Colorado Campaign and Political Finance
Laws & Filing Requirements

School Board Candidates

School Board Candidate Committees

Colorado Secretary of State's Office
Presented by Kristine Reynolds
Presentation for CASB June 16, 2021
Disclaimer

The Colorado Secretary of State’s office does not provide legal advice.

This training was created for reference purposes only.

Information contained in the training is not a substitute for legal advice and actual knowledge of campaign finance laws and regulations.
Resources

- **Campaign Finance** page on Secretary of State’s (SOS) website
- **TRACER** (Transparency in Contribution and Expenditure Reporting) website
- **Colorado Campaign and Political Finance Manual** – available on TRACER and the SOS website (and includes the laws and rules)
  - Article XXVIII of the Colorado Constitution,
  - Title 1, Article 45 of the Colorado Revised Statute (a.k.a. the Fair Campaign Practices Act), and
  - Rules Concerning Campaign and Political Finance
- **Training Opportunities** – [Click here to visit the training page](#)
  - Online eLearnings (CPF 101)
  - TRACER Webinars ([Learn how to use TRACER](#))
  - **Lawn Chair Chats** – Informal discussions, via Zoom, to discuss Colorado’s Campaign Finance laws/rules and TRACER (functions and demonstrations).
- **Campaign Finance Support Help Desk**
  - Phone: 303-894-2200 (Dial 3, then 1)
  - Email: [CPFhelp@sos.state.co.us](mailto:CPFhelp@sos.state.co.us)
Topics for Discussion

• Standalone candidate v. candidate committee
• Disclosure Reports & filing schedules
• Contributions, Expenditures
• Disclaimers / Paid for by Statements
• Penalties, Waivers, & Complaints
• Closing / Terminating a committee
• TRACER
You Become a Candidate When

• You publicly announce an intention to seek election to public office

And then

• Receive a contribution or make an expenditure on behalf of the candidacy

Within 10 calendar days of becoming a candidate you must file a Candidate Affidavit

Public Announcement Definition (CPF Rule 1.20)

• Registering a candidate committee, or

• Announcing an intention to seek public office through:
  – A speech, advertisement, or other communication reported or appearing in public media, or
  – A statement made in any place accessible to the public, or
  – A statement made in a manner that a reasonable person would expect to become public.
Standalone Candidate vs. Candidate Committee

**Standalone Candidate**
- A candidate who is self-funding their candidacy; not accepting contributions of any kind from anyone.
- Files disclosure reports to show their expenditures for the campaign.
- Only required to file reports for periods where expenditures take place.

**Candidate Committee**
- A candidate who is accepting contributions to help fund their campaign.
- Files disclosure reports to show their contributions and expenditures.
- Must register prior to accepting any type of contribution.
- Once registered all reporting (contributions/expenditures) is done under the committee.
- Required to file all reports regardless of the level of activity.

*Note: DEOs who disqualify a candidate under 1-45-110(3), C.R.S. must provide proper and timely notification.*
In 2018 legislation passed (HB18-1047) that increases the frequency and number of disclosure reports for school board candidates/committees. Candidates may have upwards of 10 reports assigned in the year when their office is on the ballot. During years when the candidate’s office is not on the ballot reports are due quarterly (instead of annually).

<table>
<thead>
<tr>
<th>2021 Report Due Dates</th>
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<tbody>
<tr>
<td>May 3, 2021 (Mon.)</td>
<td>September 20, 2021 (Mon.)</td>
</tr>
<tr>
<td>June 1, 2021 (Tue.)</td>
<td>October 5, 2021 (Tue.)</td>
</tr>
<tr>
<td>July 1, 2021 (Thur.)</td>
<td>October 18, 2021 (Mon.)</td>
</tr>
<tr>
<td>August 2, 2021 (Mon.)</td>
<td>November 1, 2021 (Mon.)</td>
</tr>
<tr>
<td>September 7, 2021 (Tue.)</td>
<td>December 2, 2021 (Thur.)</td>
</tr>
</tbody>
</table>

Reports are filed electronically using TRACER and are timely if filed before midnight on the due date.

