

For federal races, all political candidates and committees must adhere to federal campaign finance and tax laws no matter what state they originated in. Candidates, committees and organizations conducting political activity must file with the FEC and/or the IRS based on what kind of entity they are and what kind of political activity they are engaged in.

For state and local races, campaign finance laws and filing requirements vary dramatically from state to state. However, federal Supreme Court rulings related to campaign finance generally apply to all political candidates and committees, whether federal, state or local. The *Citizens United* decision, for example, is typically understood to mean that corporations and unions are allowed to make unlimited independent expenditures on behalf of *any* political candidate, from U.S. President to state governor to small town mayor.

States may challenge this assumption, as in the recent Montana case (*American Tradition Partnership v. Bullock*) in which Montana’s State Supreme Court ruled that *Citizens United* should not apply to Montana’s state candidates due to their unique history of corruption. The U.S. Supreme Court’s decision not to even hear argument for the Montana case, however, sends a strong message to other states. In many states—including Colorado—state Supreme Courts have already determined that their states should follow the rulings of *Citizens United* and other federal decisions.

In general, most current state laws take a similar approach to regulation as federal laws: contribution restrictions, disclosure requirements, and voluntary spending limits (e.g. public financing).

Contribution Limits

According to the National Conference of State Legislatures (NCSL), just four states (Missouri, Oregon, Utah and Virginia) place no limits on contributions at all.¹ Seven states limit or prohibit contributions by corporations and unions to candidates, but leave contributions from all other sources unlimited.

In the remaining 39 states, contributions *to candidates* from individuals, political parties, PACs, corporations and unions are typically limited (and sometimes, in the case of corporations and unions, prohibited). Below is an NCSL table that shows the National Average and Median Limits on Individual Contributions to Candidates during the 2011-2012 election cycle.²

	Gubernatorial	Senate	House
National Average	\$8,722	\$4,277	\$3,764
National Median	\$5,000	\$2,000	\$2,000
Highest Limit	\$60,800 (New York)	\$23,087 (Ohio)	\$23,087 (Ohio)
Lowest Limit	\$872 (Arizona)	\$320 (Montana)	\$320 (Montana)

Some states also limit contributions *to PACs and political parties*, and some states have additional limits, such as limits on cash contributions, contributions during the legislative sessions, or contributions made by minors.

¹ <http://www.ncsl.org/legislatures-elections/elections/campaign-contribution-limits-overview.aspx>

² <http://www.ncsl.org/legislatures-elections/elections/contributions-to-candidates-2008.aspx>

Disclosure Laws

All states have laws that require some level of disclosure from candidates, committees and political parties.³ In addition, at least 38 states—including Colorado—provide an electronic database for at least a portion of their campaign-finance data.⁴

Disclosure laws include requirements for reporting the amounts and sources of contributions and expenditures. States vary in the amount of details required, the thresholds for disclosure, and the frequency of reporting.

It is important to note that state laws have similar exceptions as those seen in federal laws—for example, 501(c)(4) organizations that can make donations to independent expenditure committees without identifying individual donors. In addition, states have varying rules regarding criteria for filing as a political committee (see Colorado section of this brief for an example).

Public Financing

As of 2010, twenty-five states operated programs that give state funds to candidates and/or political parties for their campaigns, or give funds as tax incentives for citizens who make individual contributions to candidates.⁵ A total of 16 states offered public funds directly to political candidates. Similar to federal public financing, participation is voluntary. Candidates who choose this route typically must 1) agree to abide by spending limits and 2) cease or limit their raising of private contributions.

The amount of grants given to candidates varies from state to state (or city to city for local races). In some cases, the grants are small and the programs limited in scope; in others, a public grant may cover most of the cost of a candidate's campaign.

Most states employ a *partial public financing* approach, where the grants cover a portion of the candidate's costs, and the candidate must raise private funds to cover the remainder. Funds for these grants typically come from income tax check-offs and legislative appropriations. In recent years, funding for these programs have not kept up with the rising costs of campaigns.

A newer type of public financing is called "*Clean Elections*" financing. This approach finances candidate campaigns almost entirely with public funds, and requires a candidate to adhere to strict spending limits and a complete prohibition on raising private funds. In order to qualify, a candidate must collect a specified number of small contributions (e.g. \$5) to demonstrate viability. Arizona, Connecticut, Maine, New Jersey, New Mexico, North Carolina and Vermont all offer full public funding to at least some candidates.

