

Election Rule 3

3.1 Committees and Committee Reporting.

3.1.1 No Joint Candidate Committees. Joint candidate committees between two (2) or more candidates are prohibited.

3.1.2 Bank Account. A candidate or committee may have only a single campaign bank account unless the D.R.M.C. specifically permits or requires a second bank account.

3.1.3 Lack of Bank, Financial Institution, or Other Depository for funds. If a committee does not use a bank, financial institution, or other depository to receive contributions or to make expenditures, the committee must disclose on each report the committee's lack of a bank, financial institution, or other depository.

3.1.4 Best-effort Attempt to Obtain Contributor Information. A committee must use best efforts to obtain the information required by D.R.M.C. § 15-37 (b) for a contributor or payee. To demonstrate "best efforts" the committee must:

- A.** Document that its fundraising solicitation, including but not limited to a donation envelope or online donation portal, solicits the required information from contributors;
- B.** Make at least one documented effort per contribution, contribution in-kind, or payee to request the information and inform the contributor or payee that the information is required by law;
- C.** Report a best-effort attempt electronically as required by the clerk and recorder; and
- D.** Provide any other information the clerk and recorder requests related to a best-effort attempt.

3.2 Electronic Filing Required. Unless otherwise specified by the clerk and recorder, all reports or other documentation required by the D.R.M.C. must be filed electronically in the manner prescribed by the clerk and recorder.

3.2.1 Committee or Filer Responsibility. Each person or committee filing disclosure reports, affidavits, complaints, and waiver requests will remain solely responsible for compliance with Article III of Chapter 15, D.R.M.C., and these Rules in all respects regardless of any actions or inactions of the clerk and recorder or the clerk's employees, officers, and agents in interpreting, administering, and implementing applicable laws and rules.

3.3 Extension of Reporting Deadlines.

3.3.1 Extension Due to City Office Closure. For purposes of D.R.M.C. § 15-37(c) and (d), if a reporting day falls on a day when the city is fully or partially closed for business, the report is due the next business day.

3.3.2 Extension Due to City Technology Failure. If the clerk and recorder’s online reporting database is unavailable to accept filings for a total of more than one (1) hour on the filing’s due date, the clerk may extend the due date and must provide notice of the extension through the online reporting database and the clerk and recorder’s website.

3.4 Unexpended Campaign Funds.

3.4.1 Required Disclosure. If a committee donates unexpended campaign contributions to a 501(c)(3) non-profit organization in accordance with D.R.M.C. §15-36(b), the committee must disclose, in a manner prescribed by the clerk and recorder, any relationship that the candidate or treasurer has with any of the charitable organization’s founders, officers, or employees, or their immediate family members. “Immediate family” has the same meaning as that term is defined in D.R.M.C. § 2-52(c).

3.4.2 Restricted Uses. A candidate committee may not contribute unexpended campaign contributions to a state or federal candidate or committee.

3.5 Advisory Opinions. Any person may request an advisory opinion from the clerk and recorder’s office regarding the applicability of Article III of Chapter 15 of the D.R.M.C. or the clerk’s campaign finance rules concerning a specific transaction with which the requestor is involved.

3.5.1 The clerk and recorder will determine, at his or her discretion and within a reasonable amount of time, whether to issue the advisory opinion. In making the determination, the clerk will consider:

- A. Whether the advisory opinion will terminate a controversy or remove uncertainties as to the application of any law to the requestor;
- B. Whether the request involves a subject, question, or issue that concerns a complaint currently pending before the clerk and recorder, a hearing officer, or court; and
- C. Whether the request seeks a ruling on a moot or hypothetical question.

3.5.2 The requesting party may rely on the clerk and recorder’s advisory opinion as an affirmative defense to any complaint filed under D.R.M.C. § 15-44.

3.5.3 The clerk and recorder will make available on The Clerk’s official website:

- A. Each request for an advisory opinion;
- B. Each determination of whether to issue the advisory opinion; and
- C. Each advisory opinion the clerk issues.

3.6 Fines and Waivers.

3.6.1 Review and Appeal. A fined party may request a waiver of a penalty assessed by the clerk and recorder under D.R.M.C. § 15-45. A fined party may not request a waiver of a penalty assessed by a hearing officer. The clerk will not consider a waiver request until all curable deficiencies are cured. The waiver request must include the following:

- A. The reason for the delinquency or deficiency, including any mitigating circumstances;
- B. Actions taken by the requestor to avoid future delinquent or deficient filings; and
- C. Any other relevant information.

