

Agenda

Item #10



DRAFT

Annual Disclosure Policy for Ethics Commission Members

At its December 7, 2007 meeting, the members of the Maine Commission on Governmental Ethics and Election Practices adopted this policy of annual disclosure by members of the Commission. The policy will provide additional assurance that the Commission members are acting at all times in a manner that is objective and independent of personal or political affiliations.

Annual Disclosure Statement

Members of the Commission will file an annual disclosure statement by February 15th of each year regarding the member's affiliations and political activities in the previous calendar year. The disclosure will include the kinds of affiliations and political activities which could be viewed as a conflict of interest, such as affiliations with political action committees, party committees, or candidate committees; affiliations with nonprofit or commercial organizations that are involved in candidate or ballot question elections; ownership or involvement in a commercial entity that has contracted to provide services to political groups; fundraising for a candidate or ballot question; and endorsements of political candidates. The categories of information to be disclosed are based on the qualifications and prohibited activities for Commission members established by the Legislature in 1 M.R.S.A. §§ 1002(2) and (6).

Updated Disclosure Statement

Each member of the Commission will also file an updated disclosure statement for the *current* year if the member enters into any *new* covered affiliations or activities. The member should file the form within 21 days of entering into the new affiliation or activity. The Commission's Executive Director will remind the Commission members of the obligation to file an updated disclosure statement at public meetings in or around April, July, and October of each year.

Public Disclosure

The Commission staff will promptly post the annual and updated disclosure statements on the Commission's website.

Conflicts of Interest

If a member has a conflict of interest in a matter before the Commission, the member will recuse himself or herself from voting on the matter and will not influence it. The Commission has proposed legislation for the 2008 session setting forth standards for a conflict of interest and how the member should respond to an allegation of a conflict received from outside the Commission.



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

MEMORANDUM

To: Commission Members
 From: Jonathan Wayne
 Date: November 29, 2007
 Re: Annual Disclosure Statement

In response to the staff's request for comments on the proposed annual disclosure statement for members of the Commission, a member of the public asked why there was no requirement that Commission members disclose affiliations with lobbyists. Since lobbyists and their clients are regulated entities within the scope of the Commission's jurisdiction, the commenter suggested that affiliations with lobbyists also be disclosed in the annual statement.

The staff agrees with the commenter that affiliations with lobbyists should be included in a disclosure statement. If the Commission also agrees, the staff proposes the following section to be added to the disclosure statement.

Please list all current affiliations with lobbying, consulting, or law firms that employ lobbyists; with businesses, organizations, or associations of which you are an owner, officer, director, primary decision-maker, fundraiser, or member and which employ lobbyists; and list all members of your immediate family who are lobbyists in the State of Maine.

AFFILIATIONS WITH LOBBYISTS

NAME OF FIRM; BUSINESS, ORGANIZATION, OR ASSOCIATION; OR FAMILY MEMBER	PLEASE INDICATE THE NATURE OF YOUR AFFILIATION WITH THE LISTED ENTITIES.



DRAFT

2007 ANNUAL DISCLOSURE STATEMENT FOR COMMISSION MEMBERS

Covering January 1, 2007 – December 31, 2007

Due: February 15, 2008

COMMISSION MEMBER INFORMATION

Name

OCCUPATION AND EMPLOYER INFORMATION

Occupation

Employer Name

Employer Address City State

Have you been a candidate for any elective office (county, state, or federal) within the past year? If so, please list below.

CANDIDACY FOR POLITICAL OFFICE

NAME OF OFFICE	PLEASE INDICATE COUNTY, STATE, OR FEDERAL OFFICE

Have you served as an officer, director, primary decision-maker, fundraiser, or employee of, or worked as an independent contractor for, any political action committees, party committees, or authorized candidate committees during 2007? If so, please identify the committee and indicate in what capacity you were involved. In addition, please name all political committees for which you are *currently* serving in *any* capacity listed above.

