.2, 8.1.

Committee Recordkeeping and Administration

- Registered Agent – A committee must designate a natural person to be its registered agent. Neither the statute nor the rules specify that this person must be a Colorado resident. Designating the registered agent must be done on the initial registration statement, and amended registration statements designating a new registered agent must be filed within 10 days after the resignation of a registered agent. Letters of resignation must be filed with the appropriate filing officer. C.R.S. § 1-45-108(3); 8 CCR 1505-6, § 9.
- Affiliation – All committees established, financed, maintained, or controlled by (a) a single corporation or its subsidiaries; (b) a single labor organization (not including independent local units with authority to make their own decisions as to which candidates to support); (c) the same political party; or (d) "substantially the same group of persons" shall be deemed to be a single political committee for application of contribution limits. Colo. Const. art. XXVIII, § 2(12)(c).
- Corporate PAC Administration – A corporation or labor organization may establish a political committee, independent expenditure committee, or small donor committee, which may accept contributions or dues from employees, officerholders, shareholders, or members. Colo. Const. art. XXVIII, § 3(4)(a).
 - A corporation or labor organization may pay to establish and administer a political committee, independent expenditure committee, or small donor committee, and to solicit funds from its own employees or members for that committee. Such payments by the corporation or union are not contributions. Colo. Const. art. XXVIII, § 2(5)(b).
 - A membership organization may transfer a portion of a member's dues to a political committee, independent expenditure committee, or small donor committee sponsored by the membership organization without that transfer being a contribution from the corporation, as it is a contribution from the member. Colo. Const. art. XXVIII, § 2(5)(b).
 - A membership organization transferring dues to a political committee, independent expenditure committee, or small donor committee must provide, and the committee must keep records of, the identity of the member and date and amount of dues transferred and must itemize and

report each person who has contributed \$20 or more (including transfers of dues) during a reporting period. 8 CCR 1505-6, § 13.2.

Reporting

- Contents – Political committees, independent expenditure committees, issue committees (except small scale issue committees), and small donor committees must report:
 - all contributions, expenditures, and obligations entered into, including the name and address of each person who has contributed \$20 or more, and including the occupation and employer of all natural persons who make a contribution of \$100 or more;
 - the balance of funds at the beginning and end of the reporting period;
 - the totals of contributions received and expenditures made during the reporting period; *and*
 - the name and address of the financial institution used by the committee.
 - Small scale issue committees must register, but are not required to report contributions received or expenditures made.
 - C.R.S. §§ 1-45-108(1), (1.5), (2)(b), 107.5.
- Schedule – Reports must be filed with the appropriate filing officer as follows:
 - Quarterly – in off-election years no later than the 15th of the month following the end of the applicable quarter (reports are due April 15, July 15, October 15, and January 15 [or the next business day])
 - Monthly – on the 1st of each month beginning the sixth full month before a major election (except the month in which the election is held)
 - monthly reporting periods close five days prior to the end of the month
 - when monthly reports are due at approximately the same time as bi-weekly reports, the monthly report need not be filed
 - Bi-weekly pre-general – on the first Monday in September and on each Monday every two weeks thereafter before a general election (for the bi-weekly period closing on the Wednesday before the due date)
 - Post-election – 30 days after a general election (with the reporting period closing on the last day of the month in which the election was held)
 - Off-year special elections – 14 days before and 30 days after a special legislative election held in an off-election year.
 - C.R.S. § 1-45-108(2)(a); 8 CCR 1505-6, § 17.
 - If a reporting day falls on a weekend or legal holiday, the report must be filed by close of business on the next business day. Special reporting requirements and dates may exist for local elections.
 - A schedule of reporting dates is published by the Secretary of State at: <http://www.sos.state.co.us/pubs/elections/CampaignFinance/filingCalendar.html>
- Major Contributor Reports – Candidate committees, political parties, political committees, and issue committees must report all contributions of \$1,000 or more

made within 30 days from the primary or general election within 24 hours of receipt (in addition to reporting such contributions on regular reports). C.R.S. 1-45-108, § 2.5.

- Electronic filing – Electronic filing is mandatory for all reports filed with the Secretary of State via their online filing software, [TRACER](#). 8 CCR 1505-6, § 19.
- Reports available to the public – Reports filed with the Secretary of State, including contributors and amounts, are available on the Secretary of State's website.

