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

2013 Municipal Candidate's Guide

Towns & Cities with a Population over 15,000

Municipal Clerk Information:

Publication Date: 03/05/2013

The Commission has taken care to make this guide concise and accurate. However, you should not substitute the information presented in this guide for the applicable statutory provisions of Maine Election Law. The statutory requirements are controlling in the event of any omission in this publication.

Recent changes to Maine Election Law and Commission Rules include:

- *An increase in the contribution limit for municipal candidates from $350 to $750 per contributor (page 11);*
- *Disclosure statement requirements concerning hand-painted signs, low cost items, and when an address of the person who paid for the communication is not needed (pages 32-33);*
- *Exempt goods and services includes the purchase of apparel with a cost of $25 or less by an individual from a vendor (pages 18 and A1-A2); and*
- *Allowing an individual to raise money and spend it on certain activities in order to explore whether or not to run for office without having to register as a candidate first (page 3).*

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Towns and Cities in Maine with a Population of 15,000 or More (2010 U.S. Census Data)
Auburn
Augusta
Bangor
Biddeford
Brunswick
Gorham
Lewiston
Portland
Saco
Sanford
Scarborough
South Portland
Waterville
Westbrook
Windham

CHAPTER 1

Introduction and Registration Requirements

INTRODUCTION

Maine Election Law requires municipal candidates in cities and towns with a population of 15,000 or more to disclose their campaign contributions and expenditures, to comply with contribution limitations and prohibitions, and to meet other requirements of the law. These same requirements apply to gubernatorial, legislative, and county candidates running for office.

This guide was prepared by the Maine Ethics Commission to assist candidates and their treasurers in understanding their responsibilities under Maine Election Law. We urge candidates and their campaign treasurers to become familiar with its contents as early in the campaign as possible. Please remember to:

- Register on time;
- Read all communications from the municipal clerk;
- Keep detailed records of contributions and expenditures; and
- File reports on time.

Candidates and treasurers should not substitute the information contained in this guide for the applicable provisions of the law that are controlling in the event of any conflict with or omission in this guide. Copies of the law may be obtained from the Commission's website at **www.maine.gov/ethics**, by contacting the Commission's office at 207-287-4179, or by contacting the municipal clerk's office.

We welcome your suggestions for additions or changes to this publication. Please direct your comments or questions to the Ethics Commission:

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COMPLETE THE REGISTRATION FORM

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.

Before accepting contributions or making expenditures, a candidate must complete and file a candidate registration form with the municipal clerk. The following requirements must be met:

1. Appoint a treasurer no later than 10 days:
   - after accepting contributions or making expenditures; or
   - becoming a candidate by filing ballot petitions.

   > 21-A M.R.S.A. § 101 prohibits a municipal registrar from serving as a treasurer for a candidate for state, county, and municipal office.

   Only one treasurer is appointed. A candidate may appoint themselves as their own treasurer. A deputy treasurer *may* be appointed, but is not required. Candidates frequently appoint themselves as deputy treasurer if they are not serving as treasurer.
2. Register the name and address of the treasurer no later than 10 days after appointment.
3. A candidate may form a campaign committee. The treasurer listed in Section 2 of the registration form is the treasurer of the committee. Please note that a candidate is prohibited from forming a *political action committee* (PAC) for the purpose of supporting *their election.*
4. No later than 10 days after appointing a political committee (if a committee is formed), register the name of the committee and the names and addresses of committee officers, if any were appointed.

Appointing a Treasurer

When appointing a treasurer, consider the specific duties that a treasurer has under Maine Election Law:

- Keeping detailed records of all campaign contributions and expenditures
- Completing campaign finance reports
- Filing campaign finance reports on time

For more information, see pages 9—10

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 before 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 municipal clerk
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 ballot or nomination petition(s) 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	

Changes to Your Registration Form

If the information for you, your treasurer, deputy treasurer, or campaign committee changes during the campaign, you must file an amended Registration form with the municipal clerk. You may submit the changes in writing or by e-mail to the municipal clerk.

Write-In Candidates

Write-in candidates are required to register and to file campaign finance reports with the municipal clerk according to the same reporting schedule as candidates on the ballot. Please check with the municipal clerk regarding the requirements for write-in candidates.

Exemption from Filing Requirements

Candidates who do not accept contributions, make expenditures, or incur obligations for their election are exempt from the requirements of appointing a treasurer and filing campaign finance reports.

To obtain this exemption, a candidate must complete sections 1, 5, and 6 of the registration form. Section 6 must be signed and notarized.

> Personal funds of the candidate used for campaign purposes are considered campaign contributions and expenditures under Maine Election Law. Therefore, a candidate who spends personal funds in support of their candidacy is not eligible for a reporting exemption.

Revoking the Filing Exemption

If at a later date, an exempted candidate decides to collect contributions or make expenditures for their campaign, the candidate must revoke Section 6. 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.

"Testing the Water" - Exploratory Activities

Purpose. Before deciding to run for office, an individual may want to explore the feasibility of becoming a candidate. Certain "exploratory activities" may be conducted by an individual without triggering registration and reporting requirements.

Exploratory Activities vs. Candidate-related Activities. Exploratory activities, conducted to determine if there is support for their candidacy include, but are not limited to: conducting a poll, telephone calls, and travel.

Whereas "candidate-related" activities include, but are not limited to: using general public political advertising to publicize his or her intention to campaign for office; hiring staff or consultants for campaign activities; raising funds in excess of what could reasonably be expected to be used for exploratory activities; making or authorizing statements that refer to him or her as a candidate; or taking action to qualify for the ballot. Candidate-related activities indicate that the individual has decided to become a candidate and therefore must appoint a treasurer and file a registration form.

Record-Keeping and Reporting. Contributions raised and expenditures made to conduct exploratory

activities are not considered campaign contributions or expenditures unless the individual becomes a candidate. The individual is required to keep records of contributions raised and expenditures made. These contributions and expenditures are reported in the first campaign finance report for the election if the individual becomes a candidate.