Other Important Dates:
- September 3, 2021 – Starts the 60 day period before the Election for Biennial School Electioneering Communication and concludes on November 1, 2021
- October 3, 2021 – Starts the 30 day period before the Election for 24 Hour Major Contributor reports and concludes on November 1, 2021
### Supplemental Information / Reports

**Biennial School Electioneering Communication**

Communications referring to one or more candidates for school board and are broadcasted, printed, mailed, delivered, or otherwise distributed within 60 days before the election.

The communication may or may not use express advocacy.

When an expenditure is entered and flagged by a filer as meeting the criteria, TRACER prompts filer to provide additional details which includes the name(s) of the candidate(s) mentioned in the communication and the date(s) and method of the communication.

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**24 Hour Notice of Major Contributor Report**

A Major Contribution is a one-time contribution of $1,000 or more received within 30 days before the Regular Biennial School election.

Note: This includes contributions or loans a candidate gives to their own candidate committee.

TRACER creates a report once a qualifying contribution has been entered/saved. These reports are due within 24 hours of the recorded received date.

Note: If an incorrect contribution date is entered, call the help desk for assistance in correcting. Updating a date on a major contribution entry may create multiple major contributor reports.
Contributions

Contribution Limits

• There are no contribution limits for school board candidates – must be from permissible sources

• Cash/coin contributions are allowed up to $100 – if over $100 must be received in another form of payment

• LLC contributions are allowed if
  – All the LLC members are permissible contributors,
  – The LLC’s shares are NOT publicly traded,
  – The LLC does not file their taxes like a corporation.
  – See the training manual for more details on LLC contributions and how to report them.

Prohibited Contributors / Contributions

• Corporations (profit & non-profit)
• Labor Organizations / Unions
• Foreign Citizens
• Foreign Governments
• Foreign Corporations
• Issue Committees
• Small-Scale Issue Committees
• Independent Expenditure Committees
• Other Candidate Committees
• Anonymous sources – contributions where the identity of the contributor is unknown or not all the required information is provided
## Disclosure Requirements

**Contributions**
- Must report all – including those under $20 (a.k.a Non-Itemized)
- $20 or more (aggregated or one-time), within a reporting period, must be itemized with:
  - Contributor’s name & address, and
  - Occupation & Employer, if from a natural person & the contribution is $100 or more
- No cash or coin contributions over $100
- Use Fair Market Value to report non-monetary (in-kind) contributions
- LLC contributions must have the affirmation form and be itemized regardless of the amount
- Anonymous contributions may not be kept and must be donated to an IRS recognized charity or sent to the State Treasurer’s office within 30 days of receipt. (CPF Rule 10.8)
- Select “Candidate” as the contributor type when a candidate contributes/loans to their own committee

**Expenditures**
- Must report all – including those under $20 (a.k.a Non-Itemized)
- $20 or more (aggregated or one-time), within a reporting period, must be itemized
  - Itemized means listing:
    - Name & address to whom payment was made
    - Purpose of expenditure
- No cash or coin expenditures over $100
- An expenditure is made when:
  - The actual spending occurs OR
  - A contractual agreement has been made and the amount is known - *Whichever comes first*
- The law does not provide a list of permissible or prohibited types of expenditures. Funds can’t be used for personal purposes except as outline by 1-45-103.7(6.5), C.R.S. by candidates for reasonable and necessary child / dependent care expenses.
Sign Placement & “Paid For By” Statements

Sign Placement - check with:
• The city’s / county’s zoning or code enforcement office
• CDOT (Colorado Department of Transportation)
• HOA (Home Owner Association)

TV & Radio Ads / “Paid for By” Statements
• Must comply with the Federal Communications Commission (FCC) Sponsorship Identification or “Sponsored by” regulations. Click here to visit the FCC website.

THE SECRETARY OF STATE’S OFFICE SUGGESTS THAT ALL COMMUNICATIONS CONTAIN A DISCLAIMER / PAID FOR BY STATEMENT

Guidance Document Link
Disclaimer / “Paid for By” Statements are required for the following types of communications:

