STATE OF COLORADO
SECRETARY OF STATE
Administrative Hearing Office
1700 Broadway, Suite 550
Denver, CO 80290

Case number: 2025 AHO 35 CPF
(in re ED Case Nos. 2025-88, 2025-89, 2025-90, 2025-91)

IN THE MATTER OF:

ELECTIONS DIVISION of the SECRETARY OF STATE

Complainant

v.

CLARK CALLAHAN FOR DCSD, KYRZIAPARKER4DCSD, TONYRYAN4DCSC, and KELLY DENZLER FOR DCSD,

Respondents

ORDER DENYING MOTION TO DISMISS

1. The Elections Division of the Colorado Secretary of State filed an administrative complaint on December 10, 2025 alleging campaign finance violations by four school board candidate committees in Douglas County: Clark Callahan for DCSD, KyrziaParker4DCSD, TonyRyan4DCSD, and Kelly Denzler for DCSD (collectively, Respondents). A First Amended Complaint was filed on December 12, 2025 after a Minute Order from the Hearing Officer regarding Claim Three of the original complaint. The First Amended Complaint alleges three claims:

Claim 1: Failure to include compliant disclaimer statements on electioneering communications by all Committees in violation of § 1-45-108.3(3), C.R.S.;

Claim 2: Failure to include compliant disclaimer statements on electioneering communications by TonyRyan4DCSD in violation of § 1-45-108.3(3), C.R.S.; and

Claim 3: Failure to accurately report contributions and expenditures by all Committees in violation of § 1-45-108(1)(a)(I), C.R.S.

2. On January 30, 2026, Respondents filed a Motion to Dismiss for Lack of Jurisdiction, asserting that the Hearing Officer's failure to schedule a hearing within thirty days of the filing of the First Amended Complaint, as required by § 1-45-111.7(6)(a), C.R.S., deprived the Hearing Officer of jurisdiction over this matter. The Elections Division filed its Opposition to the Motion to Dismiss on February 13, 2026, and Respondents filed a Reply on February 19, 2026. The matter is now ripe for decision.

3. The Campaign Finance Practices Act requires a hearing on an administrative complaint within thirty days of the date the complaint was filed. § 1-45-111.7(6)(a), C.R.S.

> Any hearing conducted by a hearing officer under this section must be in accordance with section 24-4-105; except that a hearing officer *shall schedule* a hearing within thirty days of the filing of the complaint, which hearing may be continued upon the motion of any party for up to thirty days or a longer extension of time upon a showing of good cause. *Id*.

4. It is undisputed that the First Amended Complaint was filed on December 12, 2025, and that the Hearing Officer did not issue a Scheduling Order setting the hearing date until January 27, 2026—forty-six days later, sixteen days past the thirty-day deadline. Respondents contend that jurisdiction over this matter lapsed on January 11, 2026.

5. That a hearing be set within thirty days can be consequential when a campaign finance violation is alleged to have occurred *during a campaign*, a time when opposition candidates can use the mere allegation of campaign finance improprieties to advantage. But here, setting a hearing within thirty days is not consequential, as the votes were cast and counted a month before the complaint was filed.

6. There is another requirement for action within thirty days of the complaint entirely within Respondents' control, and which their pleadings mention not at all: the requirement that they answer the complaint or risk a default judgment. General Policies and Administration Rules (GPAR) Rule 3.6.1(a), 8 CCR 1505-3. The administrative complaint was never withdrawn, no stay was issued nor was there a notice of dismissal. Moreover, the fact that one Respondent left a voicemail for Division counsel during the week before Christmas and did not receive an immediate response does not support the inference that the Division abandoned its case.

7. The thirty-day scheduling requirement in § 1-45-111.7(6)(a) is directory, not mandatory. Statutory provisions "that prescribe the time within which an agency must act are presumed to be directory unless the statute suggests a contrary intent." *Protest of McKenna v. Witte*, 2015 CO 23, ¶ 20, 346 P.3d 35.