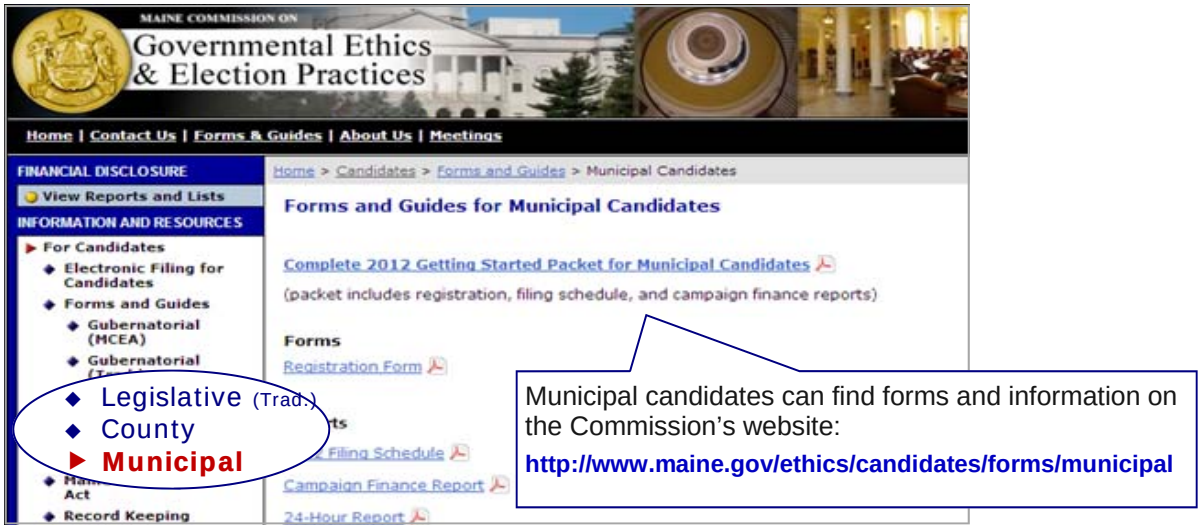
New! ONLINE ACCESS: FORMS AND GUIDE

To provide municipal candidates with an additional way to obtain information and forms, the Ethics Commission now posts municipal forms and information on the Commission's website.

The website address is: **http://www.maine.gov/ethics/candidates/forms/municipal**

The forms found on the Commission's website are "generic"—in that they do not contain the contact information for the municipal clerk in the candidate's municipality and thus at the top of the form require the candidate to indicate the name of the municipality in which they are running for office.

Municipal candidates submit all completed forms to the municipal clerk and the Ethics Commission encourages all municipal candidates to contact their municipal clerk early in the registration process.



LEGAL REFERENCES	
Requirement to File Campaign Finance Reports	30-A M.R.S.A. § 2502
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)
Exemption from Reporting	21-A M.R.S.A. § 1017(7-A)
Write-In Candidates	Rules, Chapter 1, Section 1(5)
Exploratory Activities	Rules, Chapter 1, Section 6(10), 7(8)

CHAPTER 2

Reporting Requirements

WHO MUST FILE CAMPAIGN FINANCE REPORTS?

All municipal candidates—including write-in candidates—must file campaign finance reports with the municipal clerk. This is a requirement of Maine Election Law that applies to anyone who is a candidate except those candidates who have been granted an exemption from filing because their campaigns will have no financial activity (Section 6 of the Candidate Registration form was completed).

The definition of a "candidate" is not limited to person who has qualified by petition or other means. A candidate is defined as any person who *receives contributions or makes expenditures or gives consent for another to do so with the intent of being elected to office* (see page 1).

WHAT REPORTS ARE REQUIRED?

11-Day Pre-Election and 42-Day Post-Election Reports. Maine Election Law requires all candidates to file these reports. Please see the table on the next page for the list of required reports, report periods, and deadlines.

24 Hour Reports. 24 Hour Reports are filed in the two weeks before the election when large contributions are received and/or large expenditures are made.

These reports are filed beginning on the 13th day before the election through the day before the election when:

- a contribution (including a loan*) aggregating $1,000 or more from the candidate, candidate's spouse, or domestic partner is received; or
- a single expenditure of $1,000 or more is made. The term "expenditure" includes: the placement of an order for goods/ services, a promise/agreement (even an implied one) that payment will be made, the signing of a contract for a good/ service, and the delivery of a good/service even if payment has not been made.

* Loans made by a financial institution in the State of Maine are not reportable in 24 Hour reports—they are not considered contributions.

Please note that 24 Hour Reports must be filed within 24 hours of receiving the contribution or making the expenditure.

WHAT OTHER REPORTS MAY BE REQUIRED?

Pre-Election Semiannual Report. If a candidate raises or spends more than $500 in the calendar year *preceding the election year*, the candidate must file a Pre-Election Semiannual Report in January (of the

election year). Please check with the municipal clerk if you have questions or believe that you will need to file a report.

Post-Election Semiannual Reports. After the filing of the 42-Day Post-Election Report, candidates with a cash balance ("surplus cash") of *more than $100* or an outstanding loan or debt of *more than $100* must continue to file campaign finance reports every January 15 and July 15 until they have disposed of the cash, loan or debt.

The *first* post-election semiannual report due after a June election is the January 15th report or after the November election is the July 15th report. The report period begins from the end date of the last report (42-Day Post-Election report) and covers about six months. Please see the table below for information on report periods for candidates in a June or November election. Please contact the municipal clerk if you are required to file post-election semiannual reports.

CAMPAIGN FINANCE REPORTS FOR MUNICIPAL CANDIDATES		
TYPE OF REPORT	**DEADLINE**	**REPORT PERIOD**
Pre-Election Semiannual (Required for candidates who have raised and /or spent more than $500 in a calendar year preceding the election year.)	January 15th of the election year	Beginning of campaign -December 31 of the year preceding the election year *Please check with the municipal clerk if you have questions.*
11-Day Pre-Election	11 days before the election	Beginning of campaign - 14th day before the election [Or if you filed the pre-election semiannual report: January 1—14th day before the election]
42-Day Post-Election	42 days after the election	12th day before the election - 35th day after the election
24 Hour Reports	Within 24 hours of the event—see page 7	13th day before the election - 1 day before the election
Post-Election Semiannual (Required for candidates who have cash balance or "surplus cash" of *more than $100* or an outstanding loan or debt of *more than $100.)*	For candidates in a **June election**, the *first* semiannual is: January 15th of the year following the election year. For candidates in a **November election**, the *first* semiannual is: July 15th of the year following the election year.	End of 42-Day Post-Election Report—December 31 of the election year (Reports are filed every six months until surplus cash, loans and debts are $100 or less.) End of 42-Day Post-Election Report—June 30 of the year following the election year (Reports are filed every six months until surplus cash, loans and debts are $100 or less.)
When you register as a candidate, you will receive report forms having the actual report periods and deadlines for the election. The information above is provide to give you a general understanding of when reports are due. *Please check with the municipal clerk if you have questions.*		

24-Hour Reports:

- File within 24 hours of receiving the contribution or making the expenditure or obligation.
- Must be filed on a weekend or holiday if that is when it is due – you cannot wait until the next business day.
- File by fax or in person.
- Contributions and expenditures received or made on the day before an election must be reported on election day.

