

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

# 2012 Candidate's Guide

*Running for Office in Maine*

## Traditionally Financed

Legislative and County Candidates







## IMPORTANT NOTICE

**There will be significant changes to the Maine Clean Election Act during the Second Regular Session of the 125th Legislature, which begins on January 4, 2012. These changes will mostly affect Maine Clean Election Act candidates, not traditionally financed candidates.**

**The Commission will provide e-mail updates about any changes to campaign finance law to all registered candidates - both traditionally financed and MCEA candidates. The Commission will also post announcements and updates on its website, [www.maine.gov/ethics](http://www.maine.gov/ethics).**

**If you have questions about this guide or your responsibilities as a candidate, contact the Commission staff at (207) 287-4179.**

*Information concerning the petitioning process and qualifications for office is provided by the Secretary of State in a separate publication.*

*The Commission has taken care to make this guide concise and accurate. However, you should not substitute the information presented here for the applicable statutory provisions of Maine Election Law and the Commission's Rules. The statutes and rules are available on the Commission's website. The statutory and regulatory requirements are controlling in the event of any omission in this publication. Its contents are subject to statutory changes enacted by the Legislature and rule changes adopted under the Administrative Procedure Act.*

*Please telephone the Commission staff at (207) 287-4179 if you have any questions.*



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## CHAPTER 1

# Getting Started as a Candidate

### BECOMING A CANDIDATE

Generally, there are three ways you become a candidate:

- when you start raising and/or spending money on your candidacy;
- when you file nomination papers and get on the ballot; and
- when your party committee nominates you to fill a vacancy.

#### **Definition of a “Candidate”**

‘Candidate’ means any person who has filed a [primary or nomination petition] and has qualified as a candidate by either procedure, or any person who has received contributions or made expenditures or has given his consent for any other person to receive contributions or make expenditures with the intent of qualifying as a candidate. (21-A M.R.S.A. § 1(5))

### SELECTING A CAMPAIGN TREASURER

Every candidate is required to appoint a campaign treasurer before accepting any cash or in-kind contributions, making any expenditures, or incurring any obligations. A deputy treasurer may be appointed, but is not required.

The treasurer has specific duties under the Election Law:

- keeping detailed records of all campaign contributions and expenditures,
- completing campaign finance reports, and
- filing campaign finance reports on time.

Every candidate should select a capable and reliable treasurer, who will actively keep track of your campaign finances, save records of your campaign contributions and expenditures as required by law, and file complete and accurate reports.

The Commission recommends that the candidate select a treasurer other than the candidate who can keep accurate records and balance a checkbook. However, the Election Law does allow a candidate to serve as the treasurer.

Candidates sometimes wish to select someone who has name recognition to be the treasurer. While this may be politically helpful, it may not be the best way to manage a campaign's finances. One way to have a recognized name associated with your campaign is to appoint that person as the chair of your campaign committee and not as your treasurer. Your treasurer should be actively involved with your campaign since you and your treasurer are both legally responsible for accurate reporting and record-keeping.



## FORMING A CAMPAIGN COMMITTEE

As a candidate, you may choose to organize one campaign committee to promote your election, such as “Friends of John Smith” or “Committee to Elect John Smith.” If you choose to form a committee, it must be identified on the Candidate Registration form.

Candidate committees are not political action committees (PACs). You can form a PAC for purposes other than your own election (for example, helping to elect other candidates or raising funds for leadership campaigns).

## EXPLORATORY COMMITTEES

Maine Election Law does not provide for exploratory committees for candidates who are considering running for elective office.

## REGISTERING AS A CANDIDATE

Within 10 days of appointing a treasurer, you must file the Candidate Registration form with the Commission. This form provides basic contact information about you, your treasurer, deputy treasurer (if you have one), and your campaign committee (if any). When registering as a candidate, please remember:

- The Registration must be filed using the paper form. You cannot file the Registration electronically.
- If the information for you, your treasurer, deputy treasurer, or campaign committee changes during the campaign (including after the election), you must file an amended Registration form with the Commission or submit the changes in writing or by e-mail to the Commission. These updates are required by law and allow the Commission to contact you with reminders, notices, and telephone calls throughout the election year.

The duties to timely appoint a treasurer and to register as a candidate are statutory requirements under 21-A M.R.S.A. § 1013-A(A), so candidates are advised to take these responsibilities seriously.

## VOLUNTARY SPENDING LIMITS

Traditionally financed candidates for the Legislature must complete and sign the “Statement Concerning Voluntary Expenditure Limits” within 10 days of registering with the Commission. Agreeing to the limits is voluntary, but the candidate must sign and submit the

### WHEN TO REGISTER AS A CANDIDATE

Event occurs:	What to do:	How to register:
If you accept cash or in-kind contributions, make expenditures, or incur obligations for your campaign	Appoint a treasurer <u>before</u> accepting any contributions, making expenditures, or incurring obligations, and then register as a candidate within 10 days of appointing a treasurer	Complete the candidate registration form and submit it to the Commission
If you give your consent for any other person to receive contributions or make expenditures with the intent of qualifying as a candidate		
If you filed a primary or nomination petition and qualified as a candidate under either procedure	Appoint a treasurer within 10 days of qualifying as a candidate, and register as a candidate within 10 days of appointing a treasurer	



form to confirm whether they accept the limit on their spending per election (\$25,000 for Senate candidates and \$5,000 for House candidates) or do not agree with the limits.

The Voluntary Spending Limits form must be completed. On the form, you must check one of the boxes below:

"I understand and accept..."

**OR**

"I do not agree..."

and then sign and date the form.

The Election Law prohibits commingling campaign funds with any personal or business funds that belong to any person, including the candidate, spouse, domestic partner, or campaign treasurer.

contributions into a separate bank account that is used only for their campaign. A candidate may never commingle campaign contributions with any other funds. If you have kept a bank account from a previous election open by maintaining personal funds in that account, please remove those personal funds as soon as you have first deposited campaign contributions into the account. You are allowed to spend any interest earned on your campaign account, but you must remember to report any interest earned as a receipt.

The Commission staff recommends using the campaign account's checks or debit card as much as possible when making campaign expenditures. Using the campaign account's checks or debit card (rather than cash or your personal funds) will help you to keep track of the dates, amounts, and payees of your expenditures when it is time to file your campaign finance reports.

**CODE OF FAIR CAMPAIGN PRACTICES**

The Maine Code of Fair Campaign Practices was adopted by the Maine Legislature in 1989 and is a voluntary statement for candidates running for the offices of Governor, the Senate, and the House of Representatives.

The Code lists standards of conduct "consistent with the best Maine and American traditions, [of] discussing the issues and presenting [the] record and policies with sincerity and candor." If you wish to subscribe to the Code, please sign the "Maine Code of Fair Campaign Practices" form, which is part of the registration packet.

Subscribing to the Code is voluntary. The Commission is not authorized to take action against candidates who do not adhere to the Code.

**EXEMPTION FOR CAMPAIGNS WITH NO FINANCIAL ACTIVITY (COUNTY CANDIDATES ONLY)**

Candidates for county offices who have sworn under oath that they will not collect contributions or make expenditures for their campaigns are exempt from the requirements of appointing a treasurer and filing campaign finance reports.

To use this exemption, please complete Section 6 of the Registration form. If you later decide to accept

**OPEN A SEPARATE BANK ACCOUNT**

All candidates must have a separate bank account for their campaign funds. Candidates must deposit all



contributions or make expenditures, you may revoke the exemption by filing an amended Candidate Registration form which leaves Section 6 blank. Please note on the amended Registration that you are revoking the exemption. Until a statement of revocation has been filed and a treasurer appointed, the candidate may not accept contributions or make expenditures to promote his or her candidacy.

### WRITE-IN CANDIDATES

Under the Commission's Rules, write-in candidates are required to register and to file campaign finance reports with the Commission according to the same reporting schedule as candidates on the ballot (see pages 29-30).

Please check with the Office of the Secretary of State regarding the requirements for write-in candidates, because those requirements were amended in the 2009 legislative session.

### REPLACEMENT CANDIDATES

Under the Commission's Rules, replacement candidates are required to register and to file campaign finance reports with the Commission according to the same reporting schedule as all other candidates (see pages 29-30). The first report of the campaign is determined when the replacement candidate registers with the Commission.

### STATEMENT OF SOURCES OF INCOME

All legislative candidates who are not already members of the Legislature must file a Statement of Sources of Income no later than 5:00 p.m. on August 6, 2012. The statement includes the sources of the income which the candidate received during the 2011 calendar year from employment, self-employment, gifts, and other sources. The forms are mailed to candidates in July of the election year. Incumbent Legislators who have filed a Statement of Sources of Income in February of the election year have already met this requirement and are not required to file the statement in August.

#### LEGAL REFERENCES

Selecting a Treasurer	21-A M.R.S.A. § 1013-A(1)
Removal of Treasurer	21-A M.R.S.A. § 1013-B
Duties of Treasurer	21-A M.R.S.A. §§ 1013-A(1)(A), (4); 1016; 1017(2), (3-A), (10); 1020-A(6), (10)
Authorizing One Campaign Committee	21-A M.R.S.A. § 1013-A(1)(B)
Registration	21-A M.R.S.A. § 1013-A(1)
Reporting Changes in Registration Information	21-A M.R.S.A. § 1013-A(5)
Code of Fair Campaign Practices	21-A M.R.S.A. § 1101 <i>et seq.</i>
Commingling of Campaign and Personal Funds	21-A M.R.S.A. § 1016(1)
Exemption from Reporting	21-A M.R.S.A. § 1017(7-A)
Write-In Candidates	Rules, Chapter 1, Section 1(5); Chapter 3, Section 8(3)
Statement of Sources of Income	1 M.R.S.A. § 1016-C

## CHAPTER 2

# Contributions: Cash, In-Kind, and Loans

### DEFINITION OF CONTRIBUTION

The term “contribution” is defined in the Election Law to include:

*“A gift, subscription, loan, advance or deposit of money or anything of value made for the purpose of influencing the nomination or election of any person to state, county or municipal office or for the purpose of liquidating any campaign deficit of a candidate . . . .”* (21-A M.R.S.A. § 1012(2), copied in the Appendix)

For further explanation of what is a contribution, please refer to 21-A M.R.S.A. § 1012(2) (copied in the Appendix) and Chapter 1, Section 6 of the Commission’s Rules.

CONTRIBUTION LIMITS PER CONTRIBUTOR FOR 2012 ELECTIONS: PARTY AND UNENROLLED CANDIDATES			
	PRIMARY	GENERAL	TOTAL
<b>Legislative Party</b>	<b>\$350</b>	<b>\$350</b>	<b>\$700</b>
<b>Legislative Unenrolled</b>	<b>N/A</b>	<b>\$350</b>	<b>\$350</b>
<b>County Party</b>	<b>\$750</b>	<b>\$750</b>	<b>\$1,500</b>
<b>County Unenrolled</b>	<b>N/A</b>	<b>\$750</b>	<b>\$750</b>

These limits apply to the aggregate of all contributions – cash, in-kind, and loans – made by a contributor. These limits do not apply to contributions made by the candidate, candidate spouse or domestic partner.

### CONTRIBUTION LIMITATIONS

**Legislative Candidate Limit.** For the 2012 elections, a contributor may donate to a legislative candidate no more than \$350 per election in the aggregate.

**County Candidate Limit.** For the 2012 elections, a contributor may donate to a county candidate no more than \$750 per election in the aggregate.

**Contributors Subject to Limitations.** The limits above apply to all types of contributors, including:

- individuals;
- political action committees and party committees;
- businesses, corporations, firms and partnerships; and
- other associations and organizations.

**Contributions by Candidate and Candidate’s Spouse/Domestic Partner.** The limits do not apply to contributions made by the candidate or by the candidate’s spouse or domestic partner, who can contribute an unlimited amount to the campaign.

**Corporate Contributions.** Corporations and labor unions may contribute their general treasury funds to candidates for state or county office in Maine.

**Aggregate Contribution Limit.** No individual may make contributions aggregating more than \$25,000 to



all candidates for state and county office in any calendar year, except for contributions to a candidate made by the candidate or by the candidate's spouse or domestic partner.

***Adjustments to Contribution Limit.*** The Ethics Commission adjusts the contribution limits based on the consumer price index in December of each election year. The next adjustment will be made in December 2012.

