



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

To: Commissioners
From: Emma Burke, Political Committee & Lobbyist Registrar
Date: November 14, 2022
Re: Request by Planned Parenthood Maine Action Fund PAC for Waiver of Late-Filing Penalty
Due to Late 60-Day Pre-General Independent Expenditure Report

The Planned Parenthood Maine Action Fund PAC (PPMAF) was required to file a 60-Day Pre-General Independent Expenditure (IE) Report no later than September 9, 2022. PPMAF filed their report on October 5th, 26 days late. The preliminary penalty for the late report is \$2,433.60. PPMAF requests a waiver of the penalty.

Please note: The Commission's eFiling system separated PPMAF's activity onto two reports, but we have combined the totals and are considering a sole report having been filed late as the reports were the same type of report due on the same day.

LEGAL REQUIREMENTS

Any person, party committee, political committee or political action committee that makes any independent expenditure in excess of \$250 per candidate in an election from the day after the primary election through the 60th day before the general election is held must file a report by 11:59 p.m. on the 60th day before the election and be complete as of the 61st day before the election. 94-270 C.M.R. Ch. 1 § 10(3)(B)(1) If a committee is late in filing a campaign finance report, the amount of the penalty is set by a formula which takes into consideration a percentage of the total contributions or expenditures, whichever is greater, the number of prior violations within a two-year period, and the number of days the report is late. 21-A M.R.S. § 1020-A(4-A).

DISCUSSION

On August 31, 2022, Political Committee & Lobbyist Registrar Emma Burke emailed a 2022 Fall Filing Guide to all principal officers, treasurers, and filing agents of PACs, party committees, and BQCs outlining the various reports that apply during the election period. Three individuals associated with PPMF received this email: principal officer Nicole Clegg, treasurer Margot Milliken, and authorized agent Marnie Maynard who files the campaign finance reports.

On October 5th, PPMF filed two 60-Day Pre-General IE Reports, which were triggered when they entered transactions for the October Quarterly Report. The transactions supported the election of Governor Janet Mills - \$480 for t-shirts on August 31st, and \$4,200 for door hangers on August 24th.

Based on the statutory formula for calculating late-filing penalties, the preliminary penalty amount is \$2,433.60, calculated as follows:

Report	Deadline	Financial Activity	Penalty Rate	Days Late	Preliminary Penalty
60-Day Pre-General IE Report	09/09/2022	\$4,680.00	2%	26	\$2,433.60

PPMAF’s waiver request from Ms. Maynard indicates she is relatively new to campaign finance reporting and has been attempting to learn the requirements for Maine, New Hampshire, and Vermont for the 2022 election, which has been very difficult. She states she missed the 60-Day Pre-General IE Reports due to an honest mistake and was in regular contact with Commission staff. She explains the t-shirts purchased were given to a small group of volunteers at a Planned Parenthood event and were not widely disseminated; the door knockers were left behind by canvassers and have the correct disclosure statements on them. Ms. Maynard argues PPMF’s penalty should be significantly reduced due to low public harm, treasurer inexperience, and the penalty being disproportionately high compared to the transactions included on the late report.

STAFF RECOMMENDATION

IE reports are considered essential for public awareness prior to general elections. Without these reports, any interested member of the press, public, or candidate campaigns would need to wade through thousands of transactions on reports covering greater lengths of time, to determine if any candidate supporting or opposing purchases had been made. Thus, even though committees file October Quarterly Reports on October 5th, they are also required to file 60-Day Pre-General IE Reports no later than the 60th day prior to the general election (which is normally in the first ten days of September).

Ms. Maynard was in regular communication with Ms. Burke and attempted to do her best filing timely and accurate reports. Staff are sympathetic that Ms. Maynard was in a difficult position needing to learn the campaign finance requirements of three different states. However, Ms. Burke made sure to include her on the email sent on August 31st regarding the 2022 Fall Filing Guide, which discussed the September 9th deadline for 60-Day Pre-General Reports. The Filing Guide was also posted prominently on the homepage of the Commission's website, and the 60-Day Pre-General IE Report is outlined in the Commission's Committee Guidebook.

Since 2018, when considering requests by PACs and ballot question committees for waivers of preliminary penalties above \$1,000, the Commission staff has generally been recommending penalty outcomes of *at least* \$750, understanding that the Commission may wish to assess a lower penalty when strong mitigating factors are present. In this instance, Ms. Maynard was relatively inexperienced, but her roles in other states cannot be considered when it comes to her responsibilities for filing campaign finance reports in Maine. Ms. Maynard had access to ample resources and reminders regarding the 60-Day Pre-General IE Report. Therefore, the Commission staff recommends reducing the penalty to \$750. This recommendation is consistent with three penalty decisions by the Commission with regard to Mainers for Health and Parental Rights (January 27, 2021), Energy PAC for Maine (March 31, 2021), and Protect Maine Elections (October 29, 2021). Earlier this year, the Commission reduced a \$932 penalty for a ballot question committee to \$300, because a pop-up message in the Commission's eFiling system was unclear. Thank you for your consideration of this memo.



