

# 2022 MAINE CLEAN ELECTION ACT OVERVIEW FOR COMMISSIONERS

March 30, 2022

**i** *As we come into another election year, the Commission staff thought it would be helpful to present a basic overview of the Maine Clean Election Act (MCEA) program, to assist Commissioners as MCEA issues come before you during this election cycle. Candidate Registrar Emma Burke will lead the overview followed by Executive Director Jonathan Wayne who will provide a more detailed explanation of the staff validation process of qualifying contributions.*

## OVERVIEW

Ms. Burke's overview will cover the goal and purpose of the MCEA, how candidates are certified, and the basic rules and regulations MCEA candidates must follow

### Goal and Purpose of the MCEA

- To be a public program that fully funds candidates for Governor and the Legislature
- To reduce the amount of private funds influencing elections
- To increase the diversity of competitive candidates and encourage non-traditional candidates to run for office

### MCEA Certification and Seed Money

**i** *This will be the most detailed part of the overview from Ms. Burke, and will include descriptions of all the terms, forms, and processes listed below.*

- Registration and Declaration of Intent
- Qualifying Contributions (QCs), Receipt and Acknowledgement (R&A) Forms, and Cash QC Affirmation Forms
- Voter registration verification and submission
- Staff review, certification, and payment of MCEA funds

## Basic Rules and Regulations

**i** *This will be a summary of the rules and regulations of the MCEA program and does not cover every restriction or exception to statute and rule.*

- Candidates may only spend MCEA funds, and cannot spend more than they are authorized to receive
- Candidates may not accept donations, cash or in-kind, from themselves or any other source
- MCEA funds can only be spent for legitimate campaign purposes
- The program strictly prohibits any kind of self-enrichment
- The Commission sets expenditure guidelines for many different types of purchases so that self-enrichment, fraud, and waste do not occur

## MCEA ISSUES THAT MAY COME BEFORE YOU

- Appeals of Denial of MCEA Certification Request
- Appeals of Approval of MCEA Certification Request
- Violations of the MCEA, such as:
  - Accepting/spending too much seed money
  - Spending over the authorized amount of MCEA funds
  - Accepting contributions as a certified MCEA candidate
  - Failure to return MCEA funds
  - Accepting a prohibited in-kind contribution
  - Failure to keep records



STATE OF MAINE  
 COMMISSION ON GOVERNMENTAL ETHICS  
 AND ELECTION PRACTICES  
 135 STATE HOUSE STATION  
 AUGUSTA, MAINE  
 04333-0135

To: Commissioners  
 From: Commission Staff  
 Date: March 21, 2022  
 Re: Policy on Fixing Defective Qualifying Contributions

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This memo describes the procedures by which 2022 Maine Clean Election Act candidates may fix qualifying contributions (QCs) when a check or money order, or a Receipt & Acknowledgment (R&A) Form, lacks a required signature or contains another defect.

**Encouraged to Submit QCs Early**

Candidates are encouraged to submit QCs *well before the applicable deadline* so that Candidate Registrars may process their submission and identify any problems with the QCs that could be fixed by the candidate before the deadline.

<b>Deadlines for Submitting QCs</b>			
	<b>To qualify for basic level of funding (certification)</b>	<b>To receive supplemental payments for primary election</b>	<b>To receive supplemental payments for general election</b>
<b>Gubernatorial</b>	April 1	May 24	October 18
<b>Legislative</b>	April 20	---	October 18

Candidates who submit QCs at the last minute or near the deadline increase the risk they will not have sufficient time to fix problems with their QCs or R&A Forms.

## Statutory Criteria for QCs (21-A M.R.S.A. §§ 1122(7) & 1125(3))

1. **Registered Voter:** The contributor must be a registered voter in the electoral division for the office sought by the candidate, as verified by the municipal registrar for the contributor's municipality on the Receipt & Acknowledgement Form ("R&A Form") or the Commission's online QC service.
2. **Forms of Payment:** The QC may be in the form of a check or money order payable to the Maine Clean Election Fund and signed by the contributor in the amount of \$5.00 or more; or \$5.00 cash, accompanied by a Cash QC Affirmation Form signed by the contributor and converted to a money order before submission; or a credit or debit transaction of \$5.00 made through the Commission's online QC service.
3. **Personal Funds:** The funds must be the contributor's personal funds.
4. **Receipt & Acknowledgement Form:** Every contributor giving a material QC (check, cash, or money order) must sign the R&A Form. The form must also be signed by the person who collected the contribution, if any.
5. **Qualifying Period:** For certification, the QC must be made within the relevant qualifying period.
6. **Received by Commission:** For certification, the QC and the original associated R&A Form signed by the contributor and with the municipal registrar's verification, must be received by the Commission on or before the relevant deadline.
7. **Additional Qualifying Contributions - Collection:** For supplemental funds purposes, the QC must be within the relevant collection period.
8. **Additional Qualifying Contributions - Submission:** For supplemental fund purposes, the QC and the original associated R&A Form, signed by the contributor and with the municipal registrar's verification, must be received by the Commission not later than three weeks before the applicable election.