³ <http://www.ncsl.org/legislatures-elections/elections/campaign-finance-an-overview.aspx>

⁴ <http://www.followthemoney.org/press/ReportView.phtml?r=444&ext=2#Conclusion>

⁵ <http://www.ncsl.org/legislatures-elections/elections/public-financing-of-campaigns-overview.aspx>

Colorado Laws⁶

In general, the structure of Colorado campaign finance is similar to the federal structure. Non-candidate committees for state races (i.e. PACs, Independent Expenditure Committees, etc.) must go through a process to determine what kind of committee they are, and then must file with the Colorado Secretary of State's Office just as a federal committee would file with the FEC. Accordingly, candidates, parties and political committees follow specific state laws for contribution restrictions and disclosure rules.

Colorado Contribution Restrictions

Colorado has contribution restrictions both on *who* can contribute to candidates and *how much* they can contribute. Candidates and candidate committees may not accept contributions from:

- Corporations
- Foreign citizens, corporations or governments
- Another candidate committee (local, state or federal)
- Lobbyists, principals of lobbyists, or political committees who retain a lobbyist, when the General Assembly is in session (applies to members of or candidates for the General Assembly and Executive Office)
- Anonymous contributions of \$20 or more
- Limited Liability Companies (LLCs), if any of the LLC members are a corporation, labor organization, natural person who is not a US citizen, foreign government, or lobbyist/principal of a lobbyist.

Outside of these prohibitions, candidates who will appear on a primary ballot may accept contributions (within limits) for both the primary and general election. Unaffiliated candidates who will not be on a primary ballot may only accept contributions for the general election. **See Attachment A for contribution limits.** Monetary contributions and donations of goods or services (excluding volunteer donations of time) apply against contribution limits.

Note that contributions to political parties and small donor committees are also limited in Colorado. Issues Committees (i.e. for ballot issues) may receive unlimited donations. Just like with federal law, Independent Expenditure Committees in Colorado may receive unlimited donations (and make unlimited expenditures) so long as they are not coordinating with candidates, candidate committees or political parties.

Colorado Voluntary Spending Limits

While Colorado does not have a public financing program for state candidates, candidates can choose to accept voluntary spending limits (and sometimes choose to do so as part of a “clean elections campaign”). In this case, candidates must choose to accept these limits at the time the candidate affidavit is filled. Any time a new candidate enters the race, the candidate who chose to accept spending limits has 10 days to withdraw acceptance.

Colorado Disclosure Laws

Colorado has numerous disclosure and filing requirements, starting at the moment someone enters the race. New state candidates are required to file an affidavit electronically within 10 days of becoming a candidate, and to file a personal financial disclosure within the next ten days.

⁶ Most of this section comes from: http://www.sos.state.co.us/pubs/elections/CampaignFinance/files/State_Manual.pdf

All filings with the Secretary of State—except for personal financial disclosures and gift and honoraria reports—must be submitted electronically through the state’s TRACER system. Filing and reporting schedules vary based on the office being sought.

Throughout the election cycle, candidates and candidate committees must report all expenditures, and must itemize all expenditures of \$20 or more—including name and address of payee and purpose of the expense. They must also disclose all contributions, and itemize any contributions of \$20 or more (including non-monetary donations). Contributions of \$100 or more must also include occupation and employer of the contributor.

In addition, candidates and their committees must file a Major Contribution report within 24 hours of receiving any contribution of \$1,000 or more within 30 days of the primary or general election. These reports must be filed in addition to reporting the contributions on the regularly scheduled reports.

In general, non-candidate political committees (including Issues Committees created to support or oppose a ballot issue or ballot question) must also report all contributions received and expenditures made, and itemize (including name and address) for contributions and expenditures of \$20 or more (plus employer for donations totaling \$100 or more). All contributions to these committees from LLCs, however, must be itemized. In addition, non-candidate political committees must also file Major Contribution reports.

Independent Expenditure Committees (IECs) must register with the SOS when any person, group, business or other entity makes independent expenditures totaling more than \$1,000 or accepts donations in excess of \$1,000. IECs must itemize all expenditures greater than \$20 and all donations of more than \$250, including occupation and employer information. Additionally, IECs must file a separate 48 Hour Notice of Independent Expenditure within 48 hours of obligating funds for expenditures of more than \$1,000 made within thirty days of a primary or general election. Note that if an IEC fails to register their committee or to file a report, they will be penalized \$50 per day.