<table>
<thead>
<tr>
<th>Broadcast &amp; Non-Broadcast</th>
<th>Placed on a website</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mailed</td>
<td>Streaming media service</td>
</tr>
<tr>
<td>Printed</td>
<td>Online forum for a fee</td>
</tr>
<tr>
<td>Delivered</td>
<td>Otherwise distributed</td>
</tr>
<tr>
<td>Electioneering Communications</td>
<td>Independent Expenditures</td>
</tr>
<tr>
<td>--------------------------------</td>
<td>-------------------------</td>
</tr>
<tr>
<td>• Spends $1,000 or more, in the aggregate during a calendar year, on Electioneering Communications</td>
<td>• Spends in excess of $1,000 on an Independent Expenditure Communication in the calendar year</td>
</tr>
</tbody>
</table>
“Paid For By” Statements / Disclaimer Requirements

Non-Broadcast Communications including Online Communications

• Must appear in a manner that is clear, conspicuous, and is clearly readable,

• A statement that “The communication has been paid for by (full name of the person paying for the communication),

• Name of the natural person who is the registered agent if the person that paid for the communication is not a natural person,

• For an Independent Expenditure, a specific statement that the communication is not authorized by any candidate,

• Font is no less than 15 percent of the largest font used in the communication. If 15 percent is less than 8 point font then the font must be 8 point font.
Broadcast Communications including Online Video and Audio

- Must comply with the Federal Communications Commission (FCC) for size, duration and placement. Click [here](#) to visit the FCC website for their requirements.

- A statement that “The communication has been paid for by (full name of the person paying for the communication)”
Electronic or Online Communications

If impracticable to include a disclaimer on an electronic or online communication, the required disclaimer must be available by means of a direct link from the communication to a web page or application screen containing the disclaimer statement.

• Direct link disclaimer requirements:
  – Same as the Non-Broadcast communication requirements for size and content,
  – The information on the direct link must be clearly and conspicuously displayed, and must be immediately apparent on the screen without receiving or viewing any additional material.
A disclaimer / paid for by statement does not apply to bumper stickers, pins, buttons, pens, and similar small items upon which the disclaimer cannot be reasonably printed.
## Penalties / Waiver Requests

<table>
<thead>
<tr>
<th>Imposed Penalties</th>
<th>Appealing Penalties</th>
</tr>
</thead>
<tbody>
<tr>
<td>Penalties of $50 per day, including weekends and holidays, are imposed every day a report is late.</td>
<td>Written appeals may be submitted to the Secretary of State’s office through your TRACER account or by email. The request is due no later than 30 days after the date the notification of penalty was sent.</td>
</tr>
<tr>
<td>![Penalty Icon]</td>
<td>Penalty may be reduced or waived if good cause is shown – See CPF Rule 18.1 for details.</td>
</tr>
</tbody>
</table>

But the dog ate my check book.
Campaign Finance Complaints

- Complaint Process is established by Colorado law 1-45-111.7 C.R.S.
- Anyone can file a complaint
- Complaints cannot be filed anonymously
- Complaints are public information
- Complainants are not a party to the proceedings
- Complaints may be initiated by the Election Division’s Complaint and Enforcement unit

  – Note: The Complaint and Enforcement unit is separate and apart from the Campaign Finance Compliance and Guidance team. Contact info: CPFcomplaints@sos.state.co.us or 303-894-2200 ext. 6338.
CPF Complaints Must:
• Be filed on the Campaign and Political Finance Complaint form
• Include Complainant’s name, address, email, telephone number, and signature
• Include the Respondent’s name, address, email, and telephone number
• Be filed within 180 days of when Complainant knew or should have known of the alleged violation
• Allege one or more violations of campaign finance regulations or law
• State sufficient facts to support a legal and factual basis for the complaint
• Complaint process & outcomes:
  – Cure
  – Investigation
  – Dismissal
  – Administrative Hearing
• Administrative Hearings can result in a monetary penalty
• Complaint process statute / rules:
  – 1-45-111.7 C.R.S.
  – Campaign and Political Finance Rule 23
Unexpended Funds / Termination

These are the funds left over after the election

Candidate Committee

• Personal use prohibited
  • Candidates may be reimbursed for reasonable and necessary child /
  dependent care expenses incurred in connection with campaign activity
during the election cycle

• Permissible
  • Retain for use in a subsequent election (CPF Rule 2.2.4)
  • Reimburse Candidate for their expenditures
  • Contribute to the political party, subject to contribution limits
  • Return to contributors (no more than what was contributed)
  • Donate to a charitable organization recognized by the IRS
  • Review 1-45-106 C.R.S. for additional options

Termination Reports

• May not have any outstanding debts/obligations/complaints including
  late filing penalties

• Losing an election does not automatically terminate an account in
  TRACER (the candidate or agent of a committee must affirmatively terminate
  in TRACER otherwise reports are still required)

Note: Records must be kept for 180 days after the election (LLC affirmations for 1 year).
If a complaint is filed must maintain all records until it is settled.
Thank You

Campaign Finance Support Team
303-894-2200

E-mail: cpfhelp@sos.state.co.us
TRACER website: http://tracer.sos.colorado.gov
This search allows you to see all who have filed a candidate affidavit in TRACER.