3.6.2 The clerk and recorder will respond to a waiver request within five (5) business days. Failure of the clerk to respond within five (5) business days does not constitute an approval of the request.

3.6.3 When considering a waiver request, the clerk and recorder will consider the requestor’s history of delinquencies, outstanding penalties, and the information provided in the waiver request. The clerk and recorder may also request additional information when considering the request.

3.6.4 A requestor may seek waivers of multiple fines in a single request and may seek a full waiver of a fine or a partial reduction of a fine amount.

3.6.5 Payment. Any person or committee who is fined under D.R.M.C. § 15-44 and 15-45 must pay the full balance within thirty (30) days from the date of the decision or citation. Fines must be made payable to the Manager of Finance. If by the thirtieth (30th) day the fine has not been paid, the clerk and recorder may refer the penalty to a third-party collector in accordance with D.R.M.C. § 53-5.

3.7 Complaints.

3.7.1 Filing Complaints. Complainants must complete and file a complaint electronically using the fillable form on the Clerk and Recorder’s website. Electronic signatures are permitted for any complaint documentation that requires a signature by complainant, respondent, the clerk and recorder, or the hearing officer.

- A. The complaint must identify both a complainant who is a resident of Denver and at least one respondent and include contact information for both.
- B. The complainant must sign and date the complaint under the following declaration: “I declare under penalty of perjury under the law of Colorado that the information I provided in this complaint is, to the best of my knowledge, true and correct.”
- C. The complaint must specifically identify the section or sections of Denver’s campaign finance laws that the respondent allegedly violated and include the date or dates of each alleged violation.
- D. The complaint must assert facts in support of each alleged violation.
- E. A licensed attorney in the state of Colorado may submit a complaint on behalf of a complainant.
 - 1. The attorney must submit with the complaint a written entry of appearance that includes the attorney’s full name, attorney registration number, business address, telephone number, and email address.
 - 2. A complainant who is represented by an attorney must sign the complaint in accordance with subsection B of this rule.

3.7.2 Documents related to complaints.

- A. After a complaint is filed, the clerk and recorder, any party to the complaint, and the hearing officer, as applicable, must provide all complaint-related documents to each party, to the clerk and recorder, and to the hearing officer if one is appointed.
- B. The clerk and recorder must make all complaint-related documents publicly available within a reasonable time after the document is provided to all parties to the complaint.

- C. For each complaint, the clerk and recorder must keep and maintain all documentation, including but not limited to, pleadings, motions, briefs, evidence, rulings, and transcripts as part of the complaint's official record. This record must be preserved for appeal.

3.7.3 Initial review of the complaint. Within five (5) business days of receipt, the clerk and recorder must review the complaint for completeness and ensure that it meets the requirements of D.R.M.C. § 15-44(a) and Rule 3.7.1.

3.7.4 Pre-notice dismissal. After conducting the initial review of the complaint under Rule 3.7.3, the clerk and recorder may dismiss the complaint if:

- A. The complaint does not meet the requirements of D.R.M.C. § 15-44(a) or Rule 3.7.1.
- B. The respondent has already been issued an administrative citation related to the violation; or
- C. Based on the information in the complaint and taking the facts stated therein as true, the complainant has not stated a plausible violation.

3.7.5 Notice of complaint.

- A. If the clerk and recorder does not dismiss the complaint under Rule 3.7.4, the clerk and recorder must send notice of the complaint by email or mail if an email address is not available, with a copy of the complaint included, to the respondent and provide a copy of the notice to the complainant.
- B. If, during the initial review of the complaint, the clerk and recorder determines that the complaint alleges a failure to file or otherwise disclose required information, or alleges another curable violation, the clerk and recorder must notify the respondent of the curable deficiencies alleged in the complaint.
- C. The notice must offer the respondent an opportunity to respond, request dismissal of the complaint, or cure the alleged violations.

3.7.6 Initial Response.

- A. The respondent has thirty (30) days from the date of the complaint notice to respond to the complaint. The respondent must submit the response by email to the clerk and recorder and provide a copy to the complainant.