**Planned Parenthood
Maine Action Fund PAC**

VIA: Email and Mail

Planned Parenthood Maine Action Fund PAC
443 Congress Street. 3rd Floor
Portland, Maine 04101

October 25, 2022

State of Maine
Commission on Governmental Ethics And Election Practices
135 State House Station
Augusta, Maine 04333-0135

Re: Late 60 Day Pre-General Independent Expenditure Report

Dear Emma:

The Planned Parenthood Maine Action Fund PAC received the Commissions letter dated October 11, 2022, regarding a late filing of a 60 Day Pre-General Independent Expenditure Report and respectfully requests a significant reduction in the fine amount.

For some background, I am relatively new to campaign ethic reporting. Prior to this, I had never done campaign filing work. In my role, I am not only learning Maine's campaign finance rules, I also am responsible for the campaign finance reporting for the Planned Parenthood New Hampshire Action Fund (PPNHAF) and the Planned Parenthood Vermont Action Fund (PPVTAF) which all have different rules and requirements.

Despite my efforts to understand all the filing deadlines applicable this cycle, I was unaware of the 60 Day Pre-General filings for Independent Expenditures. I believed that prior to September 9, 2022, when the 48-hour reporting began, we did not need to file IEs as a special report beyond the standard regular report filings. I understand that Commission staff sent an email outlining the requirement, but for some reason, I did not see the email and remained unaware of the requirement. The failure to file the 60 Day Pre-General IE report was an honest mistake. One made despite sincere efforts to communicate with staff about filing questions and reviewing Commission issued documents.

As I mention above, I am relatively new to filing campaign finance reports. It has been challenging to understand the intersection of the variety of reports, the individual filing triggers and the varying analysis required on each expenditure. I say this not to excuse the missing report but simply to reiterate my inexperience and the challenge of getting up to speed in a fast-moving election cycle, particularly for the



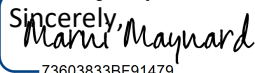
Planned Parenthood Maine Action Fund PAC

three states, PPMEAF, PPNHAF and PPVTAF. Despite those challenges, I have worked hard to get up to speed, reach out to Commission staff for help and become familiar with the filing system itself. For all those reasons, I would argue that the proposed fine of \$2433.60 (almost half of the entire missed filing amount) is highly disproportionate to the level of experience I had when filing the report. That disproportionality is one of the factors you can take into account when considering a fine reduction.

In addition, the late expenditure relates to two items paid for by PPMEAF PAC which provided limited harm to the public. The first, t shirts, were given to volunteers to wear at a planned media event. They were not distributed to voters, and it was clear from the event that the shirts were connected to the event which was branded up and down as a PPMEAF PAC event. Further, the bulk of the expenditure was for doorknockers – items to be left behind when canvassing a neighborhood and connecting with voters. As you can see from the attached picture (via email) of the items, they are clearly marked as material from PPMEAF PAC and include the required disclosures so voters looking at them know exactly who distributed and paid for them. There should have been no confusion for voters looking at the material – and as such – minimal harm to the public for the late filing.

Given the disproportionate fine and the minimal harm to the public, the Planned Parenthood Maine Action Fund PAC respectfully asks that the Commission to significantly reduce the fine amount of \$2433.60 and requests an appearance at the Commission Meeting in November.

DocuSigned by:

Sincerely,


73603833BF91479...

Marni Maynard

Public Affairs Compliance and Board Coordinator
Planned Parenthood Maine Action Fund PAC

Re-Elect Governor **JANET MILLS**



 **Planned Parenthood[®]**
Act. No matter what.
Planned Parenthood Maine Action Fund

The dangerous and chilling Supreme Court decision overturning *Roe v. Wade* puts our rights in jeopardy.