1. Click Candidate Search
2. Election Year field - Select 2021
3. Jurisdiction field: From the dropdown list choose the desired county (Tip: use the county where the Admin. Offices for the School District are located)
4. Office field: Select School Board Director
5. Status field: Defaults to Active (may change to Select all Status if needed)
6. Click on the red Search button
7. Search Results are displayed (or an error message appears if no results are found)
8. Click on a candidate’s name to see detailed information about them and their filings
Registered User Login Page

Login page after setting up user name, PIN, and security question / answer.

TRACER will take you directly to your candidate work space unless you have a committee, in which case you’ll need to select the committee.

<table>
<thead>
<tr>
<th>Organization</th>
<th>Key</th>
<th>Jurisdiction</th>
<th>Election, Office &amp; District</th>
<th>Type &amp; Status</th>
</tr>
</thead>
<tbody>
<tr>
<td>FRIENDS OF SCHOOL BOARD CANDIDATE FOR BOULDER VALLEY SCHOOLS</td>
<td>2015028614</td>
<td>BOULDER</td>
<td>2015 NOVEMBER ELECTION SCHOOL BOARD DIRECTOR (BOULDER VALLEY RE-2)</td>
<td>Committee Active</td>
</tr>
<tr>
<td>SCHOOL BOARD CANDIDATE</td>
<td>2015028613</td>
<td>BOULDER</td>
<td>2015 NOVEMBER ELECTION SCHOOL BOARD DIRECTOR (BOULDER VALLEY RE-2)</td>
<td>Candidate Active</td>
</tr>
</tbody>
</table>
After initially setting up your login information you may use one of the “Forgot” links. You will need to know the answer to the security question.

- **Forgot your PIN?** will show your PIN on screen
- **Forgot your User Name?** will send you your user name by email (to the email you used to register)
The main difference between a candidate’s and a committee’s work space is the committee’s work space has a Contributions tab across the top. Enter all transactions, using the work tabs at the top of the page, **before** attempting to file a report.
After entering all transactions go to the File Reports tab, scroll past the Filing History section and down to the Reports Due section, and locate the required report. This takes you to the File Reports page where you’ll have an opportunity to review the report before filing.

Whether filing as a candidate or committee, use the “View/File” link to submit a report with activity or if you have no activity, use the “Nothing to Report” link.
Click on File to submit the report. TRACER may ask if you really want to file the report – click OK to confirm the action.
Filing Complete

• Click the red *Finished* button once you get the onscreen confirmation of filing.

Your Filing has been successfully submitted. To view click the link below.

Click here to View Report

• You also get an email confirmation

Mon 1/12/2015 3:57 PM
campaignfinance@sos.state.co.us
Confirmation of Electronic Campaign Finance Filing for CDOS TEST

To [Public CPF help]

The campaign finance report due 10/14/2014 was successfully filed with the Secretary of State’s Office on 10/14/2014.

• Don’t be late – we don’t want to impose late filing penalties – call or email us for help.
Go to the Administration tab to update your contact information including email addresses.

TRACER sends email notices when a report is filed and when an upcoming report is due; therefore, please keep your email address current.
TRACER Resources

- “Help with this page” link
- Campaign Finance Manual
- Learn to Use TRACER webinars

Help page results

Viewing a Candidate or Committee

You can access the Candidate/Committee Overview page to view the account status, transaction history, reports due, file a report that is due, add or modify a penalty or waiver, and request a waiver.

Tasks

To access the Candidate/Committee Overview page:

1. Perform the steps for searching for a Candidate or Committee.

The Candidate/Committee Search Results page is displayed.

2. Click the link in the Candidate/Committee Name column of the data grid for the Candidate.