- B. In the response, the respondent must admit or deny each allegation, and may provide additional relevant information, request that the complaint be dismissed, or detail the steps respondent has taken or will take to cure the alleged violations.
- C. The respondent must sign and date the response under the following declaration: “I declare under penalty of perjury under the law of Colorado, that the information I provided in this complaint is, to the best of my knowledge, true and correct.”

3.7.7 Disposition by the clerk and recorder.

- A. If the respondent fails to respond within thirty (30) days from the date of the complaint notice, the clerk and recorder must appoint a hearing officer to hear the complaint under Rule 3.7.8.
- B. If the respondent submits a timely response, the clerk and recorder must take one of the following actions:
 - 1. If, based on the information in the complaint and the response, there is sufficient information to find, by a preponderance of evidence, that no violation has been committed, the clerk and recorder must dismiss the complaint.
 - 2. If the clerk finds that the respondent has cured one or more of the violations alleged in the complaint, the clerk must dismiss each alleged violation that has been cured.
 - 3. If the respondent fails to provide sufficient information to allow the clerk and recorder to dismiss the complaint, the clerk and recorder must either request additional specific information from the respondent or appoint a hearing officer to hear the complaint under D.R.M.C. § 15-44(c) and Rule 3.7.8.

3.7.8 Appointment of a hearing officer.

- A. No later than two (2) days after deciding to appoint a hearing officer to hear a complaint filed under these rules, the clerk and recorder must send a notice of appointment of a hearing officer to the complainant, respondent, and hearing officer. The notice must include:
 - 1. A description of the procedural history leading up to the appointment of the hearing officer.

2. The name and contact information of the hearing officer.
 3. Direction to the hearing officer specifying the hearing officer's duties and authority to handle the complaint.
 4. Any specific procedures the hearing officer must follow.
 5. Any specific instructions to the parties necessary to facilitate the hearing officer's disposition of the complaint.
- B.** The hearing officer may, in the hearing officer's discretion, conduct any hearing or other meetings of the parties virtually.
- C.** If a hearing is held, the complainant has the burden of proving by a preponderance of the evidence the allegations in the complaint and the elements of each alleged violations. The complainant may meet its burden of proof by calling witnesses to testify and by presenting relevant evidence at the hearing.

3.7.9 The Hearing. The following rules apply to all hearings held under Article III, Chapter 15, D.R.M.C., and Rule 3.7.

- A. Failure to Appear.** Any party who fails to appear at a scheduled hearing waives the right to a hearing and adjudication of issues related to the hearing, provided that the notice of hearing, complying with section 3.7.8, was emailed to the parties at least eight days before the hearing. Failure to appear at a properly noticed hearing may result in dismissal of the Complaint or entry of default.
- B. Prehearing Statement.** The hearing officer may require the parties to file a prehearing statement. The purposes of the prehearing statement include making more efficient use of hearing time and allowing a fair hearing of the issues.
1. **Deadline for filing.** The prehearing statement must be filed at least five days before the hearing, or as otherwise ordered by the hearing officer.
 2. **Content of prehearing statement.** Prehearing statements of all parties must address the following, in addition to any issues that the hearing officer identifies and orders:
 - a. Names of all witnesses and a brief statement of their testimony;

position. If the Complainant chooses not to present a closing argument, none must be allowed by Respondent.

- b. Closing argument by the Department summarizing the evidence, legal authorities and argument in support of its position.

- 8. Instead of or in addition to argument, the hearing officer may request submission of written briefs.

D. Rules of Procedure and Rules of Evidence. The hearings must be conducted generally in accordance with these Rules regardless of whether it conforms to common law or rules of procedure or rules of evidence. The hearing officer may receive and consider evidence not admissible under the Colorado Rules of Evidence if it possesses probative value commonly accepted by reasonable and prudent persons in the conduct of their affairs.

3.7.10 Clerk and Recorder as complainant. When the clerk and recorder is required to file a complaint with a hearing officer under D.R.M.C. § 15-44(c) and § 15-45(d), the clerk and recorder, or the clerk’s designee, serves as the complainant for the purposes of D.R.M.C. § 15-44 and these rules.

3.7.11 Clerk and Recorder as respondent. If a Denver resident files a complaint against the sitting clerk and recorder, the clerk and recorder’s office must appoint a hearing officer to handle the complaint in accordance with Rule 3.7.

