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**MEMORANDUM**

November 8, 2016

**TO:** Interested Persons

**FROM:** Chris Creighton, Fiscal Analyst, 303-866-5834

**SUBJECT:** Overview of Colorado Campaign Finance and Disclosure Requirements

**Summary**

This memorandum provides an overview of Colorado campaign finance and disclosure requirements for political office candidates. Specifically, this memorandum provides information on:

- candidacy and candidate affidavit requirements;
- candidate committees;
- expenditure reporting requirements and voluntary spending limits;
- contribution reporting requirements;
- non-candidate political committees and their reporting requirements;
- contribution limits;
- disclosure filing schedules; and
- disclosure complaints and penalties.

**Candidacy and Candidate Affidavit Requirements**

Under the Colorado Constitution, an individual becomes a candidate for political office by publicly announcing his or her intent to run for office and thereafter receiving a donation or making an expenditure in support of such candidacy.<sup>1</sup> Within ten days of becoming a candidate, candidates for political office are required to file a candidate affidavit stating that they are familiar with all Colorado campaign finance laws. The political office being sought determines the appropriate office where the candidate affidavit is to be filed and if any additional information is required as described in Table 1.

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<sup>1</sup>Colo. Const. art XXVIII, § 2.

**Table 1. Political Office Candidacy Filing Requirements**

<b>Candidate Type</b>	<b>Filing Office</b>	<b>Documentation Required</b>	<b>Exclusions</b>
State Political Office	Secretary of State's Office	Candidate affidavit, personal finance disclosure, voluntary spending limit statement (optional)	Regional Transportation District candidates are excluded from these requirements.
County Political Office	Secretary of State's Office	Candidate affidavit	Personal finance disclosure is not required.
Special District Office	Special District Designated Election Official*	Self-nomination and acceptance form	Candidate affidavit and personal finance disclosure are not required.
Municipal Office	Municipal Clerk	Nomination petition and written affidavit accepting the nomination	Candidate affidavit is not required.

Source: Section 1-45-110, C.R.S., Section 31-10-302, C.R.S.

\*Future special district candidate campaign finance disclosures must be filed with the Secretary of State's Office.

### **Candidate Committees**

Any candidate who will accept contributions from persons must have a registered candidate committee.<sup>2</sup> A candidate committee includes the candidate, a registered agent, fundraisers, a campaign manager, and any other members of the campaign. Candidate committees must have a registered agent who acts as a treasurer and keeps track of all contributions and expenditures. Candidates can serve as their own registered agent or designate a registered agent. The registered agent may also file contribution and expenditure disclosure reports, or the committee can register a designated filing agent for this purpose. Candidates spending their own money or not accepting contributions do not need a candidate committee and are considered to be stand-alone candidates.

### **Expenditure Reporting Requirements and Voluntary Spending Limits**

Candidate committees and stand-alone candidates must report all expenditures. An expenditure occurs when it is made, when funds are obligated, or when a contract is established, whichever comes first. Expenditures of \$20 or more must be itemized with each expenditure listed, along with the name and address of the payee, and the purpose of the expense. No more than \$100 in cash may be spent on any single expenditure.

State candidates can choose to accept voluntary spending limits, which limit the total amount that a candidate or candidate committee can spend during the election cycle.<sup>3</sup> This must be done at the time the candidate affidavit is filed. Voluntary spending limits, listed in Table 2, are adjusted every four years by the Secretary of State, and the limits below reflect the most recent adjustment made on June 10, 2015.

<sup>2</sup>Under current law, a person is a natural person, partnership, committee, association, corporation, labor organization, political party, or other entity. A natural person is a human being.

<sup>3</sup>Colo. Const. art XXVIII, § 4.

**Table 2. Voluntary Spending Limits**

<b>Political Office</b>	<b>Spending Limit</b>
Governor/Lieutenant Governor	\$3,075,450
Attorney General Secretary of State State Treasurer	\$615,075
State Senate	\$110,700
CU Regent District Attorney State Board of Education State House of Representatives	\$79,925
Regional Transportation District	No limit

*Source: Secretary of State.*

The acceptance of voluntary spending limits may be withdrawn within ten days of a new candidate entering the same political race, if the new candidate does not accept voluntary spending limits. A candidate accepting voluntary spending limits may accept double the limit, if another candidate enters the same race, does not accept voluntary spending limits, and raises more than 10 percent of the limit.<sup>4</sup>

### **Contribution Reporting Requirements**

Candidate committees must report all contributions received. Contributions include anything of value given directly or indirectly to a candidate for the purpose of promoting a candidate's nomination, retention, recall, or election. Monetary contributions include check, cash, money order, or credit card payments. Non-monetary contributions also require disclosure and count against contribution limits. Non-monetary donations include goods, equipment, supplies, or services. Volunteer services are not considered contributions. The contribution amount determines additional disclosure reporting requirements as described below:

- contributions of less than \$20 must be disclosed, but do not need to be itemized;
- contributions of \$20 or more must be itemized with the name and address of each contributor listed;
- contributions of \$100 or more must be itemized and also include the occupation and employer of the contributor; and
- candidate committees in special district elections are not required to file disclosure reports until the committee has received contributions in excess of \$200 in the aggregate.<sup>5</sup>

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<sup>4</sup>Colo. Const. art XXVIII, § 4.