#### **ATTRIBUTING A CONTRIBUTION TOWARD THE PRIMARY OR GENERAL ELECTION**

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***Party Candidates.*** For candidates who are enrolled in a political party (Democratic, Green-Independent, or Republican), the primary and general elections are considered different elections. Legislative candidates who are on the ballot for both elections may accept \$350 from a contributor for the primary election and \$350 from the same contributor for the general election for a total of \$700. County candidates who are on the ballot for both elections may accept \$750 from the same contributor for each election for a total of \$1,500.

***Unenrolled Candidates.*** All contributions received by unenrolled (independent) candidates are counted toward a single election – the general election. Therefore, unenrolled legislative candidates may accept only \$350 from each contributor and unenrolled county candidates may accept only \$750.

***Collecting General Election Contributions Before the Primary Election.*** In 2009, the Maine Legislature directed the Commission to amend its rules so that, before the primary election, a candidate may accept contributions from a single contributor for both the

primary and for the general election at the same time, so long as:

- the candidate designates each contribution in campaign finance reports as having been received for the primary or the general election,
- all general election contributions received before the primary election are segregated from primary election campaign funds, and
- the candidate may not borrow general election contributions to promote the candidate's nomination in the primary election.

Under the Commission's Rules, any amount contributed to a candidate after the primary election is considered to be for the general election except for candidates who lost the primary election and are retiring debts for the primary election.

#### **CONTRIBUTIONS FROM MARRIED COUPLES AND DOMESTIC PARTNERS**

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If you receive a contribution in the form of a check listing two spouses or domestic partners, please record the contribution in the name of the individual(s) signing the check, regardless whether both of their names are included in the name of the bank account.

If both individuals sign the check (or if one signs the check and the other makes a notation in the memo portion of the check), please allocate the contribution equally between both of them unless you receive something in writing indicating that the contributors prefer a different allocation.



In general, if someone signs a check to make a contribution, and the campaign wishes to allocate a portion of the contribution to a spouse, the Commission staff recommends that the campaign obtain something in writing from the "non-signing" spouse confirming that it was their intent to make part of the contribution. The written statement could be as informal as an e-mail or handwritten note.

#### OTHER RESTRICTIONS AND PROHIBITIONS ON CONTRIBUTIONS

**Anonymous Contributions.** Anonymous contributions of more than \$10 may not be accepted.

**Contributions in the Name of Another.** No person may make a contribution in the name of another person, and no candidate may knowingly accept such a contribution.

Candidates are expected to take reasonable steps to identify the original source of funds and to report the actual contributor. Misreporting the source of contributions is a serious violation of the Election Law. Candidates who knowingly accept a contribution made by one person in the name of another person may be assessed a penalty of up to \$5,000. It is a crime to make a contribution in the name of another person or to knowingly accept a contribution made by one person in the name of another person.

The Commission staff has received questions from candidates concerning this prohibition mainly in connection with parents contributing for their children. If the candidate has a doubt as to whether a child gave a contribution, the Commission recommends that the candidate contact the contributor to confirm and to

document that the child gave the contribution and that it was not given by the child's parents.

**Contributions from Lobbyists During the Legislative Session.** The Governor, a member of the Legislature, a constitutional officer, or the staff or agent of the Governor, a member of the Legislature or a constitutional officer may not solicit or accept a contribution from a lobbyist, lobbyist associate or client during any period of time in which the Legislature is in session (even with their personal funds) except for contributions to a Legislator's campaign for federal office.

For Legislators, the Governor, and Constitutional Officers: When the legislature is in session, lobbyists, lobbyist associates and their clients are prohibited from making campaign contributions.

**Contributions from Corporations and Affiliated Entities.** In certain circumstances, the Election Law considers businesses, or non-profit or other organizations to be a single contributor if they have common owners or officers. If the entities are considered a single contributor, the combined total of their contributions to a candidate may not exceed the contribution limit for that office. Candidates are expected to take reasonable actions to avoid accepting over-the-limit contributions from affiliated entities.

A sole proprietorship and its owner are considered to be a single entity. In addition, two or more entities are considered a single contributor if they share the majority of the members of their boards of directors; share two or more officers; are owned or controlled by the same majority shareholder(s); or are in a parent-subsidary relationship.



The Election Law also states that “[contributions made by a for-profit or a nonprofit corporation including a parent, subsidiary, branch, division, department or local unit of a corporation, and contributions made by a political committee or political action committee whose contribution or expenditure activities are financed, maintained or controlled by a corporation are considered to be made by that corporation, political committee or political action committee.” (21-A M.R.S.A. § 1015-A)

Over-the-limit contributions may result when a candidate has accepted contributions from multiple businesses or nonprofits which are considered to be a single contributor under the Election Law. If your campaign has accepted contributions from affiliated entities, please check 21-A M.R.S.A. § 1015-A and call the Commission staff if you have any questions.

**Earmarked Contributions.** If a contributor gives an amount of money to an intermediary such as a political action committee or a party committee and directs that the money be contributed to a specific candidate, the original source of the funds is considered the contributor to the candidate. The intermediary is required to notify the candidate of the original source of the funds, so that the candidate may report the original source as the contributor of the earmarked funds. Examples of earmarked contributions would include:

- an employer giving \$250 to an employee and directing the employee to contribute the money to a candidate,
- an organization giving \$300 to a party committee, and asking the party committee to donate it to a candidate, and
- a parent giving \$100 to a teenage child and directing the child to donate the money to a candidate.

## IN-KIND CONTRIBUTIONS

“In-kind contributions” are goods and services that are provided to the campaign at no cost or at a cost that is less than the usual and customary charge. They are subject to the same contribution limit as cash contributions (\$350 for legislative and \$750 for county candidates). The following activities are examples of in-kind contributions:

- the candidate purchases campaign signs and is not reimbursed by the campaign,
- a supporter of a candidate pays for some of the candidate’s advertising in a community newspaper and is not reimbursed by the campaign,
- a friend of a candidate who owns a copy shop provides the campaign with a discount on printing services,
- a volunteer who is making signs to give to the candidate buys plywood and paint and is not reimbursed by the campaign,
- the owner of a local business provides the campaign, free of charge, some of his paid staff members to work for the campaign on company time, and
- a commercial vendor extends credit to the campaign under terms that are not substantially similar to the terms extended in the ordinary course of business to nonpolitical customers. Also, please see page 14 for an explanation of how unpaid debts and obligations may be considered in-kind contributions if they remain unpaid after an election.



If a campaign receives an in-kind contribution, the campaign must report a description of the goods or services received on Schedule A-1 of the campaign's finance reports. The campaign must also provide the fair market value of the contribution, which is what the goods or services would have cost the campaign if it had paid cash for the donated goods or services. If the campaign received a discount on goods or services, the discount is the amount of the in-kind contribution.

#### OTHER IN-KIND CONTRIBUTIONS

***Volunteer Services vs. Paid Assistance.*** Individuals are permitted to provide their services for free to your campaign as volunteers. A candidate may provide compensation to a volunteer for a portion of the volunteer's time spent on campaign activities. However, if the volunteer provides their services with the knowledge of their employer during their paid work-time, then the employer has made a contribution to your campaign.

***Appearing in Advertising Sponsored by Third-Parties.*** In 2008, the Commission considered advertising concerning federal issues of public policy in which a candidate for state office appeared. The advertisement portrayed the candidate in a positive light, but did not mention his candidacy. In that instance, the Commission applied the legal definition of "contribution" and determined that the candidate's involvement in the advertisement did not constitute a contribution to the candidate's campaign.

Please be aware, however, that if an individual or organization invites you to appear in a paid advertisement, the value of the advertising could be considered a contribution to your campaign. If the

advertisement qualifies as a contribution, you would be required to report receiving the value of the contribution. It would count toward the contribution limit. Please feel free to contact the Commission staff to receive advice on what factors the Commission might consider in determining whether the advertisement would be a contribution.

***Coordinating Expenditures with Others.*** Individuals (including friends and family) and organizations have a First Amendment right to spend money to promote the election of a candidate. To avoid making a contribution to the candidate, however, they must make the expenditures independently of the candidate and his or her campaign.

The Election Law states that: "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." (21-A M.R.S.A. § 1015(5)) This means that if any person or organization makes an expenditure to support you and has consulted with you on the expenditure, you have accepted a contribution and the contribution limits apply (\$350 per election per contributor for legislative candidates and \$750 per election per contributor for county candidates).

One exception to this policy is that candidates may coordinate with a state or local party committee on a "slate card" of three or more candidates. Slate cards are excluded from the definition of contribution. Please note that this exception applies to state and local party committees only, and does not apply to caucus committees or other PACs.



You are allowed to ask others not to spend money in support of your candidacy. Even if another person or organization were to spend money subsequently, merely making a request not to make an independent expenditure would not by itself constitute cooperation in the view of the Commission staff.

## LOANS ARE CONTRIBUTIONS

**Loans Subject to Contribution Limits.** Under the Election Law, non-commercial loans are considered contributions to the candidate. They are subject to the maximum amounts that a contributor may provide to a candidate per election. For legislative candidates, the contribution limit is \$350 per election and for county candidates the limit is \$750 per election.

Party candidates have two elections—the primary and general—and unenrolled candidates have only one election—the general. Please see the chart on page 5.

**Loans Not Subject to Contribution Limits.** These limitations do not apply to loans from the candidate and the candidate’s spouse or partner, who can lend – or contribute – an unlimited amount to the campaign.

Loans to a candidate made by a financial institution in Maine in the ordinary course of business are not considered to be contributions and are not subject to the contribution limits.

## GOODS AND SERVICES: NOT CONTRIBUTIONS

**Assistance from State Party Committees.** Candidates may receive some assistance from paid employees of a state party committee without that help constituting an in-kind contribution. State party committees may:

- provide up to 40 hours of assistance by paid employees to a candidate in each election (primary or general);
- recruit and oversee volunteers for campaign activities involving three or more candidates; or
- coordinate campaign events involving three or more candidates.

This exception applies only to state party committees (Democratic, Green-Independent, and Republican), and does not apply to local party committees, caucus committees, or other political action committees (PACs).

**Other Exempt Goods and Services.** Certain goods and services are excluded from the legal definition of “contribution.” The campaign’s receipt of these items is not an in-kind contribution. Candidates and treasurers are encouraged to familiarize themselves with these “exempt” goods and services. They are listed in the Appendix of this Guide.

Some examples of exempt goods and services are:

- a trade association, commercial business, or labor union may donate office space or office equipment to a campaign, provided that there is no additional cost,
- state, county, and local party committees may spend money to produce a slate card (“party candidate listing”) to promote three or more candidates. This exception is not available to caucus committees and other PACs.



- an individual may volunteer his services to a campaign at no charge (including professional services such as legal advice, assistance with databases, and web and graphic design) as long as the individual is not being compensated by an employer for providing the services, and
- each volunteer may pay up to \$100 cumulatively in each election (primary or general) toward the cost of food, beverages, and invitations in the course of volunteering for a campaign (e.g., when volunteering at a house party or a campaign event, a campaign supporter may buy up to \$100 in food).

#### CONTRIBUTIONS FOR RECOUNTS

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If you are in a recount of an election, you may accept unlimited funds and services from party committees, caucus campaign committees, and from attorneys, consultants, and their firms. All other contributors are restricted to the contribution limits found on page 5.

All contributions received and expenditures made in connection with a recount must be disclosed in a special financial report due 90 days after the election. The Recount Report is filed on a paper form and the form is mailed or e-mailed to candidates and treasurers shortly after the election.

#### COMMISSION REVIEW OF CONTRIBUTIONS

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The Commission reviews contributions disclosed by candidates in their campaign finance reports, and sometimes requests additional information when reports are incomplete or a compliance question is raised. In most cases, the information provided by the campaign resolves the issue at the level of the Commission staff, and no further action is necessary. Your prompt responses are appreciated as the Commission staff encourages compliance with reporting requirements and the contribution limitations.