3.7.12 Notice of clerk and recorder initiated complaint.

- A. The clerk and recorder may request additional specific information from the respondent regarding the complaint during the cure period under D.R.M.C. § 15-45(e) and after the respondent submits an attempt to cure a violation.
- B. The clerk and recorder will issue a notice of violation by email and mail.

3.8 Fair Elections Fund.

3.8.1 Applicability. This rule applies to candidates running in a general or special election for the office of Mayor, City Council, Clerk and Recorder, and Auditor who choose to participate in the Fair Election Campaign Funding program.

3.8.2 Definitions. As used in Article III of Chapter 15, D.R.M.C., and Rule 3.8, the following terms have the following meanings.

- A. “Home Address” means the principal or primary home or place of abode of a person. A principal or primary home or place of abode is that home or place in which a person's habitation is fixed and to which that person, whenever absent, has the present intention of returning after a departure or absence, regardless of the duration of the absence.
- B. “Qualifying Contribution Receipt” means a receipt that includes the contributor’s printed name, home address, telephone number, if any, name of the candidate on whose behalf the contribution is made and an attestation that the contributor understands the purpose of the contribution is to help the candidate qualify for Fair Elections campaign funding, that the contribution up to \$50 will be matched by the Fund by 900 percent, and the that the contribution is made without coercion or reimbursement.
- C. “Resident” means any individual whose home address, as that term is defined in this rule, is within the City and County of Denver.
- D. “Seeking certification” means a candidate that has informed the clerk and recorder that he or she intends to participate in the Fair Elections Fund.

3.8.3 Certification of Participating Candidates.

- A. **Intent to Seek Certification.** A candidate may file an intent to seek certification with the clerk and recorder at any time after the beginning of the qualifying period specified in section D.R.M.C. § 15-51(5). The candidate must file such intent through the clerk’s online reporting database before soliciting or collecting qualifying contributions. Any contribution made before the candidate files his or her intent is not a qualifying contribution.
 - 1. The clerk and recorder will offer online and in-person training for candidates seeking certification. A candidate seeking certification must complete the training no later than twenty (20) business days after filing his or her intent. If the candidate fails to attend a training, the clerk will not consider a reduction or waiver to any fine assessed under D.R.M.C. or this Rule 3.
 - 2. A candidate may withdraw an intent to seek certification at any time before submitting an application for certification.

- B. Reporting Before Certification.** A candidate seeking certification must report qualified contributions on any disclosure report required by D.R.M.C. § 15-37.
1. The report must include a copy of the qualifying contribution receipt and other required information in the format approved by the clerk and recorder.
 2. A candidate that receives a contribution that exceeds the qualifying contribution limits must return the amount above the limit before applying for certification.
- C. Application for Certification.** A candidate may apply for certification at any time during the qualifying period and after the candidate believes that he or she collected the requisite number of qualifying contributions from unique contributors.
1. The application must be in a format approved by the clerk and recorder and contain all the required elements of D.R.M.C. § 15-53.
 2. A candidate applying for certification must provide an email address and agree to receive notice by email at that address.
 3. If the clerk and recorder notifies a candidate that the candidate's application is deficient, the candidate must inform the clerk and recorder whether the candidate will cure and re-apply for certification.
 - a. A candidate who intends to re-apply must cure the deficient application before the close of the qualifying period. During this cure period, the candidate must still comply with the requirements of the Denver Fair Elections Act and this Rule 3.8.
 - b. A candidate who does not intend to re-apply is no longer bound by the Denver Fair Elections Act and this Rule 3.8. The candidate may not seek certification again during the election cycle.
- D. Notice of De-certification.** A previously certified candidate becomes decertified immediately upon the occurrence of any of the events listed in D.R.M.C. § 15-54(h). The clerk and recorder must send electronic notice

of ministerial de-certification to the decertified candidate within three (3) business days of any decertifying event outlined in D.R.M.C. 15-59(c).

3.8.4 Supporting Material Required for Qualifying and Match-eligible

Contributions. A candidate must maintain and make available for inspection supporting material for each qualifying and match-eligible contribution.

