



Statement to Rebut Presumption of Independent Expenditure

Under 21-A M.R.S. § 1019-B, an expenditure to design, produce, or disseminate a communication that names or depicts a clearly identified candidate and that is disseminated during the 28 days, including election day, before a primary election; during the 35 days, including election day, before a special election, or from Labor Day to a general election day is presumed to be an independent expenditure. The individual or organization making the expenditure may attempt to rebut the presumption by filing this form. Any documents, statements, or other evidence (e.g., a copy of a printed communication or a script of a recorded communication) supporting the rebuttal may be attached to this form. To rebut the presumption, this form must be filed with the Ethics Commission within 48 hours of disseminating the communication. The form may be filed by faxing it to (207) 287-6775 or by sending a scanned copy to ethics@maine.gov, provided that the Commission receives the original within 5 days.

Individual/Organization
making the expenditure:

Contact person:

Contact's mailing address:

Contact's telephone number(s):

Candidates named or depicted:
(use additional pages if necessary)

Payee or creditor (including address):

Type of communication:

Date of dissemination:

The above expenditure was not incurred with the intent to influence the nomination, election, or defeat of a candidate.

Signature of authorized individual

Date

21-A M.R.S. § 1019-B – Reports of Independent Expenditures

1. **Independent expenditures; definition.** For the purposes of this section, an “independent expenditure”:

- A. Is any expenditure made by a person, party committee, political committee or political action committee, other than by contribution to a candidate or a candidate's authorized political committee, for any communication that expressly advocates the election or defeat of a clearly identified candidate; and
- B. Is presumed to be any expenditure made to design, produce or disseminate a communication that names or depicts a clearly identified candidate and is disseminated during the 28 days, including election day, before a primary election; during the 35 days, including election day, before a special election; or from Labor Day to a general election day.

2. **Rebutting presumption.** A person presumed under this section to have made an independent expenditure may rebut the presumption by filing a signed written statement with the commission within 48 hours of making the expenditure stating that the cost was not incurred with the intent to influence the nomination, election or defeat of a candidate, supported by any additional evidence the person chooses to submit. The commission may gather any additional evidence it deems relevant and material and must determine by a preponderance of the evidence whether the cost was incurred with intent to influence the nomination, election or defeat of a candidate.

Commission’s Rule on Rebuttable Presumption – Chapter 1, Section 10(5)

Rebuttable Presumption. Under Title 21-A M.R.S.A. §1019-B(1)(B), an expenditure made to design, produce or disseminate a communication that names or depicts a clearly identified candidate and that is disseminated during the 28 days before a primary election, the 35 days before a special election or from Labor Day to the general election will be presumed to be an independent expenditure, unless the person making the expenditure submits a written statement to the Commission within 48 hours of *[disseminating the communication]*¹ stating that the cost was not incurred with the intent to influence the nomination, election or defeat of a candidate.

A. The following types of communications may be covered by the presumption if the specific communication satisfies the requirements of Title 21-A M.R.S.A. §1019-B(1)(B):

- (1) Printed advertisements in newspapers and other media;
- (2) Television and radio advertisements;
- (3) Printed literature;
- (4) Recorded telephone messages;
- (5) Scripted telephone messages by live callers; and
- (6) Electronic communications.

This list is not exhaustive, and other types of communications may be covered by the presumption.

B. The following types of communications and activities are not covered by the presumption, and will not be presumed to be independent expenditures under Title 21-A M.R.S.A. §1019-B(1)(B):

- (1) news stories and editorials, unless the facilities distributing the communication are owned or controlled by the candidate, the candidate's immediate family, or a political committee;
- (2) activity or communication designed to encourage individuals to register to vote or to vote if that activity or communication does not name or depict a clearly identified candidate;
- (3) any communication from a membership organization to its members or from a corporation to its stockholders if the organization or corporation is not organized primarily for the purpose of influencing the nomination or election of any person for state or county office;
- (4) the use of offices, telephones, computers, or similar equipment when that use does not result in additional cost to the provider; and
- (5) other communications and activities that are excluded from the legal definition of “expenditure” in the Election Law.

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G. If a person wishes to distribute a specific communication that appears to be covered by the presumption and the person believes that the communication is not intended to influence the nomination, election or defeat of a candidate, the person may submit the rebuttal statement to the Commission in advance of disseminating the communication for an early determination. The request must include the complete communication and be specific as to when and to whom the communication will be disseminated.

¹ The period to submit a rebuttal statement was changed to be based on when the communication was disseminated rather than when the expenditure was made. (P.L. 2019, c. 323) The rule has not yet been updated to reflect that change.