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#### LEGAL REFERENCES

Definition of Contribution	21-A M.R.S.A. § 1012(2)
Contribution Limits	21-A M.R.S.A. § 1015(1) - (3)
Contributions in the Name of Another	21-A M.R.S.A. §§ 1004(3); 1004-A(3)
Contributions from Lobbyists	1 M.R.S.A. § 1015(3); Rules, Chapter 1, Section 12
Contributions from Affiliated Corporations and Organizations	21-A M.R.S.A. § 1015-A
Earmarked Contributions	21-A M.R.S.A. § 1015(4)
Loans	Rules, Chapter 1, Section 6(2)
Occupation and Employer of Contributor	21-A M.R.S.A. §§ 1016(3)(B); 1017(5)
In-Kind Contributions	Rules, Chapter 1, Section 6(4) - (5)
Assistance by Paid Employees	21-A M.R.S.A. §§ 1012(2)(A)(4), (2)(B)(7)(a)
Exempt Goods and Services	21-A M.R.S.A. § 1012(2)(B)
Coordinating Expenditures with Third-Parties	21-A M.R.S.A. § 1015(5)
Recounts of Elections	21-A M.R.S.A. § 1018-B

## CHAPTER 3

# Expenditures, Unpaid Debts, and Reimbursements

### DEFINITION OF EXPENDITURE

The term expenditure means:

*“A purchase, payment, distribution, loan, advance, deposit or gift of money or anything of value made for the purpose of influencing the nomination or election of any person to political office, except that a loan of money to a candidate by a financial institution made in accordance with applicable banking laws and regulations and in the ordinary course of business is not included.” (21-A M.R.S.A. § 1012(3)(A)(1))*

Certain items, activities, and communications are exempt from the definition of expenditure. These exempted items are listed in 21-A M.R.S.A. § 1012(3)(B). (See the Appendix for the definition of “expenditure” and exemptions.)

### UNPAID DEBTS AND OBLIGATIONS

The legal definition of the term campaign expenditure includes making an obligation to a vendor for goods or services ordered. (The definition of expenditure is included in the Appendix.) Chapter 1, Section 7(3) of the Commission’s Rules specifies certain actions which constitute making an expenditure — regardless whether a payment has been made for the good or service. Please see chart above right.

UNPAID OBLIGATIONS WHICH CONSTITUTE AN EXPENDITURE
The placement of an order for goods or services
A promise or agreement (even an implied one) that payment will be made
The signing of a contract for a good or service
The delivery of a good or service even if payment has not been made

See Chapter 6, Campaign Finance Reporting, for an explanation on how to report expenditures that have been paid and unpaid obligations.

### MAKING REIMBURSEMENTS

The Commission recommends paying for all purchases directly from the campaign bank account using a debit card or by writing checks. This will assist the campaign in keeping track of the dates, payees, and amounts of its expenditures. Nevertheless, the campaign is allowed to purchase campaign goods and services with the personal funds or credit card of the candidate or a supporter and to reimburse the purchaser.

If the campaign makes a reimbursement to the candidate or to a supporter for a purchase, please see pages 32-33 on how to correctly report the reimbursement. If the campaign has not reimbursed the pur-



chaser by the end of the report period, the campaign must report the transaction as an unpaid debt on Schedule D (see pages 36-37).

### SHARING EXPENDITURES WITH OTHER CANDIDATES

Candidates may share expenses for goods or services, such as joint campaign literature or advertising. To avoid making or receiving an in-kind contribution, each candidate should make a reasonable effort to pay the portion of the overall cost that is proportionate to the benefit received by the candidate.

The Commission staff recommends that all candidates involved in the joint expenditure should clearly disclose in their campaign finance reports that the goods or services have been purchased jointly with other candidates. That reporting will avoid any concern that candidates are using their campaign funds to subsidize other candidates' campaigns. The Commission staff recommends that the "paid for" statement in the communication disclose that it was paid for and authorized by the candidates, even if a single candidate paid the vendor for the ad or literature.

### EXPENDITURES CONSIDERED "CONTRIBUTIONS"

**Receiving a Vendor Discount.** If the campaign receives goods or services from a vendor at a cost that is less than the usual and customary charge, the campaign has received an in-kind contribution. The value of the contribution is the amount of the discount. The campaign must report the contribution on Schedule A-1 of the campaign finance reports. The contribution is subject to the same contribution limit as cash contributions and the limit applies to the total aggregate of all in-kind and cash contributions from the contributor.

**Receiving Credit from a Vendor.** When a commercial vendor extends credit to your campaign, please inquire whether the terms the vendor offered your campaign are substantially similar to extensions of credit made to nonpolitical customers that are of similar risk, and whether the vendor extended the credit in the ordinary course of business. If these conditions are not met, the campaign's receipt of goods and services without payment would constitute an in-kind contribution to your campaign under the Commission's Rules.

All forms of contribution are subject to the contribution limit per election (see chart on page 5). Receiving an over-the-limit contribution may subject you or the contributor to a financial penalty of up to the amount by which the contribution limit has been exceeded.

When commercial vendors are willing to extend credit to your campaign, please be aware that the receipt of the goods or services without payment could be considered an in-kind contribution under the Commission's Rules.

If your campaign is considering having credit extended by commercial vendors, you may want to plan your fundraising so that these unpaid debts are paid soon after the election.

Under the Commission's Rules, the Commission shall presume any debt that remains unpaid more than six months after the election in which the debt was incurred to be a contribution to the candidate, unless the candidate provides clear and convincing evidence to the Commission that the candidate intends to raise funds or take other measures to satisfy the debt. If the debt remains unpaid for four years, the Commission is required by its rules to determine whether the debt is a contribution.



## COMPLIANCE REVIEWS

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The Commission conducts compliance reviews of all expenditures disclosed by candidates in campaign finance reports, and sometimes requests additional information from candidates and treasurers to verify that reporting is complete and accurate.

### LEGAL REFERENCES

Definition of Expenditure	21-A M.R.S.A. § 1012(3)
Unpaid Debts and Obligations	21-A M.R.S.A. §§ 1012(3)(A)(2), (4) Rules, Chapter 1, Section 7(3)
Purchasing Discounted Goods or Services	Rules, Chapter 1, Section 6(4)
Receiving Credit from a Vendor	Rules, Chapter 1, Section 6(6)





## CHAPTER 4

# Campaign Records and Record-Keeping

### LEGAL REQUIREMENTS TO KEEP CERTAIN RECORDS

The Election Law requires every campaign to keep certain campaign records:

*“Each treasurer shall keep detailed records of all contributions received and of each expenditure that the treasurer or candidate makes or authorizes. When reporting contributions and expenditures to the commission..., the treasurer shall certify the completeness and accuracy of the information reported by that treasurer.”* (21-A M.R.S.A. § 1016)

All candidates are required to keep itemized accounts of contributions received and expenditures made by their campaigns. The campaign is not required to submit records to the Commission unless requested.

Candidates in the general election who have closed out their campaign with the filing of the 42-Day Post-General Report, must keep campaign records until December 2014. A campaign is closed out when the cash balance and outstanding debt and loan balances are all \$100 or less.

Remember that if you are filing post-election Semiannual Reports, you must keep records for two years after the filing of the final report of the campaign. Thus, records must be kept beyond December 2014.

### RECORDS FOR CONTRIBUTIONS

**Contributions of more than \$10 up to \$50.** For contributions over \$10 but \$50 or less, the campaign is required to keep a record of:

- the date of the contribution,
- the amount of the contribution, and
- the contributor's name and address.

All contributions from contributors giving \$50 or less in a report period may be totaled into a lump sum for reporting purposes as long as no contributor has given more than \$50 in the aggregate for the entire campaign (see page 31).

**Contributions of more than \$50.** For contributors who have given more than \$50 during a report period or in the aggregate for the entire campaign (e.g., \$40 is given in one report period and then another \$40 is given in the next report period), the campaign is required to keep a record of the contributor's occupation and employer in addition to their name and address. The requirement to obtain and report the occupation and employer is applicable to individuals, reported under contributor type “Other Individuals.”

If a person gives more than \$50 in total during a report period, the campaign must keep a record of the person's occupation and employer.



The Commission staff recommends that the campaign ask the contributor for their occupation and employer information at the time the contribution is solicited.

As found in Chapter 6, “Campaign Finance Reporting,” candidates are required to report this information. If a contributor is unwilling to provide the information to the campaign, report “information requested” in the occupation and employer fields (see page 31).

### RECORDS FOR EXPENDITURES

For expenditures over \$50, the Election Law requires that candidates keep a receipt (bill or invoice marked paid) stating the particular goods or services purchased. Also, the campaign treasurer is required to keep a detailed and exact account of all expenditures made by or on behalf of the candidate or campaign committee, including the name of each payee, and the date and amount of the expenditure.

The campaign treasurer is required to keep these records for two years following the filing of the final campaign finance report required for the election cycle.

The Commission recommends obtaining a bank debit card and a checkbook for your campaign. Making expenditures directly from the campaign’s bank account simplifies record-keeping and promotes accurate reporting.

### DOCUMENTING PURCHASES MADE WITH FUNDS OF THE CANDIDATE OR AN INTERMEDIARY

(Not from the Campaign Bank Account)

The Commission staff encourages candidates to make all payments directly from the campaign bank account to the vendor. Nevertheless, some candidates find it helpful or necessary for the candidate or an intermediary (such as a volunteer or member of

campaign staff) to use personal funds to pay a vendor for goods and services, and then to be reimbursed by the campaign.

In these situations, the same documentation requirement applies for expenditures of \$50 or more. The campaign must obtain from the candidate or intermediary an original invoice or receipt from the vendor.

#### Documenting Purchases Made by Others

If you, a supporter, or family member make a purchase for the campaign that was over \$50, please remember that your campaign is required to obtain an invoice or receipt from the vendor and proof that the vendor received payment. Proof of payment is: (1) the canceled check paid to the vendor; (2) a receipt from the vendor showing that the vendor received payment; or (3) a bank or credit card statement of the person receiving the reimbursement that identifies the vendor as the payee.

### DOCUMENTING PURCHASES MADE BY A CONSULTANT

If your campaign pays a consultant for goods or services worth \$50 or more, it is required to obtain an invoice from the consultant.

In addition, if the consultant purchases goods or services from a sub-vendor or third party worth \$50 or more, your campaign is required to obtain an invoice or receipt for every purchase made by the consultant from a sub-vendor. This is a legal requirement in Election Law:

“A treasurer shall obtain and keep a receipted bill, stating the particulars, for every expenditure in excess of \$50 made by or on behalf of a political committee or a candidate...” [21-A M.R.S.A. § 1016(4)].

EXAMPLE OF INVOICE FOR CONSULTING SERVICES			
<b>ELECTION Associates</b>		456 State Street, Augusta, Maine 04332	
<b>BILL TO:</b>		Invoice Date: 09/18/2012	
Honorable Ruth Baker c/o Committee To Elect Baker 123 Maine Street Augusta, ME 04032			
Service/Product	Rate	Hours	Total
Design of Palm Card	\$100 per hr	3.0	\$300
Printing of card: Graphics Center Color Printing <b>SEE ATTACHED COPY OF INVOICE</b>	2,000 cards at \$0.50 each		\$1,000
<b>Total Due 30 Days from Date of Invoice</b>			<b>\$1,300</b>
Authorized Signature: <i>Elizabeth C. Brown</i>		Print Name: Elizabeth Brown Title: Owner	

What makes this invoice meet the record documentation standards?

Services provided by the consultant are described.

Goods which the consultant purchased for the campaign are listed separately with invoice attached.

Invoice is signed.

An easy way to meet this record requirement is to ask the consultant to provide copies of sub-vendor invoices at the time that the consultant is invoicing the campaign. An example of a consultant invoice, when a sub-vendor was used, is shown above. When the records for the campaign include copies of sub-vendor invoices, the campaign is then able to comply with the reporting requirement for goods and services received by the campaign from sub-vendors (see pages 33-34).

**REQUESTS FOR DOCUMENTS BY THE COMMISSION**

As part of its compliance reviews, the Commission staff sometimes requests documentation for contributions and expenditures (e.g., a vendor invoice to verify the goods and services purchased).

**OTHER CAMPAIGN RECORDS**

Other documents that are usually kept as records of the campaign include:

- campaign bank account statements and cancelled checks,
- signed and dated contracts for services provided to the campaign, and
- labor records and tax forms for campaign staff.



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**LEGAL REFERENCES**

Requirement to Keep Records

21-A M.R.S.A. §§ 1013-A(4), 1016

Required Records for Contributions

21-A M.R.S.A. § 1016

Records of Expenditures Made on Behalf  
of the Candidate

21-A M.R.S.A. § 1016(4); Rules Chapter 1, Section 7(1)



## CHAPTER 5

# Campaign Communications and Disclosure Statements

### DISCLOSURE ON CAMPAIGN COMMUNICATIONS

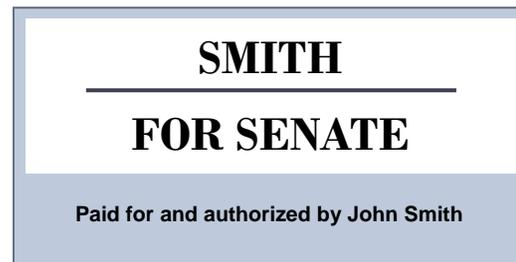
Whenever a candidate, or the candidate's authorized political committee or agents, authorize a communication expressly advocating the election or defeat of the candidate through broadcasting stations, newspapers, magazines, campaign signs or outdoor advertising facilities, publicly accessible websites, direct mail or other similar types of general public political advertising, or through flyers, handbills, bumper stickers, and other non-periodical publications, the communication must clearly and conspicuously state that it has been so authorized. The communication must also clearly state the name of the person who made or financed the expenditure for the communication.