Supporting material must be maintained for two years from the final day of the election cycle and must include the following:

- A.** A copy of the deposit slip and deposit receipt for each qualifying or matching contribution.
- B.** Contributions made in cash or by check:
 - 1.** For contributions made by check, a copy of the check itself and a receipt that complies with D.R.M.C. § 15-53(b)(3).
 - 2.** For a contribution made in cash, currency, money order, or cashier's check, a signed receipt form provided by the clerk and recorder that complies with D.R.M.C. § 15-53(b)(3).
- C.** A committee that accepts qualifying or match-eligible contributions online through a payment processor must either:
 - 1.** Obtain a receipt from the contributor for each contribution that complies with D.R.M.C. § 15-53(b)(3); or
 - 2.** With prior approval from the clerk and recorder, use the information collected by the online processor during a contribution transaction to generate a receipt that complies with D.R.M.C. § 15-53(B)(3).
 - a.** The clerk and recorder must establish a process for committees to apply and receive pre-approval to generate receipts from their online processors.
 - b.** The clerk and recorder will approve an application if it contains all requested information and shows how the committee will comply with D.R.M.C. § 15-53(a)(3).

3.8.5 Additional supporting material required for certain expenditures made with Fair Elections Funds.

- A.** For any expenditure of \$250.00 or more made with Fair Elections Funds, or when a single vendor receives an aggregate of \$250.00 or more in Fair Elections Funds, a committee must provide a receipt, contract, invoice, or other documentation as requested by the clerk and recorder. The documentation must include:
- 1.** The payee's name;
 - 2.** Contact information for the payee including at least two (2) of the following: address, phone number, or email address;
 - 3.** A description of the goods or services provided to the committee; and
 - 4.** If the vendor receives an aggregate of \$250.00 over multiple payments a committee may provide a receipt listing multiple payment records in a single document.
- B.** For any expenditure made by check, bank transfer, or electronic wire of \$1,000.00 or more, the committee must provide a copy of the check, wire receipt, confirmation by the recipient of the funds, or an official letter issued by the financial institution on their letterhead confirming the transaction.
- C.** A participating candidate must obtain and keep a record for each food and beverage expenditure from the fund.
- 1.** For any food and beverage expenditure over \$50 the record must include an itemized receipt.
 - 2.** A participating candidate must provide a specific campaign-related purpose for the food and beverage purchase.
- D.** A candidate must obtain and keep a record of any travel-related expenditures from the Fair Elections Fund.
- 1.** A candidate must report travel expenditure information required by the clerk and recorder at the same time as any disclosure report required by D.R.M.C. § 15-37.
 - 2.** A participating candidate must provide a specific campaign-related purpose for the travel.

- B. A candidate may not use Fair Elections Fund money to make a reimbursement required under this rule.

3.8.7 Administration of a separate bank account.

- A. A participating candidate must maintain a separate bank account to be used for all public monies received from the Fund.
- B. All matching funds provided to a participating candidate must be segregated from, and may not be commingled with, any other funds.
- C. A candidate may not deposit or transfer funds from any other source, other than monies received from the Fund, including transfers or deposits from the candidate's campaign committee account.
- D. A candidate may not transfer funds from the Fund designated bank account into any other bank account or other financial repository, other than bank transfers made to a payee as an expenditure.
- E. A violation of this section is subject to the penalties in Chapter 15, D.R.M.C., which may include up to the decertification as a participating candidate.
- F. A committee must provide bank statements for the bank account in which fair elections funds are deposited for each month the account has a statement balance.

3.8.8 Property purchased with Fair Elections Fund monies. As required by D.R.M.C. 15-58(b), except for purchases under two hundred (200) dollars, property that has been purchased with Fair Election Funds may not be retained after a candidate is de-certified. Campaign-branded material with no resale value, such as banners and signs, may be retained. Within sixty (60) days of notice of de-certification, a participating candidate must either reimburse the city in an amount equal to the money spent on the property or liquidate the property at fair market value and remit the proceeds as unexpended funds to the manager of finance.

3.9 Small Donor Committees.

3.9.1 Bank Account Requirements.

- A. **Separate Account Required.** A small donor committee must maintain a separate bank account used exclusively for committee funds. committee funds may not be commingled with other organizational or personal accounts.