Governor Mills is a champion for reproductive freedom

with a strong record of protecting a woman's right to make her own health care decisions, including:

- An executive order protecting abortion after *Roe* was overturned
- Public and private insurance coverage for abortion
- Expanded coverage for birth control and access to emergency contraception
- Dedicated resources for improving maternal health outcomes



REQUEST AN
ABSENTEE BALLOT AT
VOTEBYMAIL.ME

**VOTE BY
TUES NOV 8**



WE REMEMBER

PAUL LEPAGE

AND HIS
OPPOSITION
TO YOUR BASIC
RIGHTS AND
FREEDOMS



“WE SHOULD NOT HAVE ABORTION”
- PAUL LEPAGE

His past actions make his views crystal clear.
As governor, Paul LePage:

- Cut funding** for family planning services
- Tried to veto** expanded reproductive healthcare coverage for low-income people
- Abused his power** of public office to target abortion providers

NOW, HE'S REFUSING TO RULE OUT SIGNING
AN ABORTION BAN INTO LAW IF ELECTED.
**WE WANT A GOVERNOR WHO WILL STAND UP
FOR OUR BASIC RIGHTS.**

NOT PAUL LEPAGE

Paid for by Planned Parenthood Maine Action Fund PAC • 443
Congress Street 3rd floor Portland Maine 04101 • Treasurer:
Margot Milliken. The top funders of PPMEAF PAC are Rebuild
Maine and Planned Parenthood Maine Action Fund. **NOT PAID
FOR OR AUTHORIZED BY ANY CANDIDATE.**



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

October 11, 2022

Nicole Clegg
Planned Parenthood Maine Action Fund PAC
443 Congress Street
Portland, Maine 04101

Re: Late Filing of 60-Day Pre-General Independent Expenditure Report

Dear Nicole:

The Commission staff has made a finding the Planned Parenthood Maine Action Fund PAC ("the PAC") was late in filing a 60-Day Pre-General Independent Expenditure campaign finance report. The report was due by 11:59 p.m. on September 9, 2022 but was not filed until October 5, 2022. Under the Commission's statutes, the late filing of a report triggers an enforcement process. (21-A M.R.S.A. § 1020-A). Based on the amount of financial activity in the report, the number of calendar days the report was late, and any history of violations from the PAC, the Commission staff has determined a penalty of \$2,433.60 is owed. (Please see attached penalty matrix for the calculation.)

The PAC may make a written request the Commission waive the violation or penalty in whole or in part. Any request for a waiver must be made within 14 calendar days of your receipt of this notice. The request must be in writing and contain a full explanation of the reasons the PAC filed late. Upon receiving your request, the Commission staff will schedule your appeal for an upcoming Commission meeting.

The Commission may waive the penalty if it determines the report was late due to mitigating circumstances, which are defined as (1) a valid emergency; (2) an error made by the Commission staff; or (3) relevant evidence the PAC made a bona fide effort to file the report on time. Also, the Commission may waive the penalty if it is disproportionate to the level of experience of the person filing the report or the harm suffered by the public from the late disclosure.

Please call (207) 287-4709 or send an email to emma.burke@maine.gov if you have questions.

Sincerely,

Emma Burke
Political Committee & Lobbyist Registrar

PAYMENT RECEIPT
(Please enclose with payment.)

Mail payment to:

Maine Ethics Commission
135 State House Station
Augusta, ME 04333

Make checks payable to: "Treasurer, State of Maine."

Nicole Clegg
Planned Parenthood Maine Action Fund PAC
443 Congress Street
Portland, Maine 04101

Violation: Late 60-Day Pre-General Independent Expenditure Report
Amount Due: \$2,433.60

Committee Name: Planned Parenthood Maine Action Fund PAC

Prior Violations: 0

Report Name	Activity Amount	Due Date	Days Late	Penalty Rate	Penalty
60-Day Pre-General Independent Expenditure Report	\$4,680	09/09/2022	26	2%	\$2,433.60

The penalty for late filing of a required report is a percentage of the total contributions or expenditures for the filing period, whichever is greater, multiplied by the number of calendar days the report is filed late, as follows:

For the first violation, 2%

For the second violation, 4%

For the third and each subsequent violation, 6%

A penalty begins to accrue at 11:59 p.m. on the day the report is due.

A required report sent by certified or registered United States mail and postmarked at least 2 days before the deadline is not subject to penalty.

Violations accumulate on reports with filing deadlines in a 2-year period that begins on January 1st of each even-numbered year. Waiver of a penalty does not nullify the finding of a violation.

MAXIMUM PENALTIES

21-A M.R.S.A. Section 1020-A(5-A)

\$5,000 for Intendent Expenditure Reports, except if the financial activity reported late exceeds \$50,000, the maximum penalty is 100% of the amount reported late.