24-Hour Report Period

Sun	Mon	Tue	Wed	Thu	Fri	Sat
		Election Day				

Indicates 24 Hour Report period

When are Reports Due?

Each report covers a period of time, known as the "report period," and is due by a date, known as the "filing deadline." Reports must be filed with the municipal clerk after the close of the report period and on or before the deadline.

The deadlines and report periods are established pursuant to the provisions of Maine Election Law (21-A M.R.S.A. § 1017). The actual dates for these vary slightly with each election and the table on page 6 explains how the dates are determined.

The actual deadline and report period dates for the election you are participating in are found on the cover page of the campaign finance report forms. Special election report periods and deadlines are established when the election date is set. You will be notified of these dates when you register as a candidate.

Where are Reports Filed?

Candidates for municipal office in towns or cities with a population over 15,000 register and file reports with the municipal clerk.

How are Reports Filed?

Reports must arrive in the clerk's office *no later than the close of business on the filing deadline*.

If you mail your report or hand-deliver it, it must be received by the clerk by the close of business on the day of the deadline. Check with your municipal clerk on their hours of operation to assure that your report is filed on time.

A report that is properly signed by the candidate and/or treasurer may be faxed to the clerk's office, provided that the original report is received by the clerk within 5 calendar days.

Please see the sections entitled "Reports Filed by Mail" and "Reports Filed by Fax" on page 29 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)
Forms of Commission	21-A M.R.S.A. § 1017(6)
Fax and Certified Mail Submission of Reports	21-A M.R.S.A. § 1020-A(4-A)

CHAPTER 3

Responsibilities of the Candidate and Treasurer

CANDIDATE'S RESPONSIBILITIES

In addition to complying with registration requirements and reviewing and signing campaign finance reports (either the candidate or treasurer may sign the report form), the candidate must:

- Within 5 days of a transaction, report to the treasurer all contributions received and expenditures made, including personal funds of the candidate that are used for campaign expenses;
- Notify the municipal clerk within 10 days if the treasurer's office becomes vacant, and appoint a successor. Serve as treasurer from the date of the vacancy until the appointment;
- Check with the treasurer to make sure campaign finance reports are filed on time. The candidate and the treasurer jointly are responsible for the timely and accurate filing of each required report; and
- File an amended registration if any information on the registration changes. The amendment must be filed within 10 days of the change.

TREASURER'S RESPONSIBILITIES

Maine Election Law requires the treasurer to perform certain duties.

> *"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 [municipal clerk]…, the treasurer shall certify the completeness and accuracy of the information reported by that treasurer."* (21-A M.R.S.A. § 1016)

Keep Detailed Records of All Contributions Received and of All Expenditures Made. The treasurer must maintain the following records:

- The name and address of every person making a contribution of more than $10, and the date and amount of the contribution.
- The name, address, occupation, and employer of every person contributing more than $50 in the aggregate in any report period and the date and amount of the contribution. *Personal funds of the candi-*

date used for campaign purposes must be reported to and recorded by the treasurer. These may be reported as campaign contributions and expenditures, as in-kind contributions, as unpaid debts, or as loans**.** (See also "Reporting Loans and Loan Payments" on page 26.)

- An accounting of each expenditure made by or on behalf of the candidate or committee, including the full name of each payee/creditor, the date and purpose of the expenditure, and the amount.
- If the payee is a member of the candidate's immediate family or household, the relationship to the candidate (e.g., "spouse," "sister," "son," "roommate") must be recorded and reported in the remark section on Schedule B Expenditures of the campaign finance report form. Reimbursements made to a member of the candidate's immediate family or household must also include the candidate's relationship in the remark section.

Obtain and Keep Receipts for Each Expenditure. The treasurer is required to maintain as part of the campaign records a receipt or invoice for expenditures of more than $50 made by or on behalf of the candidate, and for any expenditure in a lesser amount if the aggregate amount of those expenditures to the same person or vendor exceeds $50.

Obtain and Maintain All Campaign Records**.** Treasurers are responsible for obtaining all campaign records and maintaining the records for two years following filing of the final report for the election.

In addition to the records for contributions and expenditures as discussed previously, other records include:

- campaign account bank statements;
- copies of cancelled checks; and
- for reimbursements, from the person requesting the reimbursement, the receipt and proof of payment— which is either a copy of the check the person wrote to the vendor or a copy of the credit/debit card statement from the account that the person used to pay the vendor.

File Campaign Finance Reports On Time**.** When complete records of contributions and expenditures are maintained, the filing of a campaign finance report is easy. The timely filing of reports is the responsibility of the treasurer.

Certify the Completeness and Accuracy of the Information Disclosed in Campaign Finance Reports.

The treasurer or candidate are required to sign campaign finance reports. Again, complete records make accurate reporting easy.

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
Occupation and Employer of Contributor	21-A M.R.S.A. §§ 1016(3)(B); 1017(5)
Records of Expenditures Made on Behalf of the Campaign	21-A M.R.S.A. § 1016(4)

CHAPTER 4

Contributions and Expenditures: Prohibitions and Restrictions

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)

For further explanation of what is a contribution, please refer to 21-A M.R.S.A. § 1012(2) (copied in the Appendix).

CONTRIBUTION LIMIT: $750 PER CONTRIBUTOR

An individual, political committee, party committee, corporation or association may not make contributions to a municipal candidate aggregating more than $750.

> Only U.S. citizens and persons holding valid green cards may make contributions to candidates or candidates' committees.

This limit applies to the aggregate of all contributions – cash, in-kind, and loans – made by a contributor. This limit does not apply to contributions made by the candidate, the candidate's spouse, or domestic partner.

CONTRIBUTION LIMITS PER CONTRIBUTOR FOR 2013 ELECTIONS: MUNICIPAL CANDIDATES
$750.00
Please note: In December 2012 and every two years thereafter, the contribution limit is adjusted according the CPI (Consumer Price Index) as reported by the U.S. Department of Labor.

LOANS ARE CONTRIBUTIONS

Loans Subject to Contribution Limits. Under Maine Election Law, non-commercial loans are considered contributions to the candidate. They are subject to the contribution limit of $750.

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.