- B. Name of Account and Committee.** The registered committee name must include the words “Denver” and either “SDC” or “Small Donor Committee.” The title of the bank account must include the registered committee name.
- C. Depository Location.** The bank account must be held by a financial institution located within the United States. The institution must be able to provide monthly statements and records upon request by the Clerk and Recorder.
- D. Record Retention.** The committee must maintain bank records and statements for at least five (5) years after committee reports are filed.

3.9.2 Earmarked Payroll Deductions.

- A. Payroll Deductions.** A small donor committee may accept funds from an individual contributor through a payroll deduction, membership dues, or other similar method only if:
 - 1. Each contribution can be attributed to the individual contributor;
 - 2. The contribution is earmarked by the contributor for political purposes; and
 - 3. The committee collects contributor information required by D.R.M.C. §15-37(b).
- B. Documentation.** The organization collecting contributions must maintain records identifying each contributor, the amount deducted or contributed, and the date of transfer to the small donor committee.
- C. Retention.** The committee must preserve documentation required under this section for two (2) years after filing a report in which an earmarked contribution is disclosed.
- D. Commingling Prohibited.** Funds collected through a payroll deduction or other similar method may not be deposited into or transferred from a general treasury or other account used for operational or nonpolitical expenses.

3.9.3 Donor Intent and Allocating Contributions.

- A.** A small donor committee may accept contributions collected by a membership organization only if the membership organization has notified its members that:
1. A portion of their political contributions may be allocated to the small donor committee; and
 2. Each contributing member's name, home address, employer, and occupation will be publicly reported in accordance with D.R.M.C. §15-37(b).
- B.** Nothing in this section prohibits an organization from allowing members to opt out or direct their political contributions to other purposes.

3.9.4 Disposition of Funds.

- A. Fund Use.** A small donor committee may use committee funds to:
1. Make contributions to candidates for municipal offices in Denver;
 2. Make contributions to issue committees registered in Denver;
 3. Make contributions to independent expenditure entities in Denver; and
 4. Pay for operational expenditures the committee incurs.
- B. Prohibited Uses of Funds.** A small donor committee may not contribute funds to any committee registered outside of the City and County of Denver or use committee funds for personal or nonpolitical purposes.
- C. Exceptions.** A small donor committee may dispense with unspent committee funds in the following ways:
1. Return unspent committee funds to contributors;
 2. Contribute excess funds to any 501(c)(3) non-profit organization; or
 3. Remit funds to the membership organization that collected the funds, provided that once transferred, funds may not be transferred back to the committee.

3.10 Political Action Committees.

3.10.1 Bank Account Requirements.

- A. **Separate Bank Account Required.** A political action committee must maintain a separate bank account used exclusively for committee funds. Committee funds may not be commingled with other organizational or personal accounts.
- B. **Name of Account and Committee.** The registered committee name and the title of the bank account must each include the words “Denver” and either “PAC” or “Political Action Committee.”
- C. **Depository Location.** The bank account must be held by a financial institution located within the United States. The institution must be able to provide monthly statements and records upon request by the Clerk and Recorder.
- D. **Record Retention.** Bank records and statements must be maintained for at least (5) years after committee reports are filed.

3.10.2 Source of Political Action Committee Funds. A political action committee may accept contributions from any lawful source, including individuals, businesses, labor organizations, and other political committees registered with Denver, the Colorado Secretary of State, or the Federal Elections Commission. A political action committee may collect funds from individuals through a payroll deduction in accordance with Clerk and Recorder Rule 3.9.2 A.

3.10.3 Disposition of Funds.

- A. **Fund Use.** A political action committee may use its committee funds to:
 - 1. Make contributions to municipal offices in Denver that are not participating in the Fair Election Fund program;
 - 2. Make contributions to issue committees registered in Denver;
 - 3. Contribute to independent expenditure entities in Denver; and

4. Pay for operational expenditures the political action committee incurs.

B. Prohibited Use of Funds. A political action committee may not:

1. Contribute funds to any candidate committee, political action committee, or committee registered outside of the City and County of Denver;
2. Contribute to candidate committees for candidates participating in the Fair Elections Fund program; or
3. Use political action committee funds for personal or nonpolitical purposes.

C. Exceptions. A political action committee may dispense with unspent committee funds in the following ways:

1. Return unspent committee funds to contributors; or
2. Contribute excess funds to any 501(c)(3) non-profit organization.