Commission on Governmental Ethics and Election Practices
 Mail: 135 State House Station, Augusta, Maine 04333
Office: 45 Memorial Circle, Augusta, Maine
 Website: www.maine.gov/ethics
 Phone: 207-287-4179
 Fax: 207-287-6775

2022 INDEPENDENT EXPENDITURE REPORT

COMMITTEE		TREASURER
PLANNED PARENTHOOD MAINE ACTION FUND PAC 443 Congress Street, 3rd Floor Portland, ME 04101 PHONE: (207) 687-3289 EMAIL: NICOLE.CLEGG@PPNNE.ORG		Margot Milliken 157 Pine Street Portland, ME 04101 PHONE:(207) 650-0664 EMAIL: margot.milliken@gmail.com
REPORT	DUE DATE	REPORTING PERIOD
60-Day Pre-General IE Report	09/09/2022	08/24/2022-08/24/2022

FINANCIAL ACTIVITY SUMMARY

EXPENDITURES	
Total independent expenditures greater than \$250 per candidate	\$4,200.00
Total independent expenditures of \$250 or less per candidate	\$0.00
Total independent expenditures for all candidates	\$4,200.00

AFFIDAVIT

STATE OF _____

COUNTY OF _____

Nicole Clegg, being duly sworn, attests that each of the expenditures listed in the attached report was made independently of, and not in cooperation, consultation, or concert with, or at the request or suggestion of, the candidate(s) named in the report, the political committee of the candidate(s), or their agents.

 (Signature of Affiant)

Sworn to before me this _____ day of _____ 2022

 (Notary Public/Attorney at Law)

Making a false statement under oath is punishable by law.

REPORT FILED BY: Nicole Clegg
 REPORT FILED ON: 10/5/2022 11:20:37 PM
 LAST MODIFIED:
 COMMITTEE ID: 847
 REPORT NUMBER: 35110

**SCHEDULE B-IE-1
CANDIDATE(S) SUPPORTED/OPPOSED**

Expenditure Date	Support / Oppose	Candidate Name	Office	District / County	Payee	Expenditure Amount
8/24/2022	SUPPORT	Hon. Janet T Mills	Governor		Moxie Media	\$4,200.00
Total itemized independent expenditures greater than \$250 per candidate						\$4,200.00
Total unitemized independent expenditures of \$250 or less per candidate						\$0.00
Total independent expenditures for all candidates						\$4,200.00

**SCHEDULE B-IE-2
EXPENDITURES**

EXPENDITURE TYPES				
APP	Apparel (t-shirts, hats, embroidery, etc.)	CON	Contribution to party committee, non-profit, other candidate, etc.	
EQP	Equipment of \$50 or more (computer, tablet, phone, furniture, etc.)	EVT	Campaign and fundraising events (venue or booth rental, entertainment, supplies, etc.)	
FOD	Food for campaign events or volunteers, catering	HRD	Hardware and small tools (hammer, nails, lumber, paint, etc.)	
LIT	Printed campaign materials (palmcards, signs, stickers, flyers, etc.)	MHS	Mail house and direct mail (design, printing, mailing, and postage all included)	
NEW	Newspaper and print media ads only	OFF	Office supplies, rent, utilities, internet service, phone minutes and data	
ONL	Social media and online advertising only	OTH	Other and fees (bank, contribution, and money order fees, etc.)	
PER	Personnel and campaign staff, consulting, and independent contractor costs	PHO	Phones (phone banking, robocalls and texts)	
POL	Polling and survey research	POS	Postage for U.S. Mail and mail box fees	
PRO	Professional services (graphic design, legal services, web design, etc.)	RAD	Radio ads, production costs	
TKT	Entrance cost to event (bean suppers, fairs, party events, etc.)	TRV	Travel (fuel, mileage, lodging, etc.)	
TVN	TV/cable ads, production, and media buyer costs only	WEB	Website and internet costs (website domain and registration, etc.)	
Date of expenditure	Payee	Remark	Expenditure type	Net Amount
8/24/2022	Moxie Media PO BOX 30084 SEATTLE, WA, 98113	Door Hangers	LIT	\$4,200.00
			Total Expenditure	\$4,200.00



Commission on Governmental Ethics and Election Practices
 Mail: 135 State House Station, Augusta, Maine 04333
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 Website: www.maine.gov/ethics
 Phone: 207-287-4179
 Fax: 207-287-6775

2022 INDEPENDENT EXPENDITURE REPORT

COMMITTEE		TREASURER
PLANNED PARENTHOOD MAINE ACTION FUND PAC 443 Congress Street, 3rd Floor Portland, ME 04101 PHONE: (207) 687-3289 EMAIL: NICOLE.CLEGG@PPNNE.ORG		Margot Milliken 157 Pine Street Portland, ME 04101 PHONE:(207) 650-0664 EMAIL: margot.milliken@gmail.com
REPORT	DUE DATE	REPORTING PERIOD
60-Day Pre-General IE Report	09/09/2022	08/31/2022-08/31/2022

FINANCIAL ACTIVITY SUMMARY

EXPENDITURES	
Total independent expenditures greater than \$250 per candidate	\$480.00
Total independent expenditures of \$250 or less per candidate	\$0.00
Total independent expenditures for all candidates	\$480.00

AFFIDAVIT

STATE OF _____

COUNTY OF _____

Nicole Clegg, being duly sworn, attests that each of the expenditures listed in the attached report was made independently of, and not in cooperation, consultation, or concert with, or at the request or suggestion of, the candidate(s) named in the report, the political committee of the candidate(s), or their agents.