In 2009, the law was changed so that a communication financed by the candidate or the candidate's committee is no longer required to include the address of the person who made or financed the communication. If financed by others, the communication must include the address of the person.

In addition, these requirements apply to any communication that names or depicts a clearly identified candidate and that is disseminated to voters in the last 21 days before the primary election or in the last 35 days before the general election.

The following are examples of suitable disclosure statements for political communications based on the person who made the expenditure for the communication.

#### *Expenditure Made by the Candidate (address not required):*



- Paid for and authorized by John Smith
- Paid for and authorized by the Candidate

#### *Expenditure Made by a Candidate's Agent (address not required):*



- Authorized by the Candidate and paid for by Ruth Clark, Treasurer



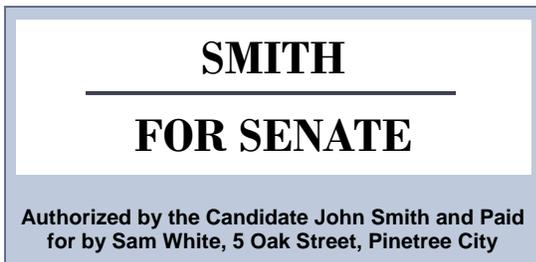
- Authorized by the Candidate and paid for by Peter Brown, Chair of the Committee to Elect John Smith

*Expenditure Made by the Candidate's Committee (address not required):*



- Authorized by the Candidate and paid for by the Committee to Elect John Smith

*Expenditure Made by Others who are not Associated with the Campaign (address is required):*



- Authorized by Candidate John Smith and paid for by Sam White, 5 Oak Street, Pinetree City

Please remember a communication authorized by the candidate and paid by a third party who is not associated with the campaign, must be reported either as an in-kind contribution (contribution limit applies) or as an expenditure (third party must be reimbursed).

## COMMUNICATIONS EXEMPT FROM DISCLOSURE

**Signs That Are Lettered or Printed by Hand.** A sign that is lettered or printed individually by hand, that has been paid for and authorized by the candidate (or candidate's committee/agent), and that clearly identifies the name of the candidate is not required to have a disclosure statement.

**Small Items.** Certain items are exempt from the disclosure requirement because of their small size: ashtrays, badges and badge holders, balloons, campaign buttons, clothing, coasters, combs, emery boards, envelopes, erasers, glasses, key rings, letter openers, matchbooks, nail files, noisemakers, paper and plastic cups, pencils, pens, plastic tableware, 12-inch or shorter rulers, swizzle sticks, and tickets to fundraisers.

A disclosure statement is also not required on advertisements in electronic media where including the disclosure statement would be impracticable due to size or character limitations.

The Commission may exempt similar items if it determines those items are too small and it would be unnecessary to include the required disclosure. If you have any questions as to whether an item is required to have a disclosure statement, please call the Commission at (207) 287-4179.

**Low-cost Items.** Certain types of campaign communications are not required to include the disclosure statement if: (1) the total cost to produce and distribute them is \$100 or less; and (2) they were prepared and paid for by one or more individuals who:

- are not required to register with the Commission and



- are acting independently of and without the authorization of the candidate, candidate's committee, a party committee, political action committee, a ballot question committee or their agents.

This exemption applies only to handbills and other literature, campaign signs, and internet and e-mail activities.

### **AUTOMATED TELEPHONE CALLS**

Prerecorded automated telephone calls and scripted live telephone calls that name a clearly identified candidate during the 21 days before a primary election or 35 days before a general election must include the name of the person who made or financed the communication, except that the disclosure is not required for prerecorded automated calls that are paid for by the candidate and that use the candidate's voice.

### **COMMUNICATIONS NOT AUTHORIZED BY THE CANDIDATE**

Similar disclosure requirements apply to communications that are paid for by third parties, such as political action committees, party committees and individuals, and that are not authorized by the candidates. Those communications must disclose:

- the name and address of the person who made or financed the expenditure for the communication; and
- state that the communication was: "Not paid for or authorized by any candidate." If the communication is in writing, this statement must be in print no smaller than 12-point bold Times New Roman font.

### **REQUIREMENTS FOR BROADCASTERS (TV AND RADIO) AND NEWSPAPERS**

Broadcasting stations, cable television systems, and newspapers in Maine may not broadcast or print communications that lack the required information about the sponsor of the communications and whether the communication was authorized by the candidate.

Under federal regulations (47 CFR § 73.1212(a)(2)(ii) and 47 CFR § 76.1615(a)), in the case of any television political advertisement concerning candidates for public office, the sponsor shall be identified with letters equal to or greater than four percent of the vertical picture height that air for not less than four seconds. This requirement applies to broadcast and cablecast television ads for all candidates, not just federal candidates.

### **"EQUAL OPPORTUNITY" - UNDER FEDERAL LAW**

Under federal law, any positive appearance of a candidate, by voice or likeness, constitutes a "use" of broadcasting facilities by a candidate except under certain circumstances (like a bona fide news event). "Use" of a broadcasting facility gives rise to "equal opportunity" meaning that the broadcast station "shall afford equal opportunities to all other candidates for that office to use such facilities." It is a right of equivalent use: free use equals free use; paid use equals paid use). It is a right to free airtime only if the opposing candidate's use was free.

Broadcast (TV and radio) and cable systems may decide not to allow the use of its facilities by any candidate for public office, but if a system permits a candidate to use its facilities — whether free or paid — the system must afford equal opportunities to all other



candidates for that office to use such facilities. “Use” is any positive appearance including serving as a host of a show and appearing in a show or in an advertisement.

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### CONSTITUENT MAILINGS

Constituent newsletters, sent by incumbent Legislators, are used to inform the voters in their district of the work accomplished during the most recent legislative session. Prior to mailing, these newsletters are reviewed by legislative officers (Clerk of the House or Secretary of the Senate) to verify that they do not advocate for the election or defeat of any candidate. The purpose of these mailings is a factual account of the session and are not to be used for campaign purposes. Thus, a disclosure statement is not required.

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### PLACEMENT OF POLITICAL SIGNS

The Commission has no jurisdiction over where candidates place roadside signs. Guidance from the Maine Department of Transportation is included in the Appendix.

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### UNAUTHORIZED REMOVAL OF CAMPAIGN SIGNS FROM PUBLIC ROADWAYS

The unauthorized removal or destruction of political signs is a civil violation under Maine law (Title 23, Section 1917-A), and may carry a fine of up to \$250. Specifically, the law states that “a person who takes, defaces or disturbs a lawfully placed sign bearing political messages relating to a general election, primary election or referendum commits a civil violation for which a forfeiture of up to \$250 may be adjudged.”

The law does not apply to a person authorized by a candidate or political committee to remove signs placed by or at the direction of that candidate or political committee. It also does not apply to the landowner, or agent of the landowner, on whose property a sign has been placed.

A candidate or candidate’s committee would file a complaint with the local police and/or the District Attorney’s office for appropriate action.

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### ENFORCEMENT

If the Commission receives a complaint about communications that do not contain the required disclosure, the Commission will request that the disclosure be added to the communication. The person who financed the communication has ten days to correct the violation after being notified by the Commission. A person who violates the disclosure requirement may be subject to a civil penalty of up to \$5,000, except that if the disclosure statement is lacking on a yard sign, the maximum penalty is \$200.



**LEGAL REFERENCES**

Required Disclosure on Candidate Communications	21-A M.R.S.A. § 1014(1), (2-A)
Exempted Communications	21-A M.R.S.A. § 1014(1)
Hand-made Signs	21-A M.R.S.A. § 1014(1)
Automated Telephone Calls	21-A M.R.S.A. § 1014(5)
Required Disclosure on Third-Party Communications	21-A M.R.S.A. § 1014(2), (2-A)
Broadcasters and Newspapers	21-A M.R.S.A. § 1014(3), (3-B)
Enforcement	21-A M.R.S.A. § 1014(4)



## CHAPTER 6

# Campaign Finance Reporting

### LEGAL REQUIREMENT

All candidates for Governor, the Legislature, and county office must file campaign finance reports with the Commission. Filing complete and accurate reports is a joint responsibility of the candidate and treasurer. This is a requirement of the Election Law that applies to anyone who is a candidate except those county candidates who have been granted an exemption from filing because their campaigns will have no financial activity.

Campaign treasurers have two primary responsibilities: filing campaign finance reports with the Commission and keeping required financial records for the campaign.

Most reports must be filed by 11:59 p.m. on the filing deadline. If you are required to file 24-Hour Reports, these are filed within twenty four hours of receiving the contribution or making the expenditure (see pages 29-30).

While the Commission mails written reminders to candidates, it is the candidate and treasurer's responsibility to remember and to comply with the filing deadlines.

Candidates who do not submit a report by the filing deadline will be assessed a civil penalty, unless the candidate requests and the Commission grants a waiver of the penalty.

### DESCRIPTION OF A CAMPAIGN FINANCE REPORT

The campaign finance reports consist of a cover page and six schedules. Each schedule is identified by a letter and title, and covers information you are required to report to the Commission. See the top of the next page for a brief description of each schedule.

When you use the electronic filing system (E-Filing System) to file your reports, the "Report Menu" screen displays the lists of schedules (see the bottom of the next page for an example). Both the "Cover Page" and "Schedule F" are automatically completed by the E-Filing system — no data entry is necessary on these two pages.

### TIME PERIOD FOR EACH REPORT

Each campaign finance report that you file covers a specific period of time. You need to report all contributions received and expenditures made during that period and all obligations that remain unpaid at the end of the period.

If you had activity in an earlier time period that has not been reported, you need to amend the previously filed report for the earlier time period. When completing your reports, you and your treasurer are encouraged to call the Commission staff with any questions.



### DESCRIPTION OF A CAMPAIGN FINANCE REPORT

<b>Cover Page</b>	Contact Information	Contact information for you and your treasurer is reported here and is automatically completed when filing electronically.
<b>Schedule A</b>	Cash Contributions	Cash contributions you received during the report period are entered on this schedule. You must itemize contributions for any contributor who has given you more than \$50 in the report period, by providing the name, address, occupation and employer of the contributor, and the date and amount of the contribution.
<b>Schedule A-1</b>	In-Kind Contributions	In-kind contributions (goods and services) you received during the report period are entered on this schedule, including a description of the goods and services and a statement of their fair market value. The fair market value is what it would have cost if you had paid cash for the donated goods or services. Some goods and services do not constitute in-kind contributions and, therefore, are not reportable. (See Chapter 2 and Appendix.)
<b>Schedule B</b>	Expenditures	Expenditures you made during the report period are entered on this schedule, including date, amount, payee, and type of expenditure. Some expenditure types require a more detailed remark (see expenditure types on page 32).
<b>Schedule C</b>	Loans and Loan Repayments	Information about loans received, repaid, or forgiven is entered on this schedule.
<b>Schedule D</b>	Unpaid Debts and Obligations	All debts or obligations that are unpaid <u>at the close of the report period</u> are entered here.
<b>Schedule F</b>	Summary Section	This schedule summarizes your financial activity for the report period by showing totals of the different types of receipts and your total expenditures. For electronic filers, these totals are calculated automatically. The cash balance on this schedule should match the cash balance in your campaign bank account.

### EXAMPLE OF REPORT MENU IN THE ELECTRONIC FILING SYSTEM

In the electronic filing system, the schedules are listed on the “Report Menu” screen. To enter data into a report, check the appropriate schedule, click “Add New Transactions”, and follow the instructions on each screen. Remember that the “Cover Page” and “Schedule F” are automatically completed—no data entry needed.

<input type="checkbox"/> <b>Select All</b>	<b>No Activity on Schedule</b>	<b>Amended</b>
<input type="checkbox"/> <b>Cover Page</b>		
<input type="checkbox"/> <b>Interest Earned</b>	✓	
<input type="checkbox"/> <b>Schedule A Cash Contributions</b>	✓	
<input type="checkbox"/> <b>Schedule A-1 In-Kind Contributions</b>	✓	
<input type="checkbox"/> <b>Schedule B Expenditures</b>	✓	
<input type="checkbox"/> <b>Schedule C Loans/Loan payments</b>	✓	
<input type="checkbox"/> <b>Schedule D Unpaid Debts and Obligations</b>	✓	
<input type="checkbox"/> <b>Schedule F Summary Section</b>	✓	

Add New Transactions

Amend Old Transactions

View/Print Report

File Report

File No Activity Report

CSV Upload

**REQUIRED REPORTS**

**Semiannual Report for Candidates with Financial Activity in 2011.** If a candidate raises or spends more than \$500 before December 31, 2011, the candidate or treasurer must file a 2012 January Semiannual Report no later than January 17, 2012 covering all financial activity during 2011.