AGGREGATE CONTRIBUTION LIMIT: $25,000 PER YEAR

No individual may make contributions to candidates aggregating more than $25,000 in any calendar year.

This limitation does not apply to contributions in support of a candidate by the candidate, the candidate's spouse or domestic partner.

Anonymous Contributions: Restricted to $10 or less

Campaign treasurers must keep a detailed and exact account of all contributions received including contributions made by the candidate and the name and address of every person contributing in excess of $10. Therefore, anonymous contributions of more than $10 may not be accepted.

If a candidate or treasurer receives an anonymous contribution in excess of $10, the amount over $10 must be promptly disposed of. To dispose of the excess, the campaign may make a donation to a charitable organization, an educational institution, etc.—as long as the organization is *not associated* with any election, campaign or candidate's election in the state.

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 must take reasonable steps to identify the *original source* of funds and to report the actual contributor (see the following section on earmarking for additional information).

Misreporting the source of contributions is a serious violation of Maine Election Law and if the original source is not reported to the candidate, the contributor, the intermediary, and the candidate could be penalized up to $5,000 each.

Earmarked Contributions

If a contributor gives an amount of money to an intermediary such as a political action 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 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.

Contributions from Corporations and Affiliated Entities

In certain circumstances, Maine Election Law considers businesses, or non-profits 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 municipal candidate may not exceed the contribution limit of $750. 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-subsidiary relationship.

The Election Law also states that

> *"contributions made by a for-profit or a non-profit 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)

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 a list of these exemptions.)

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 limit of $750 applies.

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.

Unpaid Debts as Contributions

If a debt remains unpaid more than six months after the election in which the debt was incurred, it may be considered a contribution to the candidate, unless the candidate provides clear and convincing evidence that the candidate intends to raise funds or take other measures to satisfy the debt. If the debt remains unpaid for four years, the debt is considered a contribu-

tion. 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.

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.

False Statements

No person, candidate, or treasurer, may make a false statement in any required report. Making a false statement in a report is a Class E crime.

	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 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)
Coordinating Expenditures with Third-Parties	21-A M.R.S.A. § 1015(5)
Exempt Goods and Services	21-A M.R.S.A. § 1012(2)(B)
Unpaid Debts after the Election	Rules, Chapter 1, Section 6(6)

CHAPTER 5

Record-Keeping and Best Practices

This chapter explains the record-keeping requirements and offers guidance as to "best practices." You can use any manual or electronic system that is *helpful to you* in meeting these requirements. The campaign is not required to submit records to the municipal clerk unless requested. Please contact the clerk's office or the Commission with questions.

OPEN A SEPARATE BANK ACCOUNT

All candidates must have a separate bank account for their campaign. Maine Election Law prohibits the commingling of campaign funds with any personal or business funds of the candidate or any person associated with the campaign.

> The Election Law prohibits commingling campaign funds with any personal or business funds.

Candidates must deposit all contributions into a separate bank account used only for their campaign. You are allowed to spend any interest earned on your campaign account, but you must remember to report any interest earned as a receipt.

USE CAMPAIGN BANK ACCOUNT FOR ALL TRANSACTIONS

For Contributions. Establish a policy of promptly depositing all contributions in your campaign account. Require campaign workers, who solicit contributions, to promptly turn them into the treasurer for deposit. Campaign workers should also be advised that Maine law requires candidates and their agents to report to the treasurer the receipt of a contribution or the making of an expenditure *within 5 days*.

A contribution is reported as "received" on the date it actually comes into the candidate's or treasurer's possession or the postmarked date (if received by mail). The date of the contribution is not necessarily the date of the check or money order, or the date deposited in the campaign account.

For Expenditures. Establish a procedure of using the campaign account's checks and/or debit card as much as possible when making campaign expenditures rather than making reimbursements (for purchases made with cash or your personal funds). When the campaign account is used for all expenditures, the account statement provides you with an accurate record of the dates, amounts, and payees. This makes completing your reports easy.

> Obtaining a bank debit card and a checkbook for your campaign account and making all expenditures from the campaign's bank account simplifies record-keeping and promotes accurate reporting.

Establish Procedures

The timely and organized recording of transactions will make the job of filing reports easy as well as providing supporting documentation of the entries in your reports. Financial transactions may be tracked using electronic and/or paper systems including:

- computer spreadsheets (e.g., Excel);
- computer software (e.g. Quickbooks); or
- a simple journal type of recording system. Some treasurers use pages from the report form as a journal and keep them in a loose-leaf binder.

When setting up your record-keeping system, refer to this guidebook and the report form to make sure that your system is capturing all of the required information. The report form consists of separate "schedules" or pages used to report specific kinds of information. The report forms are available from the clerk's office.

Records for Contributions

Contributions of $50 or Less. For contributions of $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 report period (see page 22 for information on reporting).

Contributions of More than $50. For contributors who are individuals and have given *more than* $50 during a 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 campaign may want to consider asking the contributor for their occupation and employer information *at the time the contribution is solicited* because Maine Election Law *requires this information to be reported.* If this information is not received by the report deadline, enter "Information Requested" for occupation and employer.

> 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.

Contribution Limits Per Contributor for 2013 Elections: Municipal Candidates
$750.00
This limit applies 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 from Family Members. For contributions received from the candidate's immediate family members, maintain as part of the campaign records the family relationship (e.g., "candidate's spouse," candidate's son," etc.). The relationship is reported in the campaign finance report. Be sure to include in the campaign records, the cash contributions made by the candidate, candidate's spouse or domestic partner. These contributions are reported on Schedule A.

Campaign Bank Statement. Your bank statement is documentation of your cash contributions—in addition to copies of contributor's checks, third party processing

statements (e.g., PayPal transaction reports). Use your statements to reconcile your campaign account deposits with contributions reported on the report form.

List of Contributors. You may find it helpful to keep an electronic spreadsheet or an alphabetical card file of contributors. You and your treasurer will be reporting detailed information about each contributor who gave you more than $50 *in the aggregate during a report period.*

Maintaining a record of each contribution will help you identify when a contributor reaches the itemization threshold of more than $50 or has exceeded the contribution limit of more than $750 (see Chapter 4 "Prohibitions and Restrictions" in this guide).

In addition to the information you are required to keep in your records, you may want to include other reference information such as check number, thank you sent, etc.

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 ($750).

Record-keeping for in-kind contributions is the same as it is for cash contributions. Make sure that your record-keeping aggregates the *total cash and total in-kind contributions for each contributor.* The contribution limit applies to the aggregate of all contributions - *cash and in-kind.*

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 pages 13—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.