8. In *DiMarco v. Dep't of Revenue, Motor Vehicle Div.*, 857 P.2d 1349 (Colo. App. 1993), the court considered whether a sixty-day statutory deadline for holding a driver's license revocation hearing was jurisdictional. The statute provided that "such hearing *shall* be held within sixty days after application is made." *Id.* at 1351. [Emphasis in

original.] Notwithstanding the legislature's use of "shall," the court held the time limit was directory, not mandatory. *Id.* at 1352-53. In reaching this conclusion, the court applied a multi-factor analysis:

> "Whether the General Assembly intends a statutory provision to be directory or jurisdictional requires consideration of 'the legislative history, the language of the statute, its subject matter, the importance of its provisions, their relation to the general object intended to be accomplished by the act, and, finally, whether or not there is a public or private right involved.'" *DiMarco*, 857 P.2d at 1351-52 (quoting *Application of Rosewell*, 97 Ill. 2d 434, 454 N.E.2d 997, 999 (1983)).

9. The *DiMarco* court further noted that Colorado appellate courts "have generally construed time limitations imposed on public bodies as being directory rather than mandatory, unless the General Assembly has clearly evidenced a contrary intent." *Id.* at 1352. The court observed that affirmative language such as "shall be held within" is "more indicative of a directory construction," while negative language such as "or not at all" or "in no event later than" suggests a mandatory construction. *Id.* Finally, the court declined to "assume that the General Assembly intended that an agency's procedural mistake should defeat the prime objective of a statute." *Id.*

10. Similarly, in *Protest of McKenna v. Witte*, 2015 CO 23, 346 P.3d 35, the Colorado Supreme Court held that the Division Engineer's failure to prepare a decennial abandonment list by the statutory deadline of "no later than July 1" did not divest the water court of jurisdiction over abandonment proceedings. *Id.* at ¶ 22. The court noted that despite the legislature's use of "shall" and "no later than," these terms alone were insufficient to overcome the presumption that statutory time limits for agency action are

directory. *Id.* at ¶¶ 19-20. The court refused to hold that "a procedural mistake that did not harm the owner of the water rights" should cause the court to lose jurisdiction. *Id.* at ¶ 22.

11. Applying these principles, I find that the thirty-day deadline in § 1-45-111.7(6)(a) is directory, not mandatory, for the following reasons.

a. The statute is subject to the presumption that its time requirement for agency action is directory. *McKenna*, 2015 CO 23, ¶ 20.

b. The statute uses affirmative language—"shall schedule a hearing within thirty days." The statute does not use negative or restrictive language such as "in no event later than" or "or not at all" that would suggest a mandatory construction. Without these additional indications of a command in § 1-45-111.7(6)(a), it is "more indicative of a directory construction." *DiMarco*, 857 P.2d at 1352. *Id*.

c. The statute is silent as to the consequence of noncompliance with the thirty-day deadline, which further supports a directory reading. *McKenna*, 2015 CO 23, ¶ 18.

d. A mandatory construction would mean that the General Assembly intended an agency's procedural delay in scheduling a hearing to defeat the prime objective of the Campaign Finance Practices Act which is strong enforcement of campaign finance laws. I decline to make that assumption. *DiMarco*, 857 P.2d at 1352.

12. In their Reply, Respondents advance several additional arguments. Respondents contend that the December 27, 2023 decision of the hearing officer on an identical issue in *Elections Division v. Larson* was incorrect because the Hearing Officer relied on the "strong enforcement of campaign laws" language in § 1-45-102 while simultaneously failing to comply with § 1-45-111.7(6)(a)—itself a campaign law. But this argument conflates two different things. The constitutional mandate, Colo. Const. art. xxviii § 1, echoed in the legislative declaration of § 1-45-102, speaks to the essential purpose of the campaign finance statutory scheme: that the public's interests are served by ensuring compliance with contribution limits, disclosure requirements, and the like, through "strong enforcement." The thirty-day scheduling requirement in § 1-45-111.7(6)(a), by contrast, is an administrative timeline directed at the hearing officer—a procedural mechanism for implementing the enforcement process.

13. The legislative declaration that enforcement should be strong does not transform the procedural timeline in the Act into a jurisdictional bar that extinguishes the enforcement authority itself. Such a reading would be self-defeating: strict compliance with one procedural provision would undo the very enforcement the legislature declared to be in the public interest.