Communications made by IECs *and* by Issues Committees are also required to have “Paid for by” statements. For IECs, the name of the person making the independent expenditure must be prominently featured on the communication, along with a statement that the communication or advertisement is not “authorized by, coordinated with, or controlled by a candidate. Issues Committees must include the name of the Issue Committee in broadcast communications of more than \$1000.

Summary of Colorado’s Landscape

Colorado has had a history of fairly restrictive campaign finance laws. Similar to the federal system, Colorado’s 2012 campaign finance regime is primarily defined by two major platforms: *campaign finance laws* (set into state statutes and the Colorado Constitution), and *regulations/interpretations of these laws* as defined by Colorado’s Office of the Secretary of State.

Constitutional Amendment 27, which included a comprehensive series of campaign finance reforms, was passed by 66% of voters in 2002. A series of corresponding changes to Colorado’s Fair Campaign Practices Act (the primary statutes governing campaign finance) have passed in subsequent years.

Some laws within the Amendment 27 framework—such as a statewide ban on corporate contributions for independent expenditures—have been updated via statute based on a decision by Colorado’s state Supreme Court that the state laws must reflect the federal rulings in *Citizens United*.

Some of Colorado’s other laws, however, are currently the subject of heated debate and litigation. In March 2012, Colorado’s Secretary of State provided an updated interpretation of the state’s campaign finance laws. Campaign finance reform advocates argue that some of these interpretations change existing statutes and lead to looser regulations than the law intended.⁷

For example, some of the new rules, according to a recent lawsuit, effectively repeal disclosure requirements for state 527 groups. Entities in Colorado (including 527 organizations) are required to file as state political committees if they meet certain criteria:

1. Any person, other than a natural person, or any group of two or more persons, including natural persons that support or oppose the nomination or election of one or more candidates as its *major purpose*.
2. Before an entity or a group of people spends \$200 or more engaging in political activity that *expressly advocates* the nomination, election, or defeat of a candidate, they must register a political committee with the appropriate office.

There has been great debate as to what constitutes both “major purpose” and “express advocacy.” The Secretary of State’s Office holds that all changes were simply clarifications of existing law, and that they generally mirror federal legal rulings and administrative clarifications.

A 2012 Colorado Supreme Court ruling (*Colorado Ethics Watch v. Senate Majority Fund*) said that if groups do not include so-called “magic words,” such as “vote for” or “elect” in their advertisements, they are not required to register as a political committee (or meet related filing, contribution and disclosure requirements).⁸ A recent Denver District Court ruling (*Paladino v. Gessler*), however, held some of the new rules re: “Major Purpose” to be invalid.

It is likely that these and other cases—both in Colorado and in other states—will continue to move through the legal system, and it is too soon to determine how the courts will interpret each contested rule or law.

⁷ Burnett, Sara. Watchdog Groups Sue Secretary of State Over Campaign-Finance Laws. Denver Post, April 7, 2012

⁸ Burnett, Sara. Colorado Supreme Court upholds “magic words” test for political spending by 527s. Denver Post. 2-22-12

Attachment A

QUICK REFERENCE OF COMMITTEE CONTRIBUTION LIMITS

This chart reflects contribution limits for all political committees, small donor committees, issue committees and political parties within the State of Colorado. Home Rule counties or municipalities may have their own contribution limits; therefore, you should contact the county clerk and recorder or municipal clerk. The limits in this chart reflect adjustments made by CPF Rule 12 pursuant to Article XXVII, Sec. 3(13) of the Colorado Constitution. In addition, please review Campaign and Political Finance Rule 2.6 and 2.7 relating to issue committee and political committee contributions.