**Required Pre- and Post-Election Reports for All Candidates.** In addition to Semiannual Reports, candidates are required to file campaign finance reports according to the schedule found in the table below. Each report covers a specific time period and includes all activity within that period.

**24-Hour Reports.** The 24-hour reporting requirement applies during the 13-day period prior to an election (see the calendar on the top of the next page). This 13-day period includes two weekends.

The report must be filed within 24 hours when a candidate:

- receives contribution(s) including loan(s) aggregating \$1,000 or more from a single source, or
- makes a single expenditure or incurs an unpaid obligation of \$1,000 or more.

It is important to remember that the term “expenditure” includes making an obligation to a vendor for goods or services ordered. If you incur an obligation with a vendor during the 24-hour reporting period, you must report the obligation within 24 hours — regardless when you pay the vendor. Please see the chart on the next page for a list of actions which constitute making an obligation.

Any contributions, expenditures, or obligations disclosed in a 24-Hour Report must also be entered into the next campaign finance report.

2012 REPORTS FOR LEGISLATIVE AND COUNTY CANDIDATES		
TYPE OF REPORT	DEADLINE	REPORT PERIOD
2012 January Semiannual*	January 17, 2012	Beginning of campaign -December 31, 2011
11-Day Pre-Primary	June 1, 2012	Beginning of campaign - May 29, 2012 If 2012 January Semiannual filed: January 1 - May 29, 2012
42-Day Post-Primary	July 24, 2012	May 30 - July 17, 2012
42-Day Pre-General	September 25, 2012	July 18 - September 18, 2012
11-Day Pre-General	October 26, 2012	September 19 - October 23, 2102
42-Day Post-General	December 18, 2012	October 24 - December 11, 2012
* Required for candidates who have raised and /or spent more than \$500 in calendar year 2011.		



2012 PRIMARY ELECTION 24-HOUR REPORT PERIOD MAY 30, 2012 – JUNE 11, 2012						
Sun	Mon	Tue	Wed	Thu	Fri	Sat
May 27	28	29	30 Report Period Starts	31	June 1	2
3	4	5	6	7	8	9
10	11 Report Period Ends	12 Primary Election Day	13	14	15	16

2012 GENERAL ELECTION 24-HOUR REPORT PERIOD OCTOBER 24, 2012 – NOVEMBER 5, 2012						
Sun	Mon	Tue	Wed	Thu	Fri	Sat
Oct 21	22	23	24 Report Period Starts	25	26	27
28	29	30	31	Nov 1	2	3
4	5 Report Period Ends	6 General Election Day	3	4	5	6

**HOW TO FILE 24-HOUR REPORTS:**

- File reports electronically.
- Paper filers can file in person or by fax.

**WHEN TO FILE 24-HOUR REPORTS:**

- Within 24 hours of the expenditure or obligation.
- A report must be filed on a weekend or holiday if that is when it is due – you cannot wait until the next business day.
- Paper filers must file a report by fax or in person if it is due on the weekend or holiday.
- Expenditures made on the day before an election must be reported on election day.

UNPAID OBLIGATIONS WHICH ARE REPORTABLE IN 24-HOUR REPORTS
The placement of an order for goods and services
A promise or agreement (even an implied one) that payment will be made
The signing of a contract for a good or service
The delivery of a good or service even if payment has not been made

**Reports Required for Candidates Who Are Defeated in a Primary Election.** Candidates who are defeated in a primary election must file the primary election reports, but are not required to file the three

general election reports. The 42-Day Post-Primary Report due July 24, 2012 is the final campaign finance report for candidates who have a cash balance, loan balance, and unpaid debts and obligations of no more than \$100.

Candidates who have a cash balance, campaign debt, or outstanding loan balance of more than \$100 after the primary election must file semiannual reports every January 15<sup>th</sup> and July 15<sup>th</sup> until the cash balance, unpaid debts or loans are \$100 or less. (Please see Chapter 7.)

Candidates have four years after the election to dispose of a cash balance greater than \$100. Cash sur-

pluses may only be disposed of in certain ways. See the Appendix for more information about disposing of surplus cash.

If candidates, who have lost a primary election dispose of surplus cash, pay off all debts, obligations and loans (including forgiving loans if the candidate, candidate's spouse or domestic partner made the loan) by July 17, 2012, no other reports other than the 42-Day Post-Primary Report are required. Please see the Appendix for information on how to dispose of surplus cash.

**Reports Filed by Replacement Candidates.** A candidate who fills a vacancy caused by the withdrawal or death of another candidate is required to file campaign finance reports. The filing schedule will be determined when the candidate registers with the Commission.

**REPORTING CASH AND IN-KIND CONTRIBUTIONS**

**Reporting Contributions of \$50 or Less.** If a contributor has given you contributions that total \$50 or less during the report period, you are not required to itemize the contributions. You may enter those contributions as a lump sum. When filing your reports, please enter or select the contributor type of 'Contributors Giving \$50 or Less' (see Contributor Types chart below) and enter the total for the report period.

CONTRIBUTOR TYPES	
1	Candidate and Candidate's Spouse/Domestic Partner
2	Other Individuals
3	Commercial Sources (corporations, etc.)
4	Political Action Committees
5	Political Party Committees
6	Other Candidates and Committees
7	(This type not applicable to privately financed candidates.)
8	Contributors Giving \$50 or Less
9	Transfer from Previous Campaign

Once a contributor exceeds the \$50 contribution amount, you must itemize their contribution in the report. For example a contributor donates \$30 before the primary election (reported under "Contributors' giving \$50 or Less") and donates another \$30 just before the general election. The \$30 contribution donated before the general election must be itemized by reporting the name, address, occupation, and employer of the contributor.

**Duty to Report Contributor's Occupation and Employer.** If a contributor — who is an individual — has given you contributions totaling more than \$50 for the report period (or in aggregate for the entire campaign), you are legally required to report the contributor's occupation and employer (if any). Under the Commission's Rules, your campaign must make a reasonable effort to obtain the information from the contributor. If a contributor is unwilling to provide the information to you in response to a request, please report "information requested" in the occupation and employer fields.

**Reporting a Return of a Contribution.** A return of a contribution is required in certain circumstances:

- when an over-the-limit contribution is received and deposited in the campaign bank account; or
- when a general election contribution that was collected before the primary is returned after the candidate is defeated in the primary election.

To report a return of a contribution: go to Schedule A Contributions, select the contributor's name from the existing contributors' list, and enter a negative contribution amount for the amount that is being returned.



## REPORTING EXPENDITURES

**Legal Requirement.** The Election Law requires that all candidates disclose every expenditure on campaign finance reports submitted to the Commission. Expenditures are reported on Schedule B of the campaign finance report. The Election Law requires you to report the date, amount, payee, and purpose of the expenditure.

The Commission recommends obtaining a bank debit card and a checkbook for your campaign. Making expenditures directly from the campaign's bank account simplifies record-keeping and promotes accurate reporting.

The “payee” refers to the vendor that provided the goods or services to the campaign. It is not acceptable to report “cash,” “reimbursement,” or the candidate’s name as the payee. The only time that the candidate’s name should appear under “Payee” is when the candidate is receiving a reimbursement for mileage. The name of a campaign worker may appear under “Payee” if the worker is receiving a reimbursement for travel or if the campaign worker is being paid for a good or service which the worker has provided to the campaign. (Please refer to the following sections concerning the reporting of reimbursements.)

**Types of Expenditures and Required Remarks.** To report the purpose of the expenditure, the Commission requires candidates to indicate an “expenditure type” for each expenditure. Some expenditure types require a remark that describes in more detail the nature of the goods or services purchased (see table below). It is important that you choose the most appropriate expenditure type for each transaction and that you give a concise but descriptive explanation for those expenditure types that require a remark.

**Reporting Reimbursements Made to the Candidate, Supporter, or Candidate’s Household Member.**

Many candidates ask if they or a supporter can use personal funds or a credit card to pay for campaign goods or services and later be reimbursed by the campaign. This is permissible as long as the campaign is careful to reimburse the candidate or supporter. Otherwise, the candidate or supporter has made an in-kind contribution to the campaign.

The payment must be disclosed in the reporting period in which the vendor received the payment. If you or one of your supporters uses personal funds or a credit card to pay a vendor, report the vendor as the payee and the date on which the vendor received payment.

EXPENDITURE TYPES			
	Expenditure Types Requiring <b><u>NO</u></b> Remark		Expenditure Types which <b><u>REQUIRE</u></b> a Remark
CON	Contribution to other candidate, party, committee	CNS	Campaign consultants
FOD	Food for campaign events, volunteers	EQP	Equipment (office machines, furniture, cell phones, etc.)
LIT	Print and graphics (flyers, signs, palmcards, t-shirts, etc.)	FND	Fundraising events
MHS	Mail house (all services purchased)	OTH	Other (bank fees, entrance fees, small tools, wood, etc.)
OFF	Office rent, utilities, phone and internet services, supplies	PRO	Other professional services
PHO	Phone banks, automated telephone calls	SAL	Campaign workers’ salaries and personnel costs
POL	Polling and survey research	TRV	Travel (fuel, mileage, lodging, etc.)
POS	Postage for U.S. Mail and mail box fees		
PRT	Print media ads only (newspapers, magazines, etc.)		
RAD	Radio ads, production costs		
TVN	TV or cable ads, production costs		
WEB	Website design, registration, hosting, maintenance, etc.		



## ENTERING A REIMBURSEMENT IN THE ELECTRONIC FILING SYSTEM

### SCHEDULE B – EXPENDITURES

Date Expenditure Made:	<input type="text" value="5/12/2012"/> From: 4/20/2012 to 5/30/2012
Select Type:	<input checked="" type="radio"/> Business/Committee <input type="radio"/> Individual
Select:	<input checked="" type="radio"/> Add New Payee <input type="radio"/> See List of Payees
Name of Payee:	<input type="text" value="USPS"/>
Expenditure Type:	<input type="text" value="POS---Postage for U.S. Mail"/>
Remarks:	<input type="text" value="200 stamps purchased by Alice Hamilton; reimbursed on 5/17/2012"/>
Expenditure Amount:	<input type="text" value="84.00"/>
<input type="button" value="Save"/> <input type="button" value="Reset"/> <input type="button" value="Report Menu"/>	

**“Date Expenditure Made”** is the date of the purchase - not the date of the reimbursement.

**“Name of Payee”** is the vendor who sold the goods or services - not the person receiving the reimbursement.

**“Expenditure Type”** is selected from the list; for the example above, it is “POS.”

**“Remarks”** report the name of the person who was reimbursed and the date of the reimbursement.

**“Expenditure Amount”** is the amount found on the receipt - which is the amount reimbursed.

**Reimbursements to yourself or supporters must be made in the same reporting period in which the purchase was made to avoid receiving an in-kind contribution.**

In the remark section, enter the name of the person who paid the vendor and who received the reimbursement (see example above).

If the person receiving the reimbursement is a member of the candidate's immediate family or household, the relationship to the candidate must be reported (e.g., “Reimbursement to May White, candidate's spouse.”)

**Reporting Mileage Reimbursements.** When reporting a mileage reimbursement, enter the name of the person receiving the reimbursement as the payee (see example on the top of the next page). Volunteers may spend up to \$100 of their personal funds per election (primary or general) on campaign travel. After that, the campaign must reimburse the volunteer for their travel expenditures or the spending will be considered an in-kind contribution to the campaign.

**Reporting Purchases Made by a Consultant or Firm.** When you hire a consultant and the consultant makes expenditures on behalf of your campaign, you are required by Election Law and Commission Rule to report those expenditures as though the campaign made them directly (see example on the next page).

In order to meet this reporting requirement, the Commission staff recommends that when you hire a consultant, you ask the consultant to provide your campaign with a receipt, invoice or other statement from any vendor that received a payment of \$50 from your consultant.

In the 2010 elections, many candidates who used media buyers to purchase radio and TV advertisement time did not receive copies of the media outlets' invoices or proof of payment (cancelled checks) from the media buyer's bank account. Please make sure that your media buyer or consultant understands the requirement for sub-vendor documentation.