<b>Common Defects or Issues</b>		
	<b>Defect or Issue</b>	<b>Potential Fix (before applicable deadline)</b>
1	R&A Form is a copy, not the original signed form	Commission staff will reject QCs until candidate submits the original form.
2	Checking account is in the name of a business, not an individual	Contributor may provide supplemental note that the contributor uses the business account for personal expenses.
3	The signature for the contributor on the R&A Form was made by the contributor's spouse or domestic partner	Commission staff will reject QC, but candidate may obtain contributor's signature on a new R&A Form.
4	The contributor printed their name in the signature section of the R&A Form, rather signing the form	Same as 3
5	The signature area is blank	Same as 3
6	The Cash Qualifying Contribution Affirmation slip is missing or unsigned	Commission staff will reject QC, but candidate may obtain contributor's signature on a new Cash QC Affirmation slip.
7	Material QCs (checks, cash, money orders) were not entered into the online QC service for voter registration verification	Commission staff will reject QCs until the candidate enters them properly.
8	The system-generated R&A Form was not brought to the municipal registrar to check voter registration status of "unverified" entries	Commission staff will reject unverified QCs on the R&A Form until the candidate submits the Registrar's verification.
9	The circulator who collected the QCs listed on the R&A Form did not sign the form	Commission staff will reject QCs on the R&A Form until the candidate submits the circulator's signature.
10	A combined check was submitted for a contributor, but the contributor does not live in the same household or is not registered to vote in that household	The QC for the contributor is rejected, but the candidate may obtain a separate payment from the contributor.
11	An online QC was paid for by an individual not registered to vote in the same household as the named contributor	No fix allowed. Candidate must collect a new QC.
12	Someone other than the contributor's spouse or domestic partner signed the name of the contributor on the R&A Form or a money order	No fix is allowed (to deter forged signatures, the Commission will permanently invalidate the QC for the election year).

13	Check or cash was received outside of the qualifying period, or more than five business days before the DOI has been filed with the Commission	No fix allowed. Candidate must collect a new QC.
14	Contributor is not registered to vote within the electoral division for the office sought by the candidate	No fix allowed.
15	The bulk money order submitted for the cash QCs is less than the expected total of cash QCs collected	Individual QCs will not be rejected; Commission staff will instead lower the total number of valid cash QCs to match the amount of the bulk money order. Candidate must collect QCs from new contributors to make up the difference.

**Fixing QCs for Purposes of Qualifying for Basic Level of Funding (Certification)**

Prior to the April 1 or 20 deadlines for certification, candidates may pursue the potential fixes described on page 3. Candidates are encouraged to submit their QCs early, in order to have sufficient time to make these fixes.

Candidates should be aware *after* the applicable April 1 or 20 deadline, candidates may *not* fix most of the defects and issues listed on pages 3-4 in order to have the QC count for the certification threshold. Of the defects listed on pages 3-4, only one issue may be fixed after-deadline: submitting a note from the contributor that the contributor uses a business account for personal expenses.

**Fixing QCs for Purposes of Qualifying for Supplemental Payments**

Prior to the May 24 or October 18, 2022 deadlines for submitting additional QCs, candidates may pursue the potential fixes described on page 3. For reasons of limited staff time, generally the Commission will deposit the rejected QC, and the QC will remain in a rejected status until the candidates submits the missing signature or form.

After the May 24 and October 18 deadlines, candidates will *not* be allowed to fix any QC for purposes of receiving supplemental payments – regardless of when the QC was originally submitted to the Commission. All fixes (without exception) must be made and submitted to the Commission before the May 24 or October 18 deadline. Candidates are encouraged to submit their QCs early to have sufficient time for potential fixes. Even if the Commission receives the QC within two weeks before the deadline, the staff may not have time to review the QC in time to suggest a fix.

**Further Investigation by Commission Staff**

The Commission staff scrutinizes checks, money orders, and R&A Forms and reserves the right to contact contributors when contributors' signatures appear inconsistent or other irregularities are apparent. The staff may contact a selection of contributors supporting a gubernatorial candidate before paying the candidate.

No individual should be asked by the candidate, campaign staff or a volunteer to sign an R&A Form as a contributor unless that individual has given \$5 from their personal funds. Candidates should instruct all volunteers and staff never to sign any other person's name on an R&A Form or Cash QC Affirmation Form. The circulator section of the R&A Form is a verification that the circulator personally received \$5 from the contributors on that form. The affirmation should be signed only by the person who actually collected the contributions listed on that form.

Thank you for your consideration of these procedures.