 (Signature of Affiant)

Sworn to before me this _____ day of _____ 2022

 (Notary Public/Attorney at Law)

Making a false statement under oath is punishable by law.

REPORT FILED BY: Nicole Clegg
 REPORT FILED ON: 10/5/2022 11:19:58 PM
 LAST MODIFIED:
 COMMITTEE ID: 847
 REPORT NUMBER: 35110

**SCHEDULE B-IE-1
CANDIDATE(S) SUPPORTED/OPPOSED**

Expenditure Date	Support / Oppose	Candidate Name	Office	District / County	Payee	Expenditure Amount
8/31/2022	SUPPORT	Hon. Janet T Mills	Governor		Little Chair Printing	\$480.00
Total itemized independent expenditures greater than \$250 per candidate						\$480.00
Total unitemized independent expenditures of \$250 or less per candidate						\$0.00
Total independent expenditures for all candidates						\$480.00

**SCHEDULE B-IE-2
EXPENDITURES**

EXPENDITURE TYPES				
APP	Apparel (t-shirts, hats, embroidery, etc.)	CON	Contribution to party committee, non-profit, other candidate, etc.	
EQP	Equipment of \$50 or more (computer, tablet, phone, furniture, etc.)	EVT	Campaign and fundraising events (venue or booth rental, entertainment, supplies, etc.)	
FOD	Food for campaign events or volunteers, catering	HRD	Hardware and small tools (hammer, nails, lumber, paint, etc.)	
LIT	Printed campaign materials (palmcards, signs, stickers, flyers, etc.)	MHS	Mail house and direct mail (design, printing, mailing, and postage all included)	
NEW	Newspaper and print media ads only	OFF	Office supplies, rent, utilities, internet service, phone minutes and data	
ONL	Social media and online advertising only	OTH	Other and fees (bank, contribution, and money order fees, etc.)	
PER	Personnel and campaign staff, consulting, and independent contractor costs	PHO	Phones (phone banking, robocalls and texts)	
POL	Polling and survey research	POS	Postage for U.S. Mail and mail box fees	
PRO	Professional services (graphic design, legal services, web design, etc.)	RAD	Radio ads, production costs	
TKT	Entrance cost to event (bean suppers, fairs, party events, etc.)	TRV	Travel (fuel, mileage, lodging, etc.)	
TVN	TV/cable ads, production, and media buyer costs only	WEB	Website and internet costs (website domain and registration, etc.)	
Date of expenditure	Payee	Remark	Expenditure type	Net Amount
8/31/2022	Little Chair Printing 648 Congress Street Portland, ME, 04101	T-Shirts	APP	\$480.00
			Total Expenditure	\$480.00

Burke, Emma

From: Burke, Emma
Sent: Wednesday, August 31, 2022 4:55 PM
Subject: Independent Expenditure and 24-Hour Reporting Reminder and Guide
Attachments: General Election IE & 24 Hour Report Schedule.pub.pdf

Hello!

Please find attached a guide and timeline to assist you as you begin filing Independent Expenditure Reports, and, in October, 24-Hour Reports. As I am sure most you know, Labor Day, this coming Monday, marks the beginning of the automatic IE period, and 60-Day Pre-General IE Reports are due no later than September 9th.

As a reminder, is it legally required that for every IE Report filed, the signed and notarized affidavit be sent to our office. I will be sending reminders to those who have not sent the affidavits after waiting a reasonable amount of time to receive them.

Also, please note I will be out of the office September 1st through September 6th. I will not be checking emails or voicemails during that time.

Emma J. Burke (she/her)
Political Committee & Lobbyist Registrar
Maine Ethics Commission
(207) 287-4709 | [Agency Site](#) | [eFiling Site](#)



2022 Fall Filing Guide for PACs, BQCs, and State Party Committees

Independent Expenditure (IE) Reporting Period Schedule:

- * IEs made on or before September 9th, a 60-Day Pre-General IE Report must be filed no later than 11:59 p.m. on September 9, 2022.
- * IEs made between September 9th and October 25th, a 2-Day Pre-General IE Report must be filed within 2 calendar days of the IE.
- * IEs made between October 26th and November 7th, a 1-Day Pre-General IE Report must be filed within 1 calendar day of the IE.