## ENTERING A MILEAGE REIMBURSEMENT IN THE ELECTRONIC FILING SYSTEM

### SCHEDULE B – EXPENDITURES

Date Expenditure Made:	<input type="text" value="5/12/2012"/>		From: 4/20/2012 to 5/29/2012
Select Type:	<input type="radio"/> Business/Committee <input checked="" type="radio"/> Individual		
Select:	<input checked="" type="radio"/> Add New Payee <input type="radio"/> See List of Payees		
Name of Payee:	<input type="text" value="JOHN"/>	<input type="text"/>	<input type="text" value="ADAMS"/>
	First Name	Middle Name	Last Name
Expenditure Type:	<input type="text" value="TRV---Travel (fuel, mileage, lodging, etc.)"/>		
Remarks:	<input style="background-color: #f8d7da;" type="text" value="REIMBURSEMENT FOR 100 MILES AT \$0.44 PER MILE"/>		
Expenditure Amount:	<input type="text" value="44.00"/>		
<input type="button" value="Save"/> <input type="button" value="Reset"/> <input type="button" value="Report Menu"/>			

**“Date Expenditure Made”** is the date of the reimbursement.  
**“Name of Payee”** is the person receiving the payment for mileage.  
**“Expenditure Type”** is “TRV.”  
**“Remarks”** report the number of miles traveled for campaign purposes as found on the travel log multiplied by the mileage reimbursement rate (\$0.44 per mile for 2012 elections).  
**“Expenditure Amount”** is the payment amount.  
**The best practice for making travel reimbursements to yourself or supporters is to make the reimbursement in the same reporting period in which the travel occurred.**

## EXAMPLE: REPORTING PAYMENTS MADE TO A CONSULTANT: MEDIA BUYER

### SCHEDULE B – EXPENDITURES

DATE EXPENDITURE MADE	NAME OF EACH PAYEE	EXPENDITURE TYPE (use code)	REMARK	AMOUNT
5/10/2012	MEDIA ASSOCIATES	CNS	CONSULTING SERVICES FOR TV AD ; TOTAL PAID TO MEDIA ASSOC. \$32,600	\$1,600
5/10/2012	WMTW TV	TV	PAID BY MEDIA ASSOC ON BEHALF OF THE CAMPAIGN	\$20,000
5/10/2012	WABI TV	TV	PAID BY MEDIA ASSOC ON BEHALF OF THE CAMPAIGN	\$11,000

It is your campaign’s responsibility to find out about expenditures made by your consultants on your campaign’s behalf and to report those expenditures. An example of a consultant invoice is found on the next page.

If you reported a lump sum payment to a consultant in a previously filed report, you may need to amend that report to deduct from that amount any expenditures

made by your consultant (so the costs are not double-reported), and you should note in the remarks column that the expenditures were made by the consultant.

***Reporting Payments Made to Household Members.***

You may pay campaign funds to members of your immediate family or to members of your household for goods or services they have provided to your campaign. If you do, you must report the family or other

EXAMPLE OF INVOICE FOR CONSULTING SERVICES			
<b>ELECTION Associates</b>		456 State Street, Augusta, Maine 04332	
<b>BILL TO:</b>		Invoice Date: 09/18/2012	
Honorable Ruth Baker c/o Committee To Elect Baker 123 Maine Street Augusta, ME 04032			
Service/Product	Rate	Hours	Total
Design of Palm Card	\$100 per hr	3.0	\$300
Printing of card: Graphics Center Color Printing <b>SEE ATTACHED COPY OF INVOICE</b>	2,000 cards at \$0.50 each		\$1,000
<b>Total Due 30 Days from Date of Invoice</b>			<b>\$1,300</b>
Authorized Signature: Elizabeth C. Brown		Print Name: Elizabeth Brown Title: Owner	

What makes this invoice meet the record documentation standards?

Provided services are described.

Goods which the consultant purchased for the campaign are listed separately with invoice attached.

Invoice is signed.

relationship (e.g., “spouse,” “domestic partner,” “brother,” “roommate”) in the remark section of Schedule B of the campaign finance report. You must also report the relationship if you reimburse the family or household member for a purchase they made on behalf of the campaign.

**Reporting Unreimbursed Expenditures from the Candidate's Personal Funds.** Traditionally financed candidates who are self-funding all or part of their campaign can either enter the expenditure made for their campaign as an in-kind contribution on Schedule A-1 (one entry) or enter the expenditure on Schedule B and enter a corresponding contribution in the same amount on Schedule A (two entries).

If the expenditure paid for by the candidate is entered only on Schedule B, the campaign's cash balance will be incorrect (and most likely negative).

**Reporting a Vendor Refund.** A refund from a vendor, including a return of a security deposit for leased space, is reported on Schedule B Expenditures. To report a refund:

- on the “Report Menu” select Schedule B and click “Add New Transactions;”
- enter the date of the refund as the “Date of the Expenditure;”
- select the vendor name from the “Payee List”—since it is a refund, the vendor name should be on the list,
- enter the refund as a negative amount. This will reduce the amount of the expenditure previously entered for the vendor and increase the cash balance by the amount refunded to the campaign.

**REPORTING WITHDRAWALS OF CASH**

The Commission recommends making expenditures by writing checks or using a debit card for the campaign's bank account, so that as many expenditures as possible are made through the campaign account. This will help the campaign keep track of the dates, amounts, and payees of all expenditures which must be included on campaign finance reports.



If the campaign chooses to withdraw cash to use for petty expenses or campaign workers, do not report a payment to “cash.” Instead, for each expenditure of the cash, keep a receipt or record which includes the date, amount, payee, and purpose of the expenditure, so that you can include this information in campaign finance reports.

#### REPORTING INTEREST EARNED ON BANK ACCOUNTS

Candidates are permitted to earn interest on campaign funds in bank accounts and to spend that interest for campaign purposes. There is a separate screen on the Commission’s e-filing system to report interest earned. At the end of each report period, calculate the total amount of interest earned for the entire report period, and enter the total onto the report.

#### REPORTING LOANS

Under the Election Law, non-commercial loans are considered contributions to the campaign. They are disclosed on Schedule C, Loan Transactions, of the report form. They are subject to the limitations on contributions, as explained on page 5. If your campaign received or repaid a loan during the current report period, please report those transactions on Schedule C. If the lender forgives all or part of the loan, also enter that action on Schedule C.

The Commission’s e-filing system carries forward loans from one report period to the next. So, if the campaign received a loan during a previous report period, and there has been no activity relating to the loan during the current report period, please do not enter anything on Schedule C in the current report.

If you or a supporter purchased goods or services from a vendor with a personal credit card and have not been

reimbursed by the campaign by the end of the report period, please do not report the transaction as a loan on Schedule C. Rather, please report the transaction as an unpaid debt on Schedule D, as explained in the next section.

#### REPORTING UNPAID DEBTS AND OBLIGATIONS

If you have incurred debts and obligations and they remain unpaid at the end of the reporting period, enter them on Schedule D. If the unpaid debt and obligation (all or in part) is still unpaid at the end of subsequent reporting period(s), you will have to re-enter the amount that is unpaid on Schedule D.

When first reporting the unpaid debt and obligation, report the date on which the debt or obligation was incurred. When the debt or obligation remains unpaid at the end of the subsequent report period, you will have to re-enter it using the first day of the report period. For example: You have a \$250 unpaid bill at the end of the 42-Day Post-Primary and it remains unpaid through the subsequent report period—the 42-Day Pre-General report period. To enter the \$250 unpaid bill into the 42-Day Pre-General Report you must use a date falling within the report period. The Commission recommends that you use the first day of the 42-Day Pre-General report period. Please note in the description field the actual date incurred, which is the date you first reported in the 42-Day Post-Primary Report. This will allow any unpaid debt remaining unpaid through two or more report periods to be correctly reported in the subsequent reports. Please contact the Commission for questions or assistance.

Also report the name and address of the creditor, the amount and purpose of the transaction. When any payment (all or part) is made on a debt or obligation,



that payment amount is reported as an expenditure on Schedule B. Your treasurer will continue to disclose the unpaid balance of that debt or obligation on Schedule D until full payment is made to the vendor.

### FILING REPORTS ELECTRONICALLY

**Electronic Filing Requirement.** Candidates in the 2012 elections who have (or expect to have) receipts of more than \$1,500 are required to file all campaign finance reports electronically on the Commission's website. Candidates who expect to have receipts of \$1,500 or less may file reports using the Commission's paper forms.

**How to File Electronically.** After you register as a candidate, the Commission staff will mail you a username and password for accessing the online electronic filing system, the E-filing system. The campaign may use the E-filing System in two ways. Candidates and treasurers may:

1. Directly enter each contribution and each expenditure into the E-filing system on the Commission's website; or
2. If they keep records of their contributions and expenditures in Microsoft Excel or another software program (e.g., Access or QuickBooks) which provides an output of data in a CSV (comma-separated value) format, they may use templates and upload the information electronically without having to enter the information transaction by transaction into the system. Please call the Commission staff if you would like more information about this option.

E-filing instructions may be found on the Commission's website or you may request a copy by contacting the Commission.

### FILING REPORTS ON PAPER FORMS

**Electronic Filing Waiver.** Candidates who do not have access to the technology or the technological ability to file reports electronically may file their reports using the paper forms after requesting a waiver of the electronic filing requirement. The Commission grants all reasonable requests for a waiver. If you would like a waiver of the requirement, you need to complete the Electronic Filing Waiver request form and submit it to the Commission. The deadline for filing a waiver request is April 16, 2012, but the Commission will honor requests filed later.

**Receipts and Expenditures Less than \$1,500.** If you expect to have receipts no greater than \$1,500, you may file your campaign finance reports using paper forms without first requesting a waiver. Please contact the Commission for a packet of forms.

### File the Original Signed Report by the Deadline.

The Ethics Commission must receive the original campaign finance report signed by the candidate and/or the treasurer at its office by 5:00 p.m. on the filing deadline, except in two circumstances:

- A properly signed report may be faxed to the Commission office at (207) 287-6775 by 11:59 p.m. on the deadline, provided that the original report is received by the Commission within five days of the faxed copy. The time stamp from the Commission's fax machine will be deemed the time that the report was filed; or
- A report that is sent by certified or registered mail and that is postmarked at least 2 days before the filing deadline will not be considered late, even if it is received after the deadline.



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## REMINDERS BY THE COMMISSION

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A packet of information including the filing schedule for campaign finance reports is mailed to all candidates. In addition, the filing schedule is posted on the Commission's website. The Commission mails a written reminder to all candidates at least two weeks before each filing deadline.

## AMENDMENTS

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Candidates and treasurers are required by the Election Law to certify the completeness and accuracy of the information included in each report, and are expected to take that certification seriously. If the candidate or treasurer unintentionally makes an omission in a report or includes incomplete or inaccurate information, they must promptly file an amendment.

All amended reports are reviewed by the Commission. If the Commission determines that any report does not substantially conform to the disclosure requirements, the Commission may consider the report late (even if it was filed on time).

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## COMMISSION'S REVIEW OF REPORTS

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The Commission staff reviews all campaign finance reports for completeness and compliance with the Election Law. If the staff believes a report is incomplete or requires additional information, it will contact the candidate or treasurer by telephone or in writing. Please see Chapter 8 (page 43) for more information.

### LEGAL REFERENCES

Requirement to File Reports	21-A M.R.S.A. §§ 1013-A(4); 1016; 1017(3-A)
24-Hour Reporting Requirement	21-A M.R.S.A. § 1017(3-A)(C)
Required Contents of Report	21-A M.R.S.A. § 1017(5)
Reporting Payments to Members of Household and Family	21-A M.R.S.A. § 1017(5)
Required Reporting of Expenditures, including date, payee, amount, purpose	21-A M.R.S.A. § 1017(5)
Forms of Commission	21-A M.R.S.A. § 1017(6)
Electronic Filing Requirement	21-A M.R.S.A. § 1017(10)
Fax and Certified Mail Submission of Reports	21-A M.R.S.A. § 1020-A(4-A)
Substantially Non-Conforming Reports	21-A M.R.S.A. § 1020-A(2)
Reporting Expenditures by Consultants, Employees, and Other Agents	21-A M.R.S.A. 1016(4); Rules, Chapter 1, Section 7(1)
Reporting Reimbursements	Rules, Chapter 1, Section 7(5)



## CHAPTER 7

### Post-Election Responsibilities

#### NOTIFY COMMISSION OF CHANGES OF ADDRESS AND PHONE NUMBER

During and after the campaign, it is important for candidates and treasurers to notify the Commission directly when their address and/or telephone number changes. If the Commission is not notified, the candidate may miss important notices and filing reminders. It is also important for the staff to know how to contact candidates as it conducts its review of campaign finance reports.