AFFILIATIONS WITH POLITICAL COMMITTEES

NAME OF POLITICAL ACTION COMMITTEE, PARTY COMMITTEE, OR AUTHORIZED CANDIDATE COMMITTEE	PLEASE INDICATE THE CAPACITY IN WHICH YOU SERVED: OFFICER, DIRECTOR, PRIMARY DECISION-MAKER, FUNDRAISER, EMPLOYEE, OR INDEPENDENT CONTRACTOR.

Please list all businesses, corporations, or other commercial or for-profit organizations for which you are an owner, officer, director, primary decision-maker, employee, or independent contractor if the organization spent more than \$1,500 during 2007 to influence an election for state, county, or municipal office or a local or statewide ballot question in Maine.

AFFILIATIONS WITH COMMERCIAL ORGANIZATIONS

NAME OF COMMERCIAL ORGANIZATION	PLEASE INDICATE THE CAPACITY IN WHICH YOU SERVED: OWNER, OFFICER, DIRECTOR, PRIMARY DECISION-MAKER, EMPLOYEE, OR INDEPENDENT CONTRACTOR.

Please list all non-profit organizations, community groups, or other organizations based in Maine for which you are an officer, director, primary decision-maker, fundraiser, employee, or independent contractor.

Please indicate whether any of the organizations you have listed were involved in supporting or opposing a local or statewide ballot question, or any candidate for state, county or municipal office during 2007.

If the organization was involved, please indicate whether that organization spent more than \$1,500 in 2007 to influence the outcome of the ballot question or candidate election.

AFFILIATIONS WITH NON-PROFIT OR OTHER ORGANIZATIONS

NAME OF NON-PROFIT OR OTHER ORGANIZATION	PLEASE INDICATE THE CAPACITY IN WHICH YOU SERVED: OFFICER, DIRECTOR, PRIMARY DECISION-MAKER, FUNDRAISER, EMPLOYEE, OR INDEPENDENT CONTRACTOR.	PLEASE INDICATE THE BALLOT QUESTION (LOCAL OR STATE) OR CANDIDATE SUPPORTED/OPOSED AND IF MORE THAN \$1,500 WAS SPENT.

Please list all non-profit, commercial, or other organizations for which you are an owner, officer, or primary decision-maker which provided goods or services to a political action committee, party committee, or candidate committee during 2007.

BUSINESS AFFILIATIONS WITH POLITICAL COMMITTEES

NAME OF ORGANIZATION	PLEASE INDICATE THE CAPACITY IN WHICH YOU SERVED: OWNER, OFFICER, OR PRIMARY DECISION-MAKER.

If you engaged in any political fundraising to promote the election or defeat of a candidate or the passage or defeat of a ballot question in Maine during 2007, please identify the candidate or ballot question and whether you acted in support or opposition. Do not include candidates at the county or municipal level, or out-of-state non-federal elections.

Please list any political candidate which you endorsed during 2007. Do not include candidates at the county or municipal level, or out-of-state non-federal elections.

POLITICAL FUNDRAISING AND CANDIDATE ENDORSEMENTS

NAME OF CANDIDATE OR BALLOT QUESTION	INDICATE POSITION: SUPPORTED OR OPPOSED	DID YOU ENDORSE THE CANDIDATE? ENTER YES OR NO

Please indicate whether you are involved with any organizations or in any activities, not listed above, which could give rise to an appearance of a conflict of interest with regard to your role as a Commission member.

ADDITIONAL COMMENTS

Please sign and date.

_____ SIGNATURE	_____ DATE
--------------------	---------------



DRAFT

2008 UPDATED DISCLOSURE STATEMENT FOR COMMISSION MEMBERS

COMMISSION MEMBER INFORMATION

Name

OCCUPATION AND EMPLOYER INFORMATION

Occupation

Employer Name

Employer Address City State

Have you been a candidate for any elective office (county, state, or federal) within 2008? If so, please list below.