Contributor	Committee Receiving Contribution				
	Political Committee (per State House of Representatives election cycle)	Small Donor Committee (per calendar year)	Political Party (per calendar year)	Issue Committee	Independent Expenditure Committee (donations)
Natural Person	\$550	\$50	\$3,400 (State, county, district, & local levels combined of which no more than \$2,825 may be given to the state party.)	No Limit	No Limit
Political Party	\$550	Prohibited	\$3,400 (State, county, district, & local levels combined of which no more than \$2,825 may be given to the state party.)	No Limit	No Limit
Political Committee (PC)	\$550	Prohibited	\$3,400 (State, county, district, & local levels combined of which no more than \$2,825 may be given to the state party.)	Prohibited	No limit
Small Donor Committee (SDC)	\$550	Prohibited	\$17,075 (State, County, district, and local levels combined of which no more than \$14,225 may be given to the state party.)	Prohibited	No limit
Candidate Committee	\$550, but only if the stated purpose of the political committee includes supporting the candidate who is contributing.	Prohibited	\$3,400 of unexpended campaign funds only. (State, county, district, & local levels combined of which no more than \$2,825 may be given to the state party.)	Prohibited	No limit
Issue Committee	Prohibited	Prohibited	Prohibited	No Limit	Prohibited
Independent Expenditure Committee	Prohibited	Prohibited	Prohibited	Prohibited	No limit
Business Entity (Other than a Corporation)	\$550	Prohibited	\$3,400 (State, county, district, & local levels combined of which no more than \$2,825 may be given to the state party.)	No Limit	No Limit
Corporations & Labor Unions	\$550	Prohibited	Prohibited	No Limit	No Limit
Federal PAC	\$550	Prohibited	\$3,400 (State, county, district, & local levels combined of which no more than \$2,825 may be given to the state party.)	No Limit	No Limit
Federal 527 Organization	\$550	Prohibited	\$3,400 (State, county, district, & local levels combined of which no more than \$2,825 may be given to the state party.)	No Limit	No Limit

QUICK REFERENCE OF STATE CANDIDATE CONTRIBUTION LIMITS

MAXIMUM CONTRIBUTION LIMITS FOR CANDIDATES PER ELECTION CYCLE

Contribution limits listed in this chart reflect adjustments made by Rule 12 pursuant to Art. XXVIII, Sec. 3(13) of the CO Constitution effective March 15, 2011 and are current until 2015.

From ↕ To ⇒	Governor / Lt. Governor	Secretary of State	Attorney General	State Treasurer	State Senate	State House of Representatives	State Board of Education	CU Regent	District Attorney	Regional Transportation District
Natural Person / Political Committee & Business Entity (Other than a corporation)	Primary* \$550	Primary* \$550	Primary* \$550	Primary* \$550	Primary* \$200	Primary* \$200	Primary* \$200	Primary* \$200	Primary* \$200	No Limit
	General* \$550	General* \$550	General* \$550	General* \$550	General* \$200	General* \$200	General* \$200	General* \$200	General* \$200	
Small Donor Committee	Primary* \$5,675	Primary* \$5,675	Primary* \$5,675	Primary* \$5,675	Primary* \$2,250	Primary* \$2,250	Primary* \$2,250	Primary* \$2,250	Primary* \$2,250	No Limit
	General* \$5,675	General* \$5,675	General* \$5,675	General* \$5,675	General* \$2,250	General* \$2,250	General* \$2,250	General* \$2,250	General* \$2,250	
Political Party	\$569,530	\$113,905	\$113,905	\$113,905	\$20,500	\$14,805	\$14,805	\$14,805	\$14,805	No Limit
Candidate Committee (to another Candidate committee)	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited
Issue Committee	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited
Indep. Expenditure Committee	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited
Corporations & Labor Unions	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited
Federal PAC (see Rule 2.8)	Primary* \$550	Primary* \$550	Primary* \$550	Primary* \$550	Primary* \$200	Primary* \$200	Primary* \$200	Primary* \$200	Primary* \$200	No Limit
	General* \$550	General* \$550	General* \$550	General* \$550	General* \$200	General* \$200	General* \$200	General* \$200	General* \$200	
527 Organization	Consult Internal Revenue Service Regulations									

* All major party candidates may accept contributions for the primary and general election. Minor party candidates who appear on a primary election ballot may accept contributions for the primary and general elections. Unaffiliated and minor party candidates who do not appear on a primary election ballot may only accept contributions for the general election. The Governor and Lt. Governor are considered one committee and the contribution and spending limits for governor apply to the joint committee.

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. Contributions from a political party are based on a candidate's election cycle and 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 which are carried forward to a subsequent election cycle are also counted as a political party contribution.