What's an independent expenditure (IE)? IEs are expenditures for communications that support or oppose a candidate *without* the cooperation, consultation, or coordination of the candidate or a member of the candidate's campaign. Any single IE that exceeds \$250 must be filed on an IE Report according to the above schedule.

Automatic IEs: Remember ***any*** communication that clearly identifies a candidate disseminated on or after Labor Day is automatically considered an IE unless the purchaser of the communication requests a determination from the Commission it is not. Failure to keep track of and report these communications could lead to late IE reports, so please contact the Ethics Commission if you have questions, or would like to request a determination from the Commission.

24-Hour Reporting Period Schedule:

- * If a committee receives a single contribution of \$5,000 or more or makes a single expenditure of \$1,000 or more between October 26th and November 7th, a 24-Hour Report must be filed within 24-hours of the transaction occurring.
 - * Remember, loans are contributions and orders placed or agreed to *without* payment are considered expenditures under the law.

Please remember the Ethics Commission is here to help! If you are unsure about something, it is always better to call or email before the due date to ascertain what is required of your committee.

2022 Fall Filing Timeline for PACs, BQCs, and State Party Committees

SEPTEMBER

- 5th - Labor Day
- Automatic IE period begins
- 8th - 60-Day Pre-General IE reporting period ends
- 9th - 60-Day Pre-General IE Reports due
- 2-Day Pre-General IE reporting period begins
- 30th - October Quarterly reporting period ends

OCTOBER

- 1st - 11-Day Pre-General reporting period begins
- 5th - October Quarterly Report due
- 25th - 2-Day Pre-General IE reporting period ends
- 11-Day Pre-General reporting period ends
- 26th - 1-Day Pre-General IE reporting period begins
- 24-Hour reporting period begins
- 42-Day Post-General reporting begins
- 28th - 11-Day Pre-General Report due

NOVEMBER

- 7th - 1-Day Pre-General IE reporting ends
- 24-Hour reporting period ends
- 8th - Election Day

DECEMBER

- 13th - 42-Day Post-General reporting ends
- 14th - January Quarterly reporting begins
- 20th - 42-Day Post-General Report due
- 31st - January Quarterly reporting ends

JANUARY 2023

- 17th - January Quarterly Report due

§1019-B. Reports of independent expenditures

1. Independent expenditures; definition. For the purposes of this section, an "independent expenditure" means any expenditure made by a person, party committee or political action committee that is not made in cooperation, consultation or concert with, or at the request or suggestion of, a candidate, a candidate's authorized political committee or an agent of either and that:

A. Is made to design, produce or disseminate any communication that expressly advocates the election or defeat of a clearly identified candidate; or [PL 2021, c. 132, §7 (AMD).]

B. Unless the person, party committee or political action committee making the expenditure demonstrates under subsection 2 that the expenditure was not intended to influence the nomination, election or defeat of the candidate, is made to design, produce or disseminate a communication that names or depicts a clearly identified candidate and is disseminated during the 28 days, including election day, before a primary election; during the 35 days, including election day, before a special election; or from Labor Day to a general election day. [PL 2021, c. 132, §7 (AMD).]

[PL 2021, c. 132, §7 (AMD).]

2. Commission determination. A person, party committee or political action committee may request a determination that an expenditure that otherwise meets the definition of an independent expenditure under subsection 1, paragraph B is not an independent expenditure by filing a signed written statement with the commission within 7 days of disseminating the communication stating that the cost was not incurred with the intent to influence the nomination, election or defeat of a candidate, supported by any additional evidence the person, party committee or political action committee chooses to submit. The commission may gather any additional evidence it determines relevant and material and shall determine by a preponderance of the evidence whether the cost was incurred with intent to influence the nomination, election or defeat of a candidate.

[PL 2021, c. 132, §8 (AMD).]

3. Report required; content; rules.

[PL 2009, c. 524, §6 (RPR); MRSA T. 21-A §1019-B, sub-§3 (RP).]

4. Report required; content; rules. A person, party committee or political action committee that makes any independent expenditure in excess of \$250 during any one candidate's election shall file a report with the commission. In the case of a municipal election, the report must be filed with the municipal clerk.

A. A report required by this subsection must be filed with the commission according to a reporting schedule that the commission shall establish by rule that takes into consideration existing campaign finance reporting requirements. Rules adopted pursuant to this paragraph are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. [PL 2011, c. 558, §2 (AMD).]

B. A report required by this subsection must contain an itemized account of each expenditure in excess of \$250 in any one candidate's election, the date and purpose of each expenditure and the name of each payee or creditor. The report must state whether the expenditure is in support of or in opposition to the candidate and must include, under penalty of perjury, as provided in Title 17-A, section 451, a statement under oath or affirmation whether the expenditure is made in cooperation, consultation or concert with, or at the request or suggestion of, the candidate or an authorized committee or agent of the candidate. [PL 2015, c. 350, §6 (AMD).]