CANDIDACY FOR POLITICAL OFFICE

Table with 2 columns: NAME OF OFFICE, PLEASE INDICATE COUNTY, STATE, OR FEDERAL OFFICE

Have you served as an officer, director, primary decision-maker, fundraiser, or employee of, or worked as an independent contractor for, any political action committees, party committees, or authorized candidate committees during 2008? If so, please identify the committee and indicate in what capacity you were involved.

AFFILIATIONS WITH POLITICAL COMMITTEES

Table with 2 columns: NAME OF POLITICAL ACTION COMMITTEE, PARTY COMMITTEE, OR AUTHORIZED CANDIDATE COMMITTEE; PLEASE INDICATE THE CAPACITY IN WHICH YOU SERVED: OFFICER, DIRECTOR, PRIMARY DECISION-MAKER, FUNDRAISER, EMPLOYEE, OR INDEPENDENT CONTRACTOR.

Please list all businesses, corporations, or other commercial or for-profit organizations for which you are an owner, officer, director, primary decision-maker, employee, or independent contractor if the organization spent more than \$1,500 during 2008 to influence an election for state, county, or municipal office or a ballot question in Maine, including businesses or organizations that were previously listed in your 2007 annual statement.

AFFILIATIONS WITH COMMERCIAL ORGANIZATIONS

Table with 2 columns: NAME OF COMMERCIAL ORGANIZATION; PLEASE INDICATE THE CAPACITY IN WHICH YOU SERVED: OWNER, OFFICER, DIRECTOR, PRIMARY DECISION-MAKER, EMPLOYEE, OR INDEPENDENT CONTRACTOR.

Please list all non-profit organizations, community groups, or other organizations based in Maine for which you are an officer, director, primary decision-maker, fundraiser, employee, or independent contractor that were not listed in your 2007 annual statement. Please indicate whether any of the organizations you have listed in this section in your 2007 annual statement were involved in supporting or opposing a ballot question, or any candidate for state, county or municipal office during 2008.

If the organization was involved, please indicate whether that organization spent more than \$1,500 in 2008 to influence the outcome of the ballot question or candidate election.

AFFILIATIONS WITH NON-PROFIT OR OTHER ORGANIZATIONS

NAME OF NON-PROFIT OR OTHER ORGANIZATION	PLEASE INDICATE THE CAPACITY IN WHICH YOU SERVED: OFFICER, DIRECTOR, PRIMARY DECISION-MAKER, FUNDRAISER, EMPLOYEE, OR INDEPENDENT CONTRACTOR.	PLEASE INDICATE THE BALLOT QUESTION (LOCAL OR STATE) OR CANDIDATE SUPPORTED/OPOSED AND IF MORE THAN \$1,500 WAS SPENT.

Please list all non-profit, commercial, or other organizations for which you are an owner, officer, or primary decision-maker which provided goods or services to a political action committee, party committee, or candidate committee during 2008, including organizations previously listed in your 2007 annual statement.

BUSINESS AFFILIATIONS WITH POLITICAL COMMITTEES

NAME OF ORGANIZATION	PLEASE INDICATE THE CAPACITY IN WHICH YOU SERVED: OWNER, OFFICER, OR PRIMARY DECISION-MAKER.

If you engaged in any political fundraising to promote the election or defeat of a candidate or the passage or defeat of a ballot question in Maine during 2008, please identify the candidate or ballot question and whether you acted in support or opposition. Do not include candidates at the county or municipal level, or out-of-state non-federal elections.

Please list any political candidate which you endorsed during 2008. Do not include candidates at the county or municipal level, or out-of-state non-federal elections.

POLITICAL FUNDRAISING AND CANDIDATE ENDORSEMENTS

NAME OF CANDIDATE OR BALLOT QUESTION	INDICATE POSITION: SUPPORTED OR OPOSED	DID YOU ENDORSE THE CANDIDATE? ENTER YES OR NO

Please indicate whether you are involved with any organizations or in any activities, not listed above, which could give rise to an appearance of a conflict of interest with regard to your role as a Commission member.