Independent Expenditure Reporting

- Independent expenditures made within 30 days of a primary or general election must be reported within 48 hours of obligating the funds (in addition to the reports described above for independent expenditure committees). Colo. Const. art. XXVIII, §5(1).
- Any corporation – including entities organized under §501(c) or §527 of the Internal Revenue Code – labor organization, or independent expenditure committee (a “covered organization”) that contributes, donates, or transfers \$10,000 or more to any person, earmarked for the purpose of making an independent expenditure during any one calendar year must provide affirmations to the recipient containing the following information: the covered organization’s name and principal place of business, the amount of the contribution, the name and current business or residence address of each beneficial owner (officers, directors, owners of more than 5%, and controlling entities and their beneficial owners) of a for-profit corporation; or contributors to a non-profit corporation who have transferred \$5,000 or more earmarked for the purpose of independent expenditures during the preceding 12 months. These affirmations shall be included with independent expenditure reports filed by the recipient subject to limited conditions of redaction. C.R.S. §1-45-107.5(14).

Electioneering Communications Reporting

- Electioneering communications are defined as “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:
 - Unambiguously refers to any candidate; and
 - Is broadcasted, printed, mailed, delivered, or distributed within 30 days before a primary election or 60 days before a general election; and
 - Is broadcasted to, printed in a newspaper distributed to, mailed to, delivered by hand to, or otherwise distributed to an audience that includes members of the electorate for such public office.”
 - See Art. XXVIII Sec. 2(7)(a)
- Electioneering communication does not include:
 - Opinion or commentary writings, editorial endorsements, or letters to the editor published in a periodical not owned or controlled by the candidate(s) or party named.
 - Editorial endorsements aired by a broadcast facility not owned or controlled by the candidate(s) or party.

- Any communication by persons made in the regular course and scope of their business or any communication made by a membership organization solely to members of such organization and their families.
 - Any communication that refers to any candidate only as part of the popular name of a bill or statute.
- Any person or committee that spends \$1,000 or more per calendar year on "electioneering communications" must file electioneering communication reports with the Secretary of State according to the schedule set forth [above](#). Colo. Const. art. XXVIII, § 6(1). The report must disclose the expenditures and the name and address of any person who contributed more than \$250 per year for an electioneering communication. If the contributor is a natural person, his or her occupation and employer must also be reported. Colo. Const. art. XXVIII, 6(1).
 - Any corporation – including entities organized under §501(c) or §527 of the Internal Revenue Code – labor organization, or independent expenditure committee (a “covered organization”) that contributes, donates, or transfers \$10,000 or more to any person, earmarked for the purpose of making an electioneering communication during any one calendar year must provide affirmations to the recipient containing the following information: the covered organization’s name and principal place of business, the amount of the contribution, the name and current business or residence address of each beneficial owner (officers, directors, owners of more than 5%, and controlling entities and their beneficial owners) of a for-profit corporation; or contributors to a non-profit corporation who have transferred \$5,000 or more earmarked for the purpose of electioneering communications during the preceding 12 months. These affirmations shall be included with electioneering communication reports filed by the recipient subject to limited conditions of redaction. C.R.S. §1-45-107.5(14).
 - Important note: Many electioneering communications are also independent expenditures, and must also comply with the legal requirements set forth for independent expenditures.

Section 527 "Political Organization" Reporting

- Any 527 political organization (incorporated under § 527 of the Internal Revenue Code) that spends funds "influencing or attempting to influence" the selection, nomination, election, or appointment of state or local candidates for public office in Colorado must register and file reports according to the schedule above. It must disclose:
 - all contributions received – regardless of whether they were given in response to a Colorado-specific solicitation – including the name and address of all persons who have contributed \$20 or more in the reporting period, and the occupation and employer of any natural person who has contributed \$100 or more; *and*
 - all "spending" exceeding \$20 in the reporting period to influence the selection, nomination, election, or appointment of state or local candidates.
C.R.S. §§ 1-45-103(6)(c), (14.5), (16.5), 1-45-108.5.
 - This requirement is in addition to the ["electioneering communication" reports discussed above](#) and extends to transactions and reporting periods outside of the "electioneering communication" time windows, but does not impose

additional reporting requirements by political committees, independent expenditure committees, or small donor committees already reporting.

- If the 527 political organization makes only communications that are not express advocacy (*i.e.*, either “electioneering communications” or other non-express advocacy efforts to influence the election), but does not make contributions of its own, then it does not need to register as a political committee, and it will not be subject to the contribution limits imposed on a PAC.

Terminating a Committee

- A political committee, independent expenditure committee, or small donor committee may terminate if it no longer intends to receive contributions or make expenditures, achieves a zero balance with no cash or assets on hand and no outstanding debts or obligations, and files a termination statement with the appropriate filing officer. 8 CCR 1505-6, § 12.3.
- A political committee may change status to a small donor committee if the political committee has never accepted contributions from anyone other than natural persons and limited these contributions to \$50 per contributor per year. 8 CCR 1505-6, § 3.2.