C. A report required by this subsection must be on a form prescribed and prepared by the commission. A person filing this report may use additional pages if necessary, but the pages must be the same size as the pages of the form. The commission may adopt procedures requiring the electronic filing of an independent expenditure report, as long as the commission receives the statement made under oath or affirmation set out in paragraph B by the filing deadline and the commission adopts an exception for persons who lack access to the required technology or the

- (1) uses phrases such as "vote for the Governor," "reelect your Representative," "support the Democratic nominee," "cast your ballot for the Republican challenger for Senate District 1," "Jones for House of Representatives," "Jean Smith in 2002," "vote Pro-Life" or "vote Pro-Choice" accompanied by a listing of clearly identified candidates described as Pro-Life or Pro-Choice, "vote against Old Woody," "defeat" accompanied by a picture of one or more candidate(s), "reject the incumbent," or communications of campaign slogan(s) or individual word(s), which in context can have no other reasonable meaning than to urge the election or defeat of one or more clearly identified candidate(s), such as posters, bumper stickers, advertisements, etc. which say "Pick Berry," "Harris in 2000," "Murphy/Stevens" or "Canavan!"; or
- (2) is susceptible of no reasonable interpretation other than as an appeal to vote for or against a clearly identified candidate.

C. "Independent expenditure" has the same meaning as in Title 21-A §1019-B. Any expenditure made by any person in cooperation, consultation or concert with, or at the request or suggestion of, a candidate, a candidate's political committee or their agents is considered to be a contribution to that candidate and is not an independent expenditure.

3. **Reporting Schedules.** Independent expenditures in excess of \$250 per candidate per election made by any person, party committee, political committee or political action committee must be reported to the Commission in accordance with the following schedule:

A. *[Repealed]*

B. *[Repealed]*

- (1) **60-Day Pre-Election Report.** A report must be filed by 11:59 p.m. on the 60th day before the election is held and be complete as of the 61st day before the election.
- (2) **Two-Day Report.** From the 60th day through the 14th day before an election, a report must be filed within two calendar days of the expenditure.
- (3) **One-Day Report.** After the 14th day before an election, a report must be filed within one calendar day of the expenditure.

For purposes of the filing deadlines in this paragraph, if the expenditure relates to a legislative or gubernatorial election and the filing deadline occurs on a weekend, holiday, or state government shutdown day, the report must be filed on the deadline. If the expenditure relates to a county or municipal election, the report may be filed on the next regular business day.

C. Reports must contain information as required by Title 21-A, chapter 13, subchapter II (§§ 1016-1017-A), and must clearly identify the candidate and

§1020-A. Failure to file on time

1. Registration. A candidate that fails to register the name of a candidate, treasurer or political committee with the commission within the time allowed by section 1013-A, subsection 1 may be assessed a forfeiture of \$100. The commission shall determine whether a registration satisfies the requirements for timely filing under section 1013-A, subsection 1.

[PL 2019, c. 323, §18 (AMD).]

2. Campaign finance reports. A campaign finance report is not timely filed unless a properly signed or electronically submitted copy of the report, substantially conforming to the disclosure requirements of this subchapter, is received by the commission by 11:59 p.m. on the date it is due. Except as provided in subsection 7, the commission shall determine whether a report satisfies the requirements for timely filing. The commission may waive a penalty in whole or in part if the commission determines that the penalty is disproportionate to the size of the candidate's campaign, the level of experience of the candidate, treasurer or campaign staff or the harm suffered by the public from the late disclosure. The commission may waive the penalty in whole or in part if the commission determines the failure to file a timely report was due to mitigating circumstances. For purposes of this section, "mitigating circumstances" means:

A. A valid emergency determined by the commission, in the interest of the sound administration of justice, to warrant the waiver of the penalty in whole or in part; [PL 1999, c. 729, §5 (AMD).]

B. An error by the commission staff; [PL 1999, c. 729, §5 (AMD).]

C. Failure to receive notice of the filing deadline; or [PL 1999, c. 729, §5 (AMD).]

D. Other circumstances determined by the commission that warrant mitigation of the penalty, based upon relevant evidence presented that a bona fide effort was made to file the report in accordance with the statutory requirements, including, but not limited to, unexplained delays in postal service or interruptions in Internet service. [PL 2009, c. 190, Pt. A, §13 (AMD).]

[PL 2009, c. 190, Pt. A, §13 (AMD).]