ADDITIONAL COMMENTS

--

Please sign and date.

<hr style="width: 80%; margin: 0 auto;"/> SIGNATURE	<hr style="width: 80%; margin: 0 auto;"/> DATE
--	---

TrueDialog.ORG

For a more Authentic Democracy

Phone 207-774-1936
Email: info@truedialog.org

P.O. Box 171
Portland, Maine 04112

To: Members of the Ethics Commission
From: Carl Lindemann, TrueDialog.org
Date: November 28, 2007
RE: Proposed Annual Disclosure Statement

It is not clear how the proposed annual disclosure statement for Commissioners would fulfill Executive Director Wayne's stated purpose to "provide additional assurance that the Commission members are acting at all times in a manner that is objective and independent of personal or political affiliations."

The proposed disclosure is analogous to two other disclosures already in place – the form for candidates to the Commission and the annual disclosure for legislators. However, these disclosures take place in a very different context. Candidates for the Commission are subject to rejection for what they may disclose. Likewise, there are consequences for what legislators disclose and penalties if they fail to disclose faithfully.

In stark contrast, the proposed annual disclosure statement for Commissioners would operate in the context of the "It Just Sits There" rule put forward by Assistant Attorney General Gardiner at the July 16th meeting. This allows Commissioners to decide for themselves if they are fit to serve and if their conduct does not violate the statutes administered by the Commission. What this means in practical terms is that there is no consequence for what a Commissioner discloses or fails to disclose.

Worse, the proposal suggests that by simply disclosing an inappropriate relationship, that resolves all issues. What if this same approach were applied to legislative conflicts of interest? To paraphrase, would it "provide additional assurance that legislators are acting at all times in a manner that is objective and independent of personal or political affiliations"?

The proposed annual disclosure for Commissioners fails in the context of the Commission's "It Just Sits There" rule. It does not provide any increase in accountability over what was in now in place. This is clear when applied to the specific situation that has prompted this proposal, the challenge to former Commission Chair Ginn Marvin's qualifications and conduct. She was an officer in a political committee, a disqualifying conflict for service as a Commissioner. It is also likely that she engaged in prohibited fundraising activities. If she had disclosed all this and had insisted on remaining on the Commission regardless, would it have made it any better?

Accountability for Commissioners and depoliticizing the Commission are worthy goals. It is not clear how this proposal, by itself, works towards realizing them.

-END-



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

MEMORANDUM

To: DISTRIBUTION LIST
From: Jonathan Wayne, Executive Director
Date: November 15, 2007
Subject: Opportunity to Comment on Proposed Policy of Annual Disclosure by
Ethics Commission Members

The Ethics Commission is soliciting comments on a proposed policy under which members of the Commission would file an annual disclosure statement regarding their affiliations and political activities during the previous year. Members would also file an updated statement for the current year if they engaged in new activities or affiliations. The policy will provide additional assurance that the Commission members are acting at all times in a manner that is objective and independent of personal or political affiliations.

The Commission will consider the proposed policy at its meeting on Friday, December 7. If you would like to comment, please send your comments by e-mail to Jonathan.Wayne@maine.gov no later than Thursday, November 29 so that the Commission members can read them in advance of the meeting.

If you have any questions, please telephone me at 287-4179. Thank you for your consideration of the proposed policy.

DISTRIBUTION LIST

Governor John Elias Baldacci
Legislative Leaders and staff
Members, Joint Standing Committee on
 Legal and Veterans Affairs
Hon. John R. Brautigam
Hon. Marilyn E. Canavan
Political party leaders
Representatives of good government
 organizations

Newell A. Augur, Esq.
Daniel I. Billings, Esq.
John H. Branson, Esq.
Roy Lenardson
Carl Lindemann
Mike Mahoney, Esq.
Daniel P. Riley, Esq.
Daniel W. Walker, Esq.