Exempt Goods and Services—Not Contributions. Certain goods and services are excluded from the legal definition of "contribution" and therefore, *are not reportable.* However, the campaign may want to track these items in the campaign records. Candidates and treasurers are encouraged to familiarize themselves with these "exempt" goods and services. 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,
- 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,
- each volunteer may pay up to $100 cumulatively in each election 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); and
- an individual (supporter) may purchase apparel (t-shirt, hat, etc) from a commercial vendor when the vendor has received a graphic or design from the candidate or the candidate's authorized committee *if the total cost is $25 or less* .

Please see the Appendix, pages A1-A2, for more information.

Records for Expenditures

Written records and supporting documentation that track how campaign funds are spent are just as important as the records documenting contributions to your campaign.

Use Campaign Bank Account for All Expenditures. If you use checks or a debit card to pay expenses whenever possible, you will have a verifiable, chronological record of your expenditures. The campaign bank statement provides a permanent record for each individual check or debit and an up-to-date record of the account balance.

Expenditures of More than $50. Vendor receipts and invoices for expenditures greater than $50 are required. An easy way to comply with this requirement is to obtain a receipt for every expenditure. *At the start of your campaign, require that every person who makes an expenditure provides a receipt when requesting reimbursement.*

Payments to vendors can be maintained alphabetically by vendor name. This helps prevent double payments and makes the information readily accessible. Alternatively, small campaigns may find it more convenient to maintain payments in chronological order by date of purchase.

Unpaid Bills and Obligations. You may want to use a spreadsheet or journal to track unpaid bills and obligations since your campaign checkbook and bank statement track only payments. Unpaid bills and obligations that are not paid by the end of the report period are reported on Schedule D (Unpaid Bills and Obligations) of the report form. Unpaid bills and obligations to a single vendor of $1,000 are reported in 24-hour reports.

***Purchases Made by a Consultant*.** If your campaign pays a consultant for goods or services worth more than $50, 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 more than $50, your campaign is required to obtain an invoice or receipt for goods and services provided by the sub-vendor. This is a legal requirement in Election Law.

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's invoice, when a sub-vendor was used, is shown below. When the records for the campaign include copies of sub-vendor invoices, the campaign is able to comply with the reporting requirement for campaign goods and services received from sub-vendors (see page 25).

Records for Loans

Schedule C Loans of the report form or a spreadsheet may be used to track and record activity with loans made to the campaign. Records for loans include the name of the lender, the date of the loan, the dates and amounts of payments, the dates and amounts of forgiveness, and the outstanding loan balances.

For loans made by the candidate, candidate's spouse/ domestic partner, or other individuals and are later forgiven (all or in part), the amount that is forgiven *is recorded* in the campaign records in two places:

(1) in the records for loans; and

(2) in the records for contributions.

A forgiven loan amount *is reported* on the campaign finance report in two places as explained on page 24.

Example of Invoice for Consulting Services

ELECTION Associates **456 State Street, Augusta, Maine 04332**

BILL TO:

Ruth Baker
c/o Committee To Elect Baker
123 Maine Street
Augusta, ME 04032

Invoice Date: 09/18/2013

Service/Product	Rate	Hours	Total
Design of Palm Card	$100 per hr	3.0	$300
Printing of card: Graphics Center Color Printing **SEE ATTACHED COPY OF INVOICE**	2,000 cards at $0.50 each		$1,000
Total Due 30 Days from Date of Invoice			**$1,300**
Authorized Signature: Elizabeth C. Brown	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.

Other Campaign Records

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

- signed and dated contracts for services provided to the campaign, and
- labor records and tax forms for campaign staff, if any.

Legal References	
Commingling of Campaign and Personal Funds	21-A M.R.S.A. § 1016(1)
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
In-Kind Contributions	Rules, Chapter 1, Section 6(4) - (5)
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)
Records of Expenditures Made on Behalf of the Campaign	21-A M.R.S.A. § 1016(4)

CHAPTER 6

Completing Campaign Finance Reports

LEGAL REQUIREMENT

All municipal candidates must file campaign finance reports with the municipal clerk. Filing complete and accurate reports is a *joint* responsibility of the candidate and treasurer. This is a requirement of Maine Election Law.

All information must be reported on forms prescribed by the Commission and provided to the municipal clerk.

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 clerk. See below for a brief description of each schedule.

DESCRIPTION OF A CAMPAIGN FINANCE REPORT		
Cover Page	Contact Information	Contact information for you and your treasurer is reported here.
Schedule A	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.
Schedule A-1	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 page 18 and Appendix page A1-A2.)
Schedule 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 23).
Schedule C	Loans and Loan Repayments	Information about loans received, repaid, or forgiven is entered on this schedule. Forgiven amounts are also reported on Schedule A.
Schedule D	Unpaid Debts and Obligations	All debts or obligations that are unpaid *at the close of the report period* are reported here.
Schedule F	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. The cash balance on this schedule should match the cash balance in your campaign bank account.

Completing the Report

Cover Page. This page includes the contact information of the candidate and treasurer (e.g., name, address, phone number, etc.), the period covered by the report (the "report period"), and the filing deadline. The cover page is signed and dated by either the candidate or treasurer.

Dates for the transactions listed on a report must fall within the report period covered by the report. If you enter transactions that occur outside the period covered by the report, you will be asked to file an amended report showing the transactions in the proper report period.

Summary Schedule. *Before* completing the summary section, complete all applicable schedules of the report form. Follow the instructions on the report form for completing the Summary Section, Schedule F. The summary section summarizes all of the information contained in the report.

Reporting Contributions on Schedule A

Contributions received by check, money order, cash or credit card are reported on Schedule A. Enter the correct number code for the "Contributor Type" (see below).

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

Reporting Contributions of $50 or Less. When reporting contributions of $50 of less, total all contributions of $50 or less received during the report period and enter:

- "Contributors giving $50 or less" as the "Contributor's Name";
- the last day of the report period or a date range as the "Date of the Contribution"; and
- the total amount of all contributions of $50 or less for the report period as the "Amount."

Reporting Contributions of More than $50. When reporting contributions of more than $50, enter:

- the date the contribution was received;
- the contributor's name, and address;
- the contributor's occupation and employer, if the contributor was an individual;
- the contributor type (number code); and
- the amount of the contribution.

If a contributor — who is an individual — has given you contributions totaling more than $50 in the report period, you are legally required to report the contributor's occupation and employer.