#### 42-DAY POST-ELECTION CAMPAIGN FINANCE REPORT

All candidates in an election must file a report 42 days after the last election for the cycle in which they were a candidate. If the candidate does not have unspent cash, or unpaid loans or debts of more than \$100, this will be the candidate's last campaign finance report for the election cycle. For candidates in the 2012 general election, this report is due December 18, 2012.

#### RECOUNTS

If you are in a recount of an election, you may accept unlimited funds and services from party committees, caucus campaign committees, and from attorneys, consultants, and their firms. You may also use your unspent or surplus cash to pay for recount expenses. Please see page 11 for more information on contributions for recounts.

All contributions received and expenditures made in connection with a recount must be disclosed in a special financial report due 90 days after the election. If a candidate is involved in a recount, the Commission will contact the candidate and treasurer and provide information and a report form.

#### DISPOSING OF SURPLUS CASH AFTER THE ELECTION

After an election, a candidate may be left with unspent campaign funds. Surplus cash greater than \$100 may not be converted to the candidate's personal use. A candidate must dispose of surplus cash greater than \$100 within four years of the election for which the funds were received. Under 21-A M.R.S.A. § 1017(8), a candidate may dispose of surplus cash greater than \$100 only by:

- returning contributions to the candidate's contributors, as long as no contributor receives more than the amount contributed;
- making a gift to a qualified political party within Maine, including any county or municipal subdivision of such a party;
- making an unrestricted gift to the State;
- carrying forward the funds to a political committee established to promote the same candidate for a subsequent election;



- carrying forward the surplus balance for use by the candidate for a subsequent election;
- transferring the surplus balance to one or more other registered candidates or to the political committees established to promote the election of those candidates, provided that the amount transferred does not exceed contribution limits;
- repaying any loans or retiring any other debts incurred to defray campaign expenses of the candidate;
- paying for any expense incurred in the proper performance of the office to which the candidate is elected, as long as each expenditure is itemized on expenditure reports; and
- making a gift to a charitable or educational organization that is not prohibited, for tax reasons, from receiving such a gift.

The Commission's flier on disposing of surplus cash is included in the Appendix.

#### DISPOSING OF LOANS

Candidates who have made loans to their campaigns may wish to forgive the unpaid amounts rather than be responsible for filing semiannual reports.

If your campaign has an outstanding loan balance of more than \$100 and you want to close out your campaign with the filing of the 42-Day Post-Election Report, you may:

- use campaign funds to reduce the outstanding loan balance to \$100 or less;
- ask the lender to forgive the outstanding loan balance.

Once you enter the loan balance as forgiven in the Commission's e-filing system, the forgiven loan amount will appear as a cash contribution from the lender on Schedule A of your campaign finance report. If the campaign files reports on paper, it must enter the forgiven amount as a cash contribution on Schedule A.

Remember that contribution limits apply to all contributors, except the candidate and the candidate's spouse/domestic partner. A contributor who forgives a loan cannot exceed the contribution limit when the forgiven amount is added to all cash and in-kind contributions made by that contributor for the election.

There is no limit in Maine Election Law on the amount of funds that a candidate, candidate's spouse or domestic partner can contribute to the candidate's own campaign. You may pay off all loans and unpaid debts with your personal funds.

#### DISPOSING OF UNPAID DEBTS AND OBLIGATIONS

If your campaign has an unpaid debt of more than \$100 and you want to close out your campaign with the filing of the 42-Day Post-Election Report, you may:

- use campaign funds to pay the debt. You are permitted to raise funds after the election for the purpose of paying off debts;
- use your personal funds to pay the person to whom the debt is owed ("the creditor"). Please report your payment of personal funds to the creditor as an in-kind contribution from you on Schedule A-1; or
- ask the creditor to forgive the unpaid debt or obligation. If the campaign's debt is owed to you, or your spouse or domestic partner, an unlimited amount may be forgiven. If the debt is owed to anyone else (e.g., a vendor,



or a campaign supporter who has not been reimbursed for a purchase), the maximum the creditor may forgive is \$350 per election for legislative candidates and \$750 per election for county candidates. If the creditor forgives the unpaid debt, please report the receipt of the goods or services without payment as an in-kind contribution from the creditor on Schedule A-1.

Under the Commission's Rules, the Commission shall presume that any debt that remains unpaid more than six months after the election in which the debt was incurred to be a contribution to the candidate, unless the candidate provides clear and convincing evidence to the Commission that he or she intends to raise funds or take other measures to satisfy the debt. If the debt remains unpaid for four years, the Commission is required by its rules to determine whether the debt is a contribution.

**SEMIANNUAL REPORTS**

Candidates with surplus cash, a loan, or an unpaid debt of more than \$100 as of the 42-Day Post-Election Report must continue to file campaign finance reports ("semiannual reports") every January 15th and July 15th until the candidate has disclosed how the cash, loan, or debt has been disposed of.

For unsuccessful candidates in the 2012 primary election who must file these reports, the first report will be due Tuesday, January 15, 2013. For 2012 general election candidates with cash, loans, or debt over \$100, the first semiannual report will be due July 15, 2013.

**STATEMENT OF SOURCES OF INCOME**

Legislative candidates who win the general election are required to file a Statement of Sources of Income (SOSOI) covering the year in which the election was held. The forms are provided to Legislators shortly after the New Year. The statement includes the sources of the income which the Legislator received as a candidate during the election year from employment, self-employment, gifts, and other sources.

For legislative candidates winning the 2012 general election, the deadline for filing the SOSOI is February 15, 2013.

**LEGAL REFERENCES**

Change of Address or Telephone Number	21-A M.R.S.A. § 1013-A(5)
Disposing of Surplus Cash After an Election	21-A M.R.S.A. § 1017(8)
Semiannual Reports	21-A M.R.S.A. § 1017(3-A)(E)
Statement of Sources of Income	1 M.R.S.A. §§ 1016-A, 1016-B, 1016-E, 1016-F





## CHAPTER 8

# Compliance Reviews of Campaign Finance Reports

### PURPOSE OF REVIEWS

The Commission staff conducts compliance reviews of all campaign financed reports. The purpose of the review is to verify that contributions and expenditures were accurately reported and meet election law requirements.

### REVIEW SCHEDULE

The reviews typically occur in the two to three weeks following each filing deadline.

### CONDUCT OF REVIEWS

The reviews are conducted by the Commission's auditor and other staff members. After each review, the Commission staff may request that the candidate or treasurer amend a campaign finance report to correct any errors or to provide more complete information about a transaction.

### INFORMATION REVIEWED

During the compliance review, the Commission staff is verifying compliance to assure that:

- Contributors have not exceeded the contribution limit (i.e., the campaign did not receive any over-the-limit contributions).

- The occupation and employer information has been reported for contributors giving more than \$50.
- The contributor's complete address has been reported for contributors giving more than \$50.
- The correct contributor type has been reported.
- The correct payee has been reported for reimbursements.
- The correct expenditure type has been reported including completing the "Remarks" field if the type requires a remark/description.
- The reported cash balance found on the Summary Schedule is not negative.

### FOLLOW UP BY COMMISSION

If the review identifies a non-compliance issue, the Commission staff will contact the campaign. The staff will explain the issue and the method(s) for correcting the error(s). The campaign is given a reasonable amount of time to correct the error(s) and amend any reports. The campaign may request assistance from the Commission staff when amending reports.



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**LEGAL REFERENCES**

Compliance Reviews

Rules, Chapter 1, Section (4)(2)(A)



# CHAPTER 9

## Campaign Finance Disclosure Website

### PURPOSE OF WEBSITE

The purpose of disclosing campaign finance activity by the filing of campaign finance reports is to maintain the integrity of the election process by providing information to the public about who is supporting and contributing to a candidate and where campaign funds are being spent. It is through disclosure of campaign contributions and expenditures that the “public’s confidence and faith of the election process is maintained.”

The Commissions public disclosure website (home page shown below) is:

[www.mainecampaignfinace.com](http://www.mainecampaignfinace.com)

### WHAT INFORMATION IS AVAILABLE?

Registration and financial information is available for candidates, party committees, political action committees, ballot question committees, and lobbyists. This information becomes available to the public after a report is filed. Data in reports having the status of “In-Progress” is not disclosed on the website. The report must have a status of “Filed” or “In-Progress (A)” (meaning that the report was filed but is in the process of being amended) in order for the public to have access to the information in the report.

Candidates, treasurers, campaign workers and any member of the public may browse financial reports

The screenshot shows the homepage of the Maine Campaign Finance Public Access Site. At the top, there is a navigation bar with links for 'Agencies', 'Online Services', 'Web Policies', and 'Help'. A search box is located on the right. Below the navigation bar is a banner for the 'MAINE COMMISSION ON Governmental Ethics & Election Practices'. The main content area is titled 'Welcome to Campaign Finance Public Access Site' and contains introductory text about the site's purpose and a 'Listing Options' section with bullet points: 'View a list of Candidates, PACs, Lobbyists or Party Committees in the system.', 'Select a specific person or group to view a list of the reports they have filed.', and 'View or print a copy of a specific report.' A sidebar on the left lists various categories: 'BROWSE FINANCIAL REPORTS' (Candidates, Party Committees, Political Action Committees, Ballot Question Committees, Lobbyists/Clients), 'REPORTS' (Quick Candidate Lists, Advanced Candidate Lists), 'SEARCHES' (Campaign Finance, Filed Registrations, Lobbying Info, Data Download), and 'REGISTRATION' (Lobbyist Registration). The footer includes 'Maine.gov | Department Home | Site Policies'.



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(which includes a summary report), obtain specific lists of candidates (e.g., MCEA and traditionally financed candidates), search contributions and expenditures, and download any or all information found on the website.

By clicking on a topic found on the navigation menu (left side of the home page), you will be directed to a page where you can obtain the information you are looking for.

### **INFORMATION OF INTEREST**

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Some of the most “searched” topics of information are listed below:

- fundraising and/or spending of certain candidates (like opponents);
- financing status of candidates (MCEA or traditionally financed);
- identification of certain contributor(s) to a candidate's campaign, party committee, political action committee, or ballot question committee;
- amount of funds being spent on TV and/or radio advertising; and
- clients of lobbyist and the amount of funds spent on lobbying certain legislative bills.

The Commission encourages candidates and the public to explore the public disclosure website. Please contact the Commission if you need assistance or have questions.



## APPENDIX

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## DEFINITION OF CONTRIBUTION AND EXPENDITURE

### (21-A M.R.S.A. §§ 1012(2) AND (3))

#### **2. Contribution.** The term "contribution:"

##### **A. Includes:**

- (1) A gift, subscription, loan, advance or deposit of money or anything of value made for the purpose of influencing the nomination or election of any person to state, county or municipal office or for the purpose of liquidating any campaign deficit of a candidate, except that a loan of money to a candidate by a financial institution in this State made in accordance with applicable banking laws and regulations and in the ordinary course of business is not included;
- (2) A contract, promise or agreement, express or implied, whether or not legally enforceable, to make a contribution for such purposes;
- (3) Funds received by a candidate or a political committee that are transferred to the candidate or committee from another political committee or other source; and
- (4) The payment, by any person other than a candidate or a political committee, of compensation for the personal services of other persons that are provided to the candidate or political committee without charge for any such purpose; and

##### **B. Does not include:**

- (1) The value of services provided without compensation by individuals who volunteer a portion or all of their time on behalf of a candidate or political committee;
- (2) The use of real or personal property and the cost of invitations, food and beverages, voluntarily provided by an individual to a candidate in rendering voluntary personal services for candidate-related activities, if the cumulative value of these activities by the individual on behalf of any candidate does not exceed \$100 with respect to any election;
- (3) The sale of any food or beverage by a vendor for use in a candidate's campaign at a charge less than the normal comparable charge, if the charge to the candidate is at least equal to the cost of the food or beverages to the vendor and if the cumulative value of the food or beverages does not exceed \$100 with respect to any election;



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- (4) Any unreimbursed travel expenses incurred and paid for by an individual who volunteers personal services to a candidate, if the cumulative amount of these expenses does not exceed \$100 with respect to any election;
  - (4-A) Any unreimbursed campaign-related travel expenses incurred and paid for by the candidate or the candidate's spouse or domestic partner;
  - (5) The payment by a party's state, district, county or municipal committee of the costs of preparation, display or mailing or other distribution of a party candidate listing;
  - (6) Documents, in printed or electronic form, including party platforms, single copies of issue papers, information pertaining to the requirements of this Title, lists of registered voters and voter identification information, created, obtained or maintained by a political party for the general purpose of party building and provided to a candidate who is a member of that party;
  - (7) Compensation paid by a state party committee to its employees for the following purposes:
    - (a) Providing no more than a total of 40 hours of assistance from its employees to a candidate in any election;
    - (b) Recruiting and overseeing volunteers for campaign activities involving three or more candidates; or
    - (c) Coordinating campaign events involving three or more candidates;
  - (8) Campaign training sessions provided to three or more candidates;
  - (8-A) Costs paid for by a party committee in connection with a campaign event at which 3 or more candidates are present;
  - (8-B) Wood or other materials used for political signs that are found or contributed if not originally obtained by the candidate or contributor for campaign purposes;
  - (8-C) The use or distribution of any communication, as described in section 1014, obtained by the candidate for a previous election and fully paid for during that election;
  - (9) The use of offices, telephones, computers and similar equipment when that use does not result in additional cost to the provider;
  - (10) Activity or communication designed to encourage individuals to register to vote or to vote if that activity or communication does not mention a clearly identified candidate; or



- (11) A purchase of apparel from a commercial vendor with a total cost of \$25 or less by an individual when the vendor has received a graphic or design from the candidate or the candidate's authorized committee.