<sup>5</sup>Section 1-45-108, C.R.S.

Candidate committees may not accept contributions from:

- foreign citizens, corporations, or governments;
- another candidate committee;
- lobbyists, principals of lobbyists, or political committees retaining a lobbyist when the General Assembly is in session;
- anonymous contributions of \$20 or more; or
- limited liability corporations (LLC) if any LLC members are a corporation or labor organization, a natural person who is not a U.S. citizen, a foreign government, a professional, a volunteer lobbyist, or a principal of a lobbyist.<sup>6</sup>

### Non-Candidate Political Committees and Reporting Requirements

Non-candidate political committees are formed by persons or groups not part of the candidate committee to support or oppose a candidate for public office or a ballot item. Non-candidate political committees are subject to the same reporting requirements as candidate committees; however, requirements regarding contribution amounts and sources differ by committee. Non-candidate contribution limits are also adjusted every four years by the Secretary of State and are shown in Table 3. Descriptions of non-candidate committees and their reporting requirements follow Table 3.

**Table 3. Non-Candidate Contribution Limits**

Contribution Recipient	Contributor					
	Natural Person/ Entity	Political Committee	Small Donor Committee	Political Party	Issue Committee	Independent Expenditure Committee
Political Committee	\$575*	\$575*	\$575*	\$575*	Prohibited	Prohibited
Small Donor Committee	\$50** / Prohibited	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited
Governor/ Lieutenant Governor	\$575*	\$575*	\$6,125*	\$615,075	Prohibited	Prohibited
Secretary of State State Treasurer Attorney General	\$575*	\$575*	\$6,125*	\$123,000*	Prohibited	Prohibited
State Senate	\$200*	\$200*	\$2,425*	\$22,125*	Prohibited	Prohibited

Table continues on next page.

<sup>6</sup>Section 1-45-103.7, C.R.S.

**Table 3. Non-Candidate Contribution Limits (Cont.)**

Contribution Recipient	Contributor					
	Natural Person/ Entity	Political Committee	Small Donor Committee	Political Party	Issue Committee	Independent Expenditure Committee
State House of Representatives State Board of Education CU Regent District Attorney	\$200*	\$200*	\$2,425*	\$15,975*	Prohibited	Prohibited
Political Party	\$3,650**	\$3,650**	\$18,425**	Unlimited transfers within party	Prohibited	Prohibited
Issue Committee	No limit	Prohibited	Prohibited	No limit	No limit	Prohibited
Independent Expenditure Committee	No limit	No limit	No limit	No limit	Prohibited	No limit

Source: Secretary of State.

\* per election cycle, \*\* per year, \*\*\* per year at the state level

Some state level non-candidate committees can donate to local level non-candidate committees of the same type. Home rule counties and municipalities may have different contribution limits.

### Political Committees

A political committee consists of any entity such as a partnership, association, corporation, or committee, or a group of two or more persons who have accepted or made contributions or expenditures in excess of \$200 to support or oppose the nomination or election of one or more political office candidates. Political committees are subject to the same reporting requirements as candidate committees and must report all contributions and expenditures to the Secretary of State or appropriate municipality. Unlike candidate committees, political committees can accept contributions from corporations and labor unions. Contributions received from LLCs must be itemized and include a written affirmation statement that the contribution is permitted by law.

### Small Donor Committees

A political committee that will accept contributions of no more than \$50 per calendar year per person is a small donor committee. Small donor committees are subject to the same reporting requirements as candidate committees and must report all contributions and expenditures to the Secretary of State or appropriate municipality. Corporations and labor organizations cannot contribute to small donor committees, but may establish a small donor committee to which members of the corporation or labor organization may contribute.

### Political Parties

A political party is a group of registered voters who nominate candidates for the general election. Political parties are subject to the same reporting requirements as candidate committees and must report all contributions and expenditures to the Secretary of State. Political parties cannot accept contributions intended for a specific candidate or contributions from corporations, labor organizations, or foreign governments.

## **Issue Committees**

An issue committee is any organization or group of people with a purpose of supporting or opposing any ballot item that has accepted or made contributions or expenditures in excess of \$200 or printed 200 or more petition sections. A petition section is a compilation of ballot initiative forms approved by the Secretary of State used for collecting registered voter signatures on a proposed initiative. Issue committees must register within ten days of accepting or making contributions or expenditures in excess of \$200 or 200 petition sections. State-, county-, and special district-level issue committees must register with the Secretary of State, while municipal issue committees must register with the appropriate municipal clerk. Issue committees are subject to the same reporting requirements as candidate committees and must report all contributions and expenditures. Contribution limits do not apply to issue committees. An expenditure of \$1,000 or more on communication supporting or opposing a ballot item must include a disclaimer listing the issue committee that made the expenditure.