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 when an over-the-limit contribution is received and deposited in the campaign bank account.

A return of a contribution is reported on Schedule A as a negative amount for the amount being returned. Placing a remark—"Contribution Returned"—on the report form is recommended since the public may not understand the meaning of a negative contribution.

Reporting In-Kind Contributions on Schedule A-1

To report in-kind contributions, follow the instructions on Schedule A-1 of the report form. A description of the item or service donated is reported in addition to the date received and the fair market value. If the value of the item or service is more than $50 and it was donated by an individual, list the contributor's name, address, *occupation, and employer*.

Reporting Valuation of Contributions Sold at Auction (including yard sale, etc.)

Any contribution received by a candidate that is later sold at auction should be reported as follows:

- If the good/service is sold at auction *before* the start of or *during* the report period, the value of the good/service is the amount of the purchase price paid at auction/sale, etc.
- If the good/service is sold *after* the end of the report period, the value of the good/service is the difference between the value of the contribution as originally reported (i.e., as an "in-kind" contribution with estimated "fair market value"), and the amount of the purchase price paid at auction/sale, etc.

Reporting Expenditures on Schedule B

Using your records—bank statement, invoices, spreadsheet, journal—report the expenditures that were made during the report period. (Remember: unpaid bills, debts, or obligations are reported on Schedule D.)

For each expenditure, report the date, the name of payee, the amount, and purpose of the expenditure. Use the applicable three letter code ("Expenditure Type") to report the purpose (see the table below).

Some expenditure types require a remark that describes in more detail the nature of the goods or services purchased.

Expenditure Types

	Expenditure Types Requiring NO Remark		Expenditure Types which REQUIRE 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.		

Example: Correctly Reporting Payments to Members of the Candidate's Immediate Family or Household				
Schedule B Expenditures				
Date	Name of Payee	Expenditure Type	Remark (if required)	Amount
08/14/13	RYAN SMITH	LIT	**SON OF CANDIDATE** Design of palmcard	$200.00
09/01/13	EMILY JONES	CNS	**ROOMMATE OF CANDIDATE** Campaign strategy	$850.00

When reporting an expenditure to family and household members, the relationship is required to be reported.

Example: Reporting a Reimbursement				
Schedule B Expenditures				
Date	Name of Payee	Expenditure Type	Remark (if required)	Amount
09/23/13	ABC PRINTING	LIT	PALM CARDS; REIMBURSED JOAN SMITH (CANDIDATE)	$650.00
Incorrect reporting of reimbursement is shown below.				
09/23/13	JOAN SMITH	LIT	PALM CARDS	$650.00

When reporting a reimbursement, the "Payee" is the vendor—not the person receiving the reimbursement.

Example: Reporting Petty Cash Expenditures				
Schedule B Expenditures				
Date	Name of Payee	Expenditure Type	Remark (if required)	Amount
08/14/13	OFFICE SUPPLY INC	OFF	SUPPLIES PURCHASED BY CANDIDATE WITH PETTY CASH	$78.00
09/01/13	USPS	POS	POSTCARD STAMPS PURCHASED BY CANDIDATE WITH PETTY CASH	$52.00

When reporting a purchase from petty cash, the "Payee" is the vendor—not "Cash" or "Petty Cash."

Example: Reporting Payments Made to a Vendor who used a sub-Vendor				
SCHEDULE B – EXPENDITURES				
DATE	NAME OF PAYEE	EXPENDITURE TYPE (use code)	REMARK	AMOUNT
5/10/2013	MEDIA ASSOCIATES	CNS	CONSULTING SERVICES FOR TV AD ; TOTAL PAID TO MEDIA ASSOC. $32,600	$1,600
5/10/2013	WMTW TV	TV	PAID BY MEDIA ASSOC ON BEHALF OF THE CAMPAIGN	$20,000
5/10/2013	WABI TV	TV	PAID BY MEDIA ASSOC ON BEHALF OF THE CAMPAIGN	$11,000

Reporting Payments Made to a Member of the Candidate's Immediate Family or Household. When the campaign pays a member of the candidate's immediate family or household for goods or services provided to the campaign or when the campaign makes a reimbursement to an immediate family or household member, the relationship of the family or household member to the candidate is reported on Schedule B (see example on opposite page).

Reporting Reimbursements. When the campaign makes a reimbursement for a good or service that was paid for with the personal funds of a supporter, volunteer, etc., the reimbursement is reported as shown in the example on the opposite page.

The "Name of Payee" is the name of the vendor—not the person who is being reimbursed. In the example shown, ABC Printing is the vendor—or "Payee"—because they produced the palm cards. Joan Smith was reimbursed for the payment she made to them.

Reporting Expenditures Made with Petty Cash. If the campaign chooses to withdraw cash to use for petty cash expenses, 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.

Sometimes petty cash transactions are incorrectly reported as reimbursements to the person who used the petty cash to purchase the item. A correctly reported petty cash transaction is shown on the opposite page.

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 bottom of opposite page).

To meet this reporting requirement, the "best practice" is for you to ask the consultant—*at the time you are hiring them—t*o provide your campaign with a receipt, invoice or other statement from any sub-vendor that receives a payment of more than $50 from your consultant. You may want to request that the consultant provide an invoice as found on page 19 and for them to attach sub-vendor invoices when submitting their invoice to the campaign for payment.

It is the campaign's responsibility to find out about expenditures made by your consultants on your campaign's behalf and to report those expenditures.

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:

- report the date of the refund as the "Date of the Expenditure";
- report the vendor name as the "Payee Name";
- report the refund as a negative amount (This will reduce the amount of the total expenditures for the report period and increase the cash balance by the amount refunded to the campaign); and
- note in the "Remark" section that it was a "refund."

Reporting Loans and Loan Payments on Schedule C

You are required to report the name and address of the lender or person making the loan, the date, and the amount of each loan. Remember that loans from individuals are limited to $750 except loans made by the candidate, candidate's spouse, or domestic partner and loans made by financial intuitions located in the State of Maine.

> Remember, loans from individuals are considered contributions to the candidate. Therefore, the lender is subject to the contribution limit of $750.

Loan Payments. A loan payment is reported on Schedule C of the report form and *not* on Schedule B, Expenditures. When reporting a payment, enter the name and address of the lender and the date and the amount of the payment.

Forgiving a Loan. A loan forgiveness—the forgiven amount—is reported in two places on the report form:

(1) on Schedule C Loans; and

(2) Schedule A Contributions as a contribution. Follow the instructions on Schedule C and the Summary Schedule so that the forgiven amount is not doubled counted as a receipt.