**3. Expenditure.** The term "expenditure:"

**A. Includes:**

- (1) A purchase, payment, distribution, loan, advance, deposit or gift of money or anything of value made for the purpose of influencing the nomination or election of any person to political office, except that a loan of money to a candidate by a financial institution in this State made in accordance with applicable banking laws and regulations and in the ordinary course of business is not included;
- (2) A contract, promise or agreement, expressed or implied, whether or not legally enforceable, to make any expenditure;
- (3) The transfer of funds by a candidate or a political committee to another candidate or political committee; and
- (4) A payment or promise of payment to a person contracted with for the purpose of influencing any campaign as defined in section 1052, subsection 1; and

**B. Does not include:**

- (1) Any news story, commentary or editorial distributed through the facilities of any broadcasting station, newspaper, magazine or other periodical publication, unless the facilities are owned or controlled by any political party, political committee, candidate, or candidate's immediate family;
- (1-A) Any communication distributed through a public access television station if the communication complies with the laws and rules governing the station and all candidates in the race have an equal opportunity to promote their candidacies through the station;
- (2) Activity or communication designed to encourage individuals to register to vote or to vote if that activity or communication does not mention a clearly identified candidate;
- (3) Any communication by any membership organization or corporation to its members or stockholders, if that membership organization or corporation is not organized primarily for the purpose of influencing the nomination or election of any person to state or county office;
- (4) The use of real or personal property and the cost of invitations, food and beverages, voluntarily



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- provided by an individual to a candidate in rendering voluntary personal services for candidate-related activities, if the cumulative value of these activities does not exceed \$100 with respect to any election;
- (5) Any unreimbursed travel expenses incurred and paid for by an individual who volunteers personal services to a candidate, if the cumulative amount of these expenses does not exceed \$100 with respect to any election;
  - (5-A) Any unreimbursed campaign-related travel expenses incurred and paid for by the candidate or the candidate's spouse or domestic partner;
  - (6) Any communication by any person that is not made for the purpose of influencing the nomination for election, or election, of any person to state or county office;
  - (7) The payment by a party's state, district, county or municipal committee of the costs of preparation, display or mailing or other distribution of a party candidate listing;
  - (8) The use or distribution of any communication, as described in section 1014, obtained by the candidate for a previous election and fully paid for during that election campaign;
  - (9) Documents, in printed or electronic form, including party platforms, single copies of issue papers, information pertaining to the requirements of this Title, lists of registered voters and voter identification information, created or maintained by a political party for the general purpose of party building and provided to a candidate who is a member of that party;
  - (10) Compensation paid by a state party committee to its employees for the following purposes:
    - (a) Providing no more than a total of 40 hours of assistance from its employees to a candidate in any election;
    - (b) Recruiting and overseeing volunteers for campaign activities involving three or more candidates; or
    - (c) Coordinating campaign events involving three or more candidates;
  - (10-A) Costs paid for by a party committee in connection with a campaign event at which three or more candidates are present;
  - (11) Campaign training sessions provided to three or more candidates;
  - (11-A) Wood or other materials used for political signs that are found or contributed if not originally obtained by the candidate or contributor for campaign purposes;
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- (12) The use of offices, telephones, computers and similar equipment when that use does not result in additional cost to the provider; or
  - (13) A purchase of apparel from a commercial vendor with a total cost of \$25 or less by an individual when the vendor has received a graphic or design from the candidate or the candidate's authorized committee.





COMMISSION ON GOVERNMENTAL ETHICS AND ELECTION PRACTICES  
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## POLICY ON PAYING CAMPAIGN FUNDS TO FAMILY MEMBERS

This memorandum describes the policies and procedures regarding the use of campaign funds to pay a member of the candidate's immediate family or household.

### DISCLOSING A PAYMENT TO A MEMBER OF THE CANDIDATE'S FAMILY OR HOUSEHOLD (applies to gubernatorial, legislative, and county candidates)

- *Traditionally financed candidates.* If a candidate uses campaign funds to pay or reimburse a member of the candidate's immediate family or household, the candidate must report the family or other relationship (e.g., "brother" or "roommate") in the remarks section of Schedule B (for expenditures) of the campaign finance report.
- *Maine Clean Election Act candidates.* If a candidate uses Maine Clean Election Act funds to pay or reimburse a member of the candidate's "immediate family" (defined below), a member of the candidate's household, or a business or nonprofit entity affiliated with a member of the candidate's immediate family, the candidate must disclose the family or household relationship (e.g., "spouse," "domestic partner," "brother," "roommate," or "business owned by daughter") in the remarks section of Schedule B of the campaign finance report.

For purposes of this disclosure requirement, "immediate family" means the candidate's spouse, parent, grandparent, child, grandchild, sister, half-sister, brother, half-brother, step-parent, step grandparent, stepchild, step grandchild, stepsister, stepbrother, mother-in-law, father-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law, guardian, former guardian, domestic partner, the immediate family of the candidate's domestic partner, the half-brother or half-sister of the candidate's spouse, or the spouse of the candidate's half-brother or half-sister. (21-A M.R.S.A. §§ 1(20) & 1122(4-A))

### RESTRICTIONS FOR MAINE CLEAN ELECTION ACT CANDIDATES (21-A M.R.S.A. § 1125(6-B))

A candidate may not pay Maine Clean Election Act (MCEA) funds to:

- the candidate or a sole proprietorship owned by the candidate,
- a member of the candidate's immediate family or household,
- a business entity in which the candidate or a member of the candidate's immediate family or household holds a significant proprietary or financial interest, or
- a nonprofit entity in which the candidate or a member of the candidate's immediate family or household is a director, officer, executive director or chief financial officer.



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The Legislature also provided two narrow exceptions to this prohibition:

***I. Permitted Payments to the Candidate and Household Members***

A candidate may use MCEA funds to pay a member of the candidate's immediate family or household, a business entity in which the candidate or a member of the candidate's immediate family or household holds a significant proprietary or financial interest, or a nonprofit entity in which the candidate or a member of the candidate's immediate family or household is a director, officer, executive director or chief financial officer only if the expenditure is made:

- for a legitimate campaign-related purpose,
- to an individual or business that provides the goods or services being purchased in the normal course of their occupation or business, and
- in an amount that is reasonable taking into consideration current market value and other factors the Commission may choose to consider.

The candidate shall provide documentary evidence that the expenditure qualifies for the exception at the time the expenditure is reported or when the Commission requests such evidence, whichever is sooner. This evidence must consist of documentation that the payee currently is employed by or engaged in a business that provides the goods or services provided; justification for the amount of the expenditure including the usual price paid by other clients; and an explanation of why the expenditure is campaign-related. Occasional or sporadic employment on political campaigns (e.g., field work, public relations or organizing volunteers) will be insufficient to demonstrate a normal course of occupation or business.

***II. Reimbursements***

Reimbursements, including travel reimbursements, that are made in accordance with the Commission's rules and guidelines are exempt from this restriction. However, the candidate must disclose the family or household relationship when reporting the reimbursement as described above.

If a MCEA candidate or a family or household member uses personal funds or a personal credit card to pay a vendor for campaign goods or services, the candidate must reimburse the individual with MCEA funds. (There are limited circumstances when reimbursement is not required. Please refer to the Commission's *Candidate Guide* for more information.)



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## DISPOSITION OF SURPLUS FUNDS

### 21-A M.R.S.A. § 1017(8)

**Disposition of surplus.** A treasurer of a candidate registered under section 1013-A or qualified under sections 335 and 336 or sections 354 and 355 must dispose of a surplus exceeding \$100 within 4 years of the election for which the contributions were received by:

- A. Returning contributions to the candidate's or candidate's authorized political committee's contributors, as long as no contributor receives more than the amount contributed;
- B. A gift to a qualified political party within the State, including any county or municipal subdivision of such a party;
- C. An unrestricted gift to the State. A candidate for municipal office may dispose of a surplus by making a restricted or unrestricted gift to the municipality;
- D. Carrying forward the surplus balance to a political committee established to promote the same candidate for a subsequent election;
- D-1. Carrying forward the surplus balance for use by the candidate for a subsequent election;
- E. Transferring the surplus balance to one or more other candidates registered under section 1013-A or qualified under sections 335 and 336 or sections 354 and 355, or to political committees established to promote the election of those candidates, provided that the amount transferred does not exceed the contribution limits established by section 1015;
- F. Repaying any loans or retiring any other debts incurred to defray campaign expenses of the candidate;
- G. Paying for any expense incurred in the proper performance of the office to which the candidate is elected, as long as each expenditure is itemized on expenditure reports; and
- H. A gift to a charitable or educational organization that is not prohibited, for tax reasons, from receiving such a gift.

The choice must be made by the candidate for whose benefit the contributions were made.





## PLACEMENT OF POLITICAL SIGNS

### Robert Sinclair, Supervisor – Right of Way Maintenance Control

Telephone: (207) 624-3611

The Department of Transportation would like to inform all candidates and their co-workers of the present statutory and regulatory requirements applicable to placement of roadside posters and signs advertising their candidacy. Under the provisions of 23 MRSA §1913-A and Department Regulations, political posters and signs may be erected and maintained as follows:

1. May be erected on private property outside the Right of Way limits of public ways at any time prior to an election, primary or referendum, limited in size to a maximum of 50 square feet;
2. May be erected within the Right of Way limits of public ways no sooner than six (6) weeks prior to an election, primary or referendum and must be removed no later than one (1) week following the date of the election, primary or referendum;
3. **Prohibited practices:** political posters and signs shall not be erected or maintained on any traffic control signs or devices, public utility poles or fixtures, upon any trees or painted or drawn upon rocks or other natural features;
4. No person shall place, maintain or display upon or in view of any highway any unauthorized sign, signal, marking or device which purports to be or is an **imitation of or resembles an official traffic-control device**, such as a stop sign;
5. Political signs may be displayed to view to all public ways **except** for the Interstate Highway System. Title 23 MRSA §1913-A, paragraph 3 (Regulations) and paragraph 6 (Interstate system) states that: **Signs may not be placed within the limits of any controlled access highway nor erected within 660 ft. of the nearest edge of the Interstate Highway System in such a manner that the message may be read from the Interstate Highway.** All signs located at interstate interchanges are in violation and will be removed.
6. **Municipal ordinances** advocating stricter control take precedence over state law. Check with the municipal clerk for any such local ordinances.

Traffic safety should be of the utmost consideration in placement of political signs. Candidates and campaign workers should take great care not to place signs or posters where same could create a traffic hazard. For example, signs or posters should not be placed at or near intersections where they could obstruct the view of on-coming traffic to the motorist entering the intersection. Also, signs or posters should



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not be erected on or in any manner so as to interfere with the effectiveness of traffic control devices. Acceptable display would be those posters or signs affixed to their own stake or post and set in the ground well outside the traveled portion of the highway, or, with the owner's consent and permission, attached to a building or dwelling, or displayed on vehicles or in the windows of business establishments, and in other like manner. Please help the Department of Transportation to prevent an unsightly, indiscriminate and uncontrolled display of election campaign posters throughout the State and to prevent any possible embarrassment to candidates.

**Questions:**

Please call Robert Sinclair, Supervisor – Right of Way Maintenance Control at (207) 624-3611.

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## CANDIDATE GUIDE

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