Sun Journal

Ethics commission overdue for top-down review

Sunday, August 12, 2007

Questions about conflicts and managing clean elections push for fresh look at ethics panel's duties

How important is it for those serving on the Maine Ethics Commission to be above reproach?

Outstanding issues over the qualifications and conduct of Commissioner Jean Ginn Marvin, raised by her failure to disclose connections to a political group, might do worse than just lower expectations for clean government. Unchecked, a compromised commissioner could corrupt the system. Add that Ginn Marvin is apparently exempt from the code she is charged to enforce signals the need for a top-down review of the ethics commission.



[thumbnails](#) | [gallery](#)

The commission dates to post-Watergate reforms that swept the country in the 1970s. Since, it has had periods where "ethics commission" was in name only. After initial enthusiasm for reform, the commission faded into an empty shell.

By the late 1980s, running the commission was a half-time administrative assistant's job, who was primarily tasked with maintaining appearances for the all-but-defunct outfit.

Fortunately, some believed in the need for an ethics watchdog. Their efforts rejuvenated the agency. Within a decade, the commission was rebuilt on a sure foundation to support Maine's leadership in adopting the Maine Clean Elections Act.

With the act's arrival, the ethics commission went through a fundamental restructuring. Since Maine was the first state to adopt publicly funded elections, combining ethics enforcement and administering the MCEA was an educated guess. Since, other models have emerged. Some states split these into separate organizations. With the wealth of experience now available, Maine's initial formulation is due for review. An independent examination to establish best practices would confirm Maine's national leadership as other states adopt publicly funded elections.

Evaluating the commission's composition is an integral part of this process. The architects of the MCEA thought it key to de-politicize commissioners.

Why is it problematic to load the commission with former legislators? A politicized commission is like staffing a planning board with developers. A sprinkling may add an industry insider perspective, but an overabundance strains the board's objectivity.

Sadly, the ideal of having a nonpolitical commission is all but forgotten today. The political leadership in the Legislature nominates candidates. The result is four of the five current commissioners have served in the Legislature.

If the commission is to be politicized, its members must demonstrate exemplary qualifications and conduct. That the commission is a rulemaking body also makes this essential. A compromised commissioner could have systemic consequences beyond corrupting individual cases. So laws governing commissioners must be rigorously enforced. Even the appearance of impropriety has to bring a swift, unequivocal response.

That is why Ginn Marvin's role as a regulator/rulemaker while also serving as treasurer of a regulated political organization is corrosive. When this was challenged last November, Ethics Commission Executive Director

Jonathan Wayne said it was acceptable since the ex-legislator had disclosed her ties:

"(Ginn Marvin) was a member of the MHPC (Maine Heritage Policy Center) board when the governor appointed her at the suggestion of the legislative leadership, so apparently the issue was not viewed as a disqualifying conflict at the time of her appointment," Wayne stated in a November 2006 letter.

Wayne and others have mistakenly thought she had been appropriately "cleared" to serve on the commission because she had completely and truthfully filled out her "qualification-to-serve" form. In reality, Ginn Marvin failed to do so. She omitted her MHPC board membership.

At best, Ginn Marvin sets a bad example in a regulatory framework based on accurate, faithful disclosure. To set this right requires a determination as to whether she is qualified to serve. Also, there are sufficient grounds for believing that Ginn Marvin has engaged in prohibited fundraising activities as MHPC's treasurer. This demands an investigation. Yet she appears to be exempt from objective inquiry. The independence the commission enjoys from direct oversight now seems to insulate it - and Ginn Marvin - from accountability.

The good that can come of this is an independent review to determine best practices for the ethics commission. Perhaps administration of the MCEA should operate independently. Or, if they remain together, creating a nonpolitical commission may be the way for Maine to lead. Whatever happens, the current situation cannot continue.

If the ethics commission is going to be politicized, then it has got to be policed.

Carl Lindemann is a former journalist and founder of truedialog.org, a not-for-profit government activist organization. He lives in Portland. E-mail him at carl@truedialog.org.