Reporting Unpaid Debts and Obligations on Schedule D

Report unpaid bills, debts, or obligations on Schedule D of the report form that *are unpaid at the end of the report period.* The date the debt or obligation was incurred, the amount and purpose, and the name and address of the creditor are reported.

If only a partial payment is made on the debt during a report period, continue to report the unpaid balance of that debt or obligation. When a payment or partial payment is made on a debt or obligation, the payment amount is reported as an expenditure on Schedule B of the report form.

Reporting the Use of the Candidate's Personal Funds

Any expenditure of personal funds by a candidate to support their candidacy is either a contribution (cash or in-kind), an unpaid debt, or a loan and may be reported according to the following:

- If the candidate *does not expect to be reimbursed* for the expenditure, the treasurer reports the transaction as a contribution <u>and</u> as an expenditure <u>or</u> reports the transaction on Schedule A-1 as an in-kind contribution.
- If the candidate *expects to be reimbursed for the expenditure and has not been reimbursed by the end of the report period,* the treasurer reports the transaction on Schedule D as an unpaid debt/obligation.
- If the candidate *expects to be reimbursed and is reimbursed* for the expenditure by the end of the report period, the treasurer reports the transaction on the Schedule B, Expenditures, noting in the "Remark" section that it was a reimbursement (see page 25).

- If a candidate expects to raise campaign funds but needs to make an initial loan to cover fundraising and campaign expenses until contributions are received, the candidate, candidate's spouse, or domestic partner may make a loan(s) to the campaign, which is reported on Schedule C, Loans.

LEGAL REFERENCES

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)
Reporting Expenditures by Consultants, Employees, and Other Agents	21-A M.R.S.A. 1016(4)

CHAPTER 7

Filing Campaign Finance Reports

LEGAL REQUIREMENT

All municipal candidates must file campaign finance reports with the municipal clerk. While the municipal clerk may remind candidates of the filing deadline, it is *the candidate and treasurer's* responsibility to remember and to comply with the deadlines.

Candidates who do not submit a report by the filing deadline will be assessed a civil penalty. The municipal clerk determines whether a report satisfies the requirements for timely filing and may waive a late filed report due to certain mitigating circumstances.

HAND-DELIVERED REPORTS

If you hand-deliver your report, the clerk must receive it by the close of business on the day of the deadline.

REPORTS FILED BY MAIL

Reports that are sent by *regular U.S. mail* that arrive in the clerk's office no later than the close of business on the day of the filing deadline are considered to be filed on time.

Reports that are sent by *certified or registered U.S. mail* and are postmarked at least two days before the deadline are considered to be filed by the deadline.

REPORTS FILED BY FAX

A report that is properly signed by the candidate and/or treasurer and faxed to the municipal clerk, *provided that the original of the report is received by the municipal clerk within 5 calendar days* is considered to be filed on time.

Please check with your municipal clerk on acceptance of faxed reports.

PENALTIES FOR LATE FILING

The candidate and the treasurer are *jointly* responsible for the accurate and timely filing of reports. A penalty may be assessed against a candidate and/or treasurer who fail to file a required report by the filing deadline, or who fail to file a complete and accurate report.

> A candidate or treasurer who fails to file a required report within 30 days of the filing deadline is guilty of a class E crime.

The penalty for filing a late report is calculated using a formula found in Maine Election Law. The table on the next page shows the formula and an example of a penalty calculation. Any penalty of less than $10 is waived.

PENALTY AMOUNTS: The applicable percentage listed at right is applied to the "financial activity" that occurred during the report period - which is either the total of all contributions received or the total of all expenditures made (including unpaid debts) *whichever is greater* multiplied by the number of days late.	First Violation	1%
	Second Violation	3%
	Third Violation	5%

EXAMPLE OF PENALTY CALCULATION			
	Total Contributions	Total Expenditures	
Report Period Amounts:	$2,000	$500	The total of contributions for the report period is greater than the total of expenditures. **Therefore $2,000 is used in the calculation.**
Percent Used:	1%	This is the first time that the candidate was late in filing their report. **Therefore, the applicable percentage used is 1%.**	
Penalty Amount/Day:	$20.00	$2,000 X 1% = $20.00 per day	
Number of Days Late	5	$20.00 X 5 = $100.00	
Penalty Amount	$100.00	A penalty is due within 30 days from the date of the penalty letter.	

REMINDERS

The filing schedule is included in the information packet (e.g., Getting Started Packet) provided to all candidates. Also, many municipal clerks remind candidates at least two weeks before each filing deadline.

AMENDMENTS

Candidates and treasurers are required by Maine 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.

REVIEW OF REPORTS

The municipal clerk reviews all campaign finance reports for completeness and compliance with Maine Election Law. If the clerk believes a report is incomplete or requires additional information, they will contact the candidate or treasurer by telephone or in writing.

Treasurers and candidates may want to use the completeness checklist found in the Appendix on page A12 to review their reports before filing them with the municipal clerk. Using the checklist will reduce errors and insure compliance.

LEGAL REFERENCES	
Requirement to File Reports	21-A M.R.S.A. §§ 1013-A(4); 1016; 1017(3-A)
Forms of Commission	21-A M.R.S.A. § 1017(6)
Fax and Certified Mail Submission of Reports	21-A M.R.S.A. § 1020-A(4-A)

CHAPTER 8

Campaign Communications and Disclosure Statements

DISCLOSURE ON CAMPAIGN COMMUNICATIONS

Whenever a candidate, or the candidate's authorized political committee or agent(s), 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
- 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 35 days before the 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 <u>not</u> required):

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

SMITH

for City Council

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

SMITH

for City Council

Authorized by the Candidate and Paid for by Ruth Clark, Treasurer

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

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

SMITH

for City Council

Authorized by the Candidate and Paid for by the Committee to Elect John Smith

Expenditure Made by Others—not Associated with the Campaign (address is required):

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

SMITH

for City Council

Authorized by the 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.

The municipal clerk 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 municipal clerk.

Electronic Media Ads. A disclosure statement is not required on advertisements in electronic media where including the disclosure statement would be *impracticable due to size or character limitations.* When placing an ad, you may want to ask your vendor whether a disclosure statement is possible.

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 municipal clerk; 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 35 days before an 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 <u>all</u> 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.

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.

Placement of Political Signs

The Maine Department of Transportation (MDOT) and local ordinances (if any) regulate the timing and placement of signs. Please see the guidance memo from MDOT in the Appendix and check with the municipal clerk.