14. In 1982, a dispute arose among candidates for Central City as to which of several candidates had won the race to fill a City Council seat vacancy. Fewer than 200 people voted in the election, with the leading candidate getting 79 votes. Seeking to overturn the election, a contestor alleged that sixteen voters did not live within the City. As

here, the statute at issue required a prompt hearing on the matter but on an even shorter time frame: within twenty days.[1] *Mahaffey v. Barnhill,* 855 P.2d 847, 848 (Colo. 1983)

15. The *Mahaffey* trial judge bifurcated the Issues into two hearings. First, did some non-residents vote? Second, if non-residents did vote, how would removing any disqualifying votes change the outcome? The Contestor proved during the first phase of the trial that ten voters were not residents of Central City. But the trial did not occur until five days after the time required by the statute. The leading candidate thereupon petitioned the Supreme Court for mandamus to dismiss the case, asserting that the trial had not been held within twenty days stripping the court of jurisdiction. The court strongly disagreed. "[N]othing in the statute suggests that it [the twenty day time limit] is jurisdictional in nature. Rather, section -1305 recognizes the importance of speedy resolution of election controversies." *Mahaffey* 855 P.2d at 849.

> In light of the fact that *we will construe a statute to limit jurisdiction only when that limitation is explicit, see In re A.W.*, 637 P.2d 366, 373-74 (Colo. 1981) ("While jurisdiction may be limited by the legislature, no statute will be held to so limit court power unless the limitation is explicit."), we conclude that section -1305 creates no limitation on the district court's power to hear this controversy. See Meyer v. Lamm, 846 P.2d 862, 869 (Colo. 1993)."

[1] The statute at issue in the Mahaffey case was Sec. 31-10-1305, 12B C.R.S. (1986 & 1992 Supp.):

> "Immediately after the joining of issue, *the district court shall fix a day for the trial to commence, not more than twenty days* nor less than ten days after the joining of issue. Such trial shall take precedence over all other business in said court." {Emphasis supplied.]

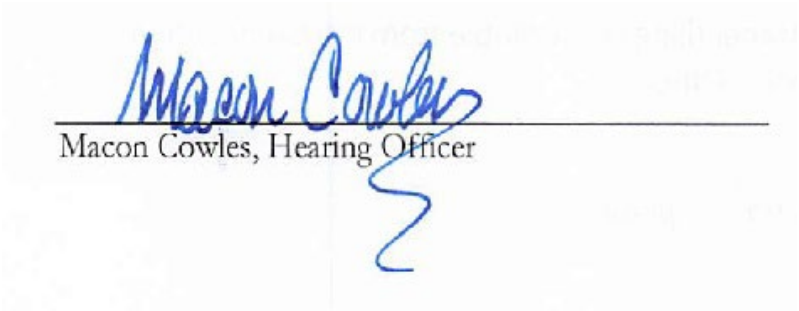
Mahaffey, 855 P.2d at 849. [Emphasis supplied.]

16. In construing the Campaign Finance Practices Act and citizen initiatives like Colo. Const. art. XXVIII, the Colorado Supreme Court gives effect to the intentions of the General Assembly and the electorate, both of which have called for the strong enforcement of campaign laws. *Campaign Integrity Watchdog v. All. for a Safe & Indep. Woodmen Hills*, 2018 CO 7, ¶ 20, 409 P.3d 357, 361.

17. I find that the mandate in § 1-45-111.7(6)(a), C.R.S. to set a hearing within thirty days is directory only.

18. For the reasons stated above, Respondents' Motion to Dismiss is **DENIED**. From this point forward, the pleadings, actions and events in this case shall happen on the schedule set forth in the Amended Scheduling Order issued January 30, 2026, with trial occurring Tuesday, April 7, 2026 at 10:00 AM in the hearing room of the Secretary of State at 1700 Broadway, Suite 550, Denver, Co 80290.

SO ORDERED this 2nd day of March 2026.



CERTIFICATE OF SERVICE

The undersigned hereby certifies that one true copy of this Scheduling Order was sent via email on March 2, 2026 to the following:

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