3. Municipal campaign finance reports. Municipal campaign finance reports must be filed, subject to all the provisions of this subchapter, with the municipal clerk on forms prescribed by the Commission on Governmental Ethics and Election Practices. The municipal clerk shall send any notice of lateness required by subsection 6 and shall notify the commission of any late reports subject to a penalty.

[PL 2011, c. 389, §22 (AMD); PL 2011, c. 389, §62 (AFF).]

4. Basis for penalties.

[PL 2001, c. 470, §7 (AMD); MRSA T. 21-A §1020-A, sub-§4 (RP).]

4-A. Basis for penalties. The penalty for late filing of a report required under this subchapter is a percentage of the total contributions or expenditures for the filing period, whichever is greater, multiplied by the number of calendar days late, as follows:

A. For the first violation, 2%; [IB 2015, c. 1, §7 (AMD).]

B. For the 2nd violation, 4%; and [IB 2015, c. 1, §7 (AMD).]

C. For the 3rd and subsequent violations, 6%. [IB 2015, c. 1, §7 (AMD).]

Any penalty of less than \$10 is waived.

Violations accumulate on reports with filing deadlines in a 2-year period that begins on January 1st of each even-numbered year. Waiver of a penalty does not nullify the finding of a violation.

A report required to be filed under this subchapter that is sent by certified or registered United States mail and postmarked at least 2 days before the deadline is not subject to penalty.

A registration or report may be provisionally filed by transmission of a facsimile copy of the duly executed report to the commission, as long as the facsimile copy is filed by the applicable deadline and an original of the same report is received by the commission within 5 calendar days thereafter. [IB 2015, c. 1, §7 (AMD).]

5. Maximum penalties.

[PL 2001, c. 470, §8 (AMD); MRSA T. 21-A §1020-A, sub-§5 (RP).]

5-A. Maximum penalties. Penalties assessed under this subchapter may not exceed:

A. Five thousand dollars for reports required under section 1017, subsection 2, paragraph B, C, D, E or H; section 1017, subsection 3-A, paragraph B, C, D, D-1 or F; and section 1017, subsection 4, except that if the dollar amount of the financial activity that was not timely filed or did not substantially conform to the reporting requirements of this subchapter exceeds \$50,000, the maximum penalty is 100% of the dollar amount of that financial activity; [PL 2019, c. 323, §19 (AMD).]

A-1. Five thousand dollars for reports required under section 1019-B, subsection 4, except that if the dollar amount of the financial activity that was not timely filed or did not substantially conform to the reporting requirements of this subchapter exceeds \$50,000, the maximum penalty is 100% of the dollar amount of that financial activity; [PL 2019, c. 323, §19 (AMD).]

B. Five thousand dollars for state party committee reports required under section 1017-A, subsection 4-A, paragraphs A, B, C and E, except that if the dollar amount of the financial activity that was not timely filed or did not substantially conform to the reporting requirements of this subchapter exceeds \$50,000, the maximum penalty is 100% of the dollar amount of that financial activity; [PL 2019, c. 323, §19 (AMD).]

C. One thousand dollars for reports required under section 1017, subsection 2, paragraphs A and F and section 1017, subsection 3-A, paragraphs A and E; or [PL 2011, c. 558, §4 (AMD).]

D. Five hundred dollars for municipal, district and county committees for reports required under section 1017-A, subsection 4-B. [PL 2011, c. 558, §4 (AMD).]

E. [PL 2011, c. 558, §5 (RP).]

[PL 2019, c. 323, §19 (AMD).]

6. Request for a commission determination. If the commission staff finds that a candidate or political committee has failed to file a report required under this subchapter, the commission staff shall mail a notice to the candidate or political committee within 3 business days following the filing deadline informing the candidate or political committee that a report was not received. If a candidate or a political committee files a report required under this subchapter late, a notice of preliminary penalty must be sent to the candidate or political committee whose registration or campaign finance report was not received by 11:59 p.m. on the deadline date, informing the candidate or political committee of the staff finding of violation and preliminary penalty calculated under subsection 4-A and providing the candidate or political committee with an opportunity to request a determination by the commission. Any request for a determination must be made within 14 calendar days of receipt of the commission's notice. A candidate or political committee requesting a determination may either appear in person or designate a representative to appear on the candidate's or political committee's behalf or submit a sworn statement explaining the mitigating circumstances for consideration by the commission. A final determination by the commission may be appealed to the Superior Court in accordance with Title 5, chapter 375, subchapter 7 and the Maine Rules of Civil Procedure, Rule 80C.

[PL 2013, c. 334, §17 (AMD).]

7. Final notice of penalty. If a determination has been requested by the candidate or political committee and made by the commission, notice of the commission's final determination and the penalty, if any, imposed pursuant to this subchapter must be sent to the candidate and the political committee.