ENFORCEMENT AND PENALTIES

Complaints regarding alleged violations of Colorado’s campaign finance laws may be filed with the Secretary of State. Complaints are subject to an initial review to determine if they are timely filed (within 180 days of when the complainant knew or reasonably should have known of the violation) and whether they sufficiently allege a violation. If the complaint is determined to be facially sufficient, an additional 30-day investigation is conducted, which may include a request to the parties to provide relevant documentation. The Deputy Secretary may then dismiss the complaint, provide an opportunity for the respondent to cure any violation, and/or refer the complaint to a hearing officer for further adversary proceedings. If the complaint is referred to a hearing officer, the complainant may seek to participate as an amicus curiae. Hearings must be held within 30 days (subject to limited extensions), and the decision of the hearing officer is reviewed by the Deputy Secretary. Final decisions of the Deputy Secretary are subject to judicial review. C.R.S. §1-45-111.7.

- Violations of the contribution limits (see above) subject the contributor and recipient to penalties of at least double and up to five times the amount contributed or received in violation of the applicable limit. Colo. Const. art. XXVIII, § 10(1).
- Penalties of \$50 per day may be assessed for late-filed reports. Colo. Const. art. XXVIII, § 10(2).
- Penalties assessed may be enforced by the Secretary of State or by the private complainant. Colo. Const. art. XXVIII, § 9(2)(a).
- Filers may make a request for waiver or reduction of campaign finance penalties with the Secretary of State. 8 CCR 1505-6, § 18.1
- .The Secretary of State may also issue advisory opinions upon request. C.R.S. §1-45-111.7(8).

BALLOT MEASURES

Issue Committee

- Any person, other than a natural person, or any group of two or more persons (including natural persons other than a married couple), that has as a major purpose to support or oppose a ballot issue or ballot question and accepts contributions and makes contributions or expenditures in excess of \$200 to support or oppose a ballot issue or ballot question is an "issue committee" under Colorado campaign finance law. Colo. Const. art. XXVIII, § 2(10).
- Issue committees must register with the appropriate filing officer (Secretary of State or municipal clerk) and file reports detailing their contributions and spending in the same manner and according to the same schedule as set forth above for political committees. C.R.S. § 1-45-108. Small scale issue committees (an issue committee that has accepted or made contributions or expenditures in an amount that does not exceed \$5,000 during an applicable election cycle) must register, but are not required to report contributions received or expenditures made. C.R.S. § 1-45-108(1.5).
- There are no limits on individual or entity contributions to issue committees.
- Issue committees may receive contributions from out-of-state contributors. The out-of-state contributor does not need to register, but its contribution will be reported under its name by the issue committee.
- Issue committees are subject to the same penalties discussed above for political committees filing late reports.
- An issue committee may support or oppose more than one issue as long as the specific issues are identified on the committee's registration form and the form states whether the committee will be supporting or opposing the issue. 8 CCR 1505-6, § 4.2.
- Issue committees may not contribute to political committees, political parties, or candidate committees, and may only contribute to or accept contributions from other issue committees that support or oppose the same ballot issues or ballot questions. 8 CCR 1505-6, § 2.6.

Statewide Initiative Petitions

- Registration and Licensing of Petition Circulators – Any person or issue committee that *intends* to compensate petition circulators must register with and obtain a petition entity license from the Secretary of State *prior to* compensating any circulator. 8 CCR 1505-1, § 15.1.; C.R.S. § 1-40-135.
- Petition Circulation – Before circulating a petition, ballot measure proponents must obtain a final decision from the title board and approval from the Secretary of State on the format of the petition. 8 CCR 1505-1, § 15.3.1; C.R.S. § 1-40-113(1).

CONTACT INFORMATION FOR STATE AND LOCAL AGENCIES

Colorado Department of State

Elections Center
1700 Broadway, Suite 200
Denver, CO 80290

Secretary of State:

Jena Griswold

Director of Elections: Judd Choate

Deputy Director: Hilary Rudy

303-894-2200; 855-428-3555

elections@sos.state.co.us

Website: <http://www.sos.state.co.us/>

FOR FURTHER ASSISTANCE

For assistance regarding these resources or for more information about federal law, please contact our attorney one-on-one counseling service:

Email: Advocacy@afj.org

Telephone: 1-866-NPLOBBY (675-6229)

For assistance regarding state law in Colorado, please contact:

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