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.

Missing Disclosure Statements and Enforcement

If the municipal clerk receives a complaint about a communication that does not contain the required disclosure, the municipal clerk 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 clerk. 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 9

Post-Election Responsibilities

NOTIFY MUNICIPAL CLERK OF CHANGES OF ADDRESS AND PHONE NUMBER

After the campaign, it is important for candidates and treasurers to notify the municipal clerk when their address and/or telephone number changes. If the municipal clerk is not notified, the candidate may miss important notices and filing reminders.

MAINTAIN CAMPAIGN RECORDS FOR 2 YEARS

Treasurers are responsible for maintaining all campaign records for two years following filing of the final report for the election.

CLOSING OUT CAMPAIGN WITH FILING OF 42-DAY POST-ELECTION CAMPAIGN FINANCE REPORT

If the candidate's unspent cash, unpaid loans, and debts are $100 or less, the 42-Day Post-Election Report will be the candidate's last campaign finance report for the election.

DISPOSING OF SURPLUS CASH AFTER THE ELECTION

After an election, a candidate may be left with unspent campaign funds—surplus cash. Surplus cash greater than $100 may *not* be converted to the candidate's personal use. A candidate *must* dispose of surplus cash 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 by:

- returning contributions to the 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 and/or a restricted or unrestricted gift to the municipality;
- carrying forward the surplus balance for use by the candidate for a subsequent election;
- 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.

Please see the Appendix, page A13 for the complete list.

DISPOSING OF LOANS

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; or
- ask the lender to forgive the outstanding loan balance.

Remember that the forgiven amount is reported as a cash contribution on Schedule A and as a loan forgiveness on Schedule C. 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. The contribution limit applies to all contributors, except the candidate and the candidate's spouse/domestic partner.

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 on Schedule A-1, your payment of personal funds to the creditor as an in-kind contribution from you; 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 $750 per election . 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.

Any debt that remains unpaid more than six months after the election in which the debt was incurred may be considered a contribution to the candidate, unless the candidate provides clear and convincing evidence that he or she intends to raise funds or take other measures to satisfy the debt.

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.

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)

APPENDIX

TITLE	PAGE
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ADDITIONAL INFORMATION ON CONTRIBUTIONS INCLUDING IN-KIND CONTRIBUTIONS AND EXEMPTIONS	A5 - A7
ADDITIONAL INFORMATION ON EXPENDITURES, UNPAID DEBTS AND OBLIGATIONS	A8 - A9
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DISPOSING OF SURPLUS CASH	A13

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;

(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 mon-

ey 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 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;

(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.

Additional Information on Contributions including In-Kind Contributions and Exemptions

Contribution Limits

Municipal Candidate Limit. A contributor may donate to a municipal candidate no more than $750 in the aggregate per election.

Contributors Subject to Limitations. The limit applies 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.

Adjustments to Contribution Limit. The Maine Commission on Governmental Ethics and Election Practices adjusts the contribution limits based on the consumer price index in December of each state election year. The next adjustment will be made in December 2014.

In-Kind Contributions

"In-kind contributions" are goods and services that are donated or 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 ($750). The following activities are examples of in-kind contributions:

- A 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 pages 13-14 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 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. Please be aware 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 limit a of $750 applies. 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.

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 contribution limit of $750.

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

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. Please see pages A1-A2 for a complete list of exempt items/services.

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,
- 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).

Additional Information on Expenditures Including Unpaid debts and Obligations

Unpaid Debts and Obligations

The legal definition of the term campaign expenditure includes making an obligation to a vendor for goods or services ordered. See Chapter 6 ("Completing Campaign Finance Reports"), page 26, on how to report *unpaid obligations.*

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

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.

Candidates involved in the joint expenditure should 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 "paid for" statement in the communication discloses 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 non-

political customers that are of similar risk, and whether the vendor extended the credit in the ordinary course of business.

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.

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. If a debt remains unpaid more than six months after the election in which the debt was incurred, it may be considered a contribution to the candidate, unless the candidate provides clear and convincing evidence that the candidate intends to raise funds or take other measures to satisfy the debt. If the debt remains unpaid for four years, the debt is considered a contribution. The penalty paid to the Commission for an over-the-limit contribution is the amount that is over $750 and the campaign must also return this amount to the contributor.

Placement of Political Signs

Chip Kelly, Department of Transportation (DOT)

Telephone: (207) 624-3332 Email: chip.kelley@maine.gov.

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 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 contact Chip Kelley at Maine DOT: Phone: (207) 624-3332 Email: chip.kelley@maine.gov

Many municipalities have local ordinances concerning the placement of political signs. Please check with the municipal clerk before placing signs.

CANDIDATE FINANCE REPORT COMPLETENESS CHECKLIST	
Cover Sheet	
Is candidate and treasurer information complete?	
Has there been a change in contact information? If yes, up-date the registration information.	
Did the candidate or treasure sign and date the report?	
Schedule A Cash Contributions	
Do all dates of contributions fall within the report period?	
Are contributor type codes entered?	
Is the address complete for each contributor who gave more than $50?	
Is the occupation and employer reported for each contributor who gave more than $50?	
Are there any over the limit contributions - contributors who gave more than $750?	
Do all reported contributions equal the total on line 1 of Schedule F?	
Schedule A-1 In-kind Contributions	
Use the list above for cash contributions and include the two questions below.	
Is there a description of the goods or services donated? And fair market value?	
Do all reported in-kind contributions equal the total on line 8 of Schedule F?	
Schedule B Expenditures	
Are expenditure type codes entered?	
Are remarks entered for expenditure types that require them?	
Are the expenditures campaign related?	
Do all reported expenditures equal the total on line 5 of Schedule F?	
Schedule C Loans	
Are there any loans from “Other Individuals”? If yes, the maximum loan amount is $750 (as long as the lender has not made a cash or in-kind contribution).	
If a loan has been forgiven, has a corresponding contribution been reported in Schedule A?	
Have all outstanding loans from the last report been carried over?	
Schedule D Unpaid Debts and Obligations	
Is the information complete?	
If an obligation that was reported in a previous report is not carried forward to the current report, has a corresponding expenditure been reported in Schedule B?	
Schedule F - Summary	
Are all totals properly carried over from the various schedules?	
Are all totals on schedule F correct?	

COMMISSION ON GOVERNMENTAL ETHICS AND ELECTION PRACTICES
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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.

(Current as of 09/2007)

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Municipal Candidate's Guide

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