Small-scale issue committees are issue committees that have accepted or made contributions in an amount that does not exceed \$5,000 in support or opposition of a ballot measure or question. Small-scale issue committees accepting contributions or making expenditures that do not exceed \$200 are not required to register and file disclosure reports. Within ten days of accepting or making expenditures in an aggregate amount between \$200 and \$5,000, a small-scale issue committee must register, but is not required to file disclosure reports. Small-scale issue committees that exceed the \$5,000 threshold must notify the appropriate filing officer within 15 days, file an initial disclosure report five days later disclosing all contributions and expenditures, and thereafter function as an issue committee.

## **Recall Committees**

A recall committee is an issue committee formed solely to support or oppose the recall of a political officer. Recall committees must register with the Secretary of State or appropriate municipality within ten calendar days of making contributions or expenditures in excess of \$200 to support or oppose the recall, and are subject to the same reporting requirements as issue committees.

## **Independent Expenditure Committees**

Independent expenditure committees are persons, groups, or businesses that collect or expend \$1,000 or more to support or oppose candidates running for office. Independent expenditure committees must register with the Secretary of State within two business days of making expenditures or accepting donations for independent expenditures of more than \$1,000. Independent expenditure committees may accept unlimited donations, but may not make contributions to candidate committees or coordinate expenditures with candidates. Unlike other committees, an independent expenditure committee may spend more than \$100 in cash.

All independent expenditure committee expenditures and contributions must be reported. Itemization is required for all expenditures over \$20 and donations of more than \$250. Occupation and employer information must be included on donations of more than \$250. Expenditures of \$1,000 or more must contain a disclaimer identifying the person making the expenditure. In addition to the regular disclosure report, a 48-hour notice of an independent expenditure must be filed when an expenditure of \$1,000 or more is made within 30 days of a primary or general election. Additionally, any person giving \$1,000 or more in a calendar year to independent expenditure committees must file an independent expenditure donor report with the Secretary of State for each reporting period in which such donation is made.<sup>7</sup>

## Contribution Limits

Candidate committees may accept contributions for both primary and general elections according to the limits listed in Table 4.<sup>8</sup> Contribution limits apply once for the primary election and again for the general election. Contribution limits are adjusted every four years by the Secretary of State, and the limits below reflect the most recent adjustment made on June 10, 2015.

**Table 4. Contributions Limits**

Political Office	Contributor		
	Persons/Political Committees	Small Donor Committees	Political Parties
Governor/Lieutenant Governor	\$575	\$6,125	\$615,075
Secretary of State			\$123,000
Attorney General State Treasurer			
State Senate	\$200	\$2,425	\$22,125
State House of Representatives			\$15,975
Board of Education			
CU Regent			
District Attorney			

*Source: Secretary of State.*

## Disclosure Filing Schedule

Disclosure reports must be filed with the Secretary of State for all reporting periods with varying frequency depending on the office sought and whether or not it is an election year. A disclosure report is required for every reporting period even if no expenditures or contributions occurred in that period. Former political office holders or candidates not elected to office can submit a written request to file an annual report only. During non-election years, state law requires state candidates to file quarterly, whereas county, municipal, and special district candidates are required to file annually. During an election year, reports must be filed according to the following schedule:

<sup>7</sup>Section 1-45-108, C.R.S.; Section 1-45-109, C.R.S., Colo.Const. art. XXVII, § 10.

<sup>8</sup>Colo. Const. art XXVIII, § 3., Most recent adjusted contribution limits provided by Secretary of State's Office.

- on the first Monday in May and each Monday every two weeks thereafter before a primary election;
- on the first day of each month beginning the sixth full month before the major election. No report is required the month of the major election;
- on the first Monday in September and each Monday every two weeks thereafter before a major election;
- 30 days after the major election;
- 14 days before and 30 days after a special legislative election held in an off-year election;
- for special district elections, on the 21<sup>st</sup> day before; the Friday before; and on the 30<sup>th</sup> day after the election; and
- any contribution of \$1,000 or more received within 30 days of the primary or general election must be reported as a major contribution within 24 hours of receipt.<sup>9</sup>

A major election is any election that decides a public office election. Off-year elections are elections that are held in odd-numbered years and include state ballot measures and local measures and offices. State public office elections are held in even-numbered years.

Municipal candidate disclosure reports are filed with the municipal clerk, and may have a different filing schedule.

### **Disclosure Complaints and Penalties**

Any person who believes a violation of campaign finance law has occurred may file a complaint with the Secretary of State within 180 days of the suspected violation. After the Secretary of State verifies that the complaint contains all required information, it will be referred to an Administrative Law Judge at the Office of Administrative Courts for a hearing. Complainants must gather and present evidence in support of the complaint at the hearing. If a judge finds that a violation has occurred, the judge can impose civil penalties of at least double and up to five times the amount contributed, received, or spent in violation of contribution or voluntary spending limits.

Failure to file a disclosure report or for reports filed after the due date results in a \$50 per day penalty. The Secretary of State or municipal clerk has the discretion to reduce or waive penalties upon showing of good cause. A waiver request must be submitted within 30 days of receiving a notice of an imposed penalty.<sup>10</sup>

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<sup>9</sup>Section 1-45-108, C.R.S.

<sup>10</sup>Color. Const., art. XXVIII, § 10.