

Political Action Committee Campaign Finance Guidebook



IMPORTANT NOTICE

The Commission has taken care to make this guide concise and accurate; however, do not rely on the information presented here for the applicable provisions of Maine law and the Commission's rules. The statutory and regulatory requirements are controlling in the event of any omission or error in this publication.

NOTE FROM THE COMMISSION STAFF

The Ethics Commission advises all campaigns that our main priority is helping you. Maine campaign finance laws are complicated and they cannot all be summarized in a guidebook. We have a dedicated employee for PACs, so please contact us with your questions in order to ensure compliance right the first time and you can focus on spreading your committee's message with Maine voters!

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CHAPTER 1

Introduction

Persons and groups that raise or spend money to influence candidate elections in Maine are required to register as a political action committee (PAC) and file campaign finance reports with the Commission. There are three types of PACs and each have specific rules and requirements. Different reporting requirements apply to Maine's political party PACs and organizations formed to influence candidates and referenda, referred to as ballot question committees (BQCs). Please see the rule books published by the Commission for more information on those committees.)

What is a Political Action Committee?

Maine Election Law defines a PAC as any of the following:

Political Action Committee (PAC). Any person, including any individual or association, other than an individual candidate, that receives contributions or makes contributions aggregating more than **\$2,500** in a calendar year for the purpose of influencing the nomination or election of any candidate to political office.

Leadership PAC. A PAC that is indirectly established, maintained or controlled by a current member of the Legislature.

Caucus PAC. Each Senate and House member may designate one caucus PAC to promote the election of their party's members to the body of the Legislature of which the member is a member. The designation must be made in writing to the Commission and is effective until a new designation is made to the Commission.

Important Definitions

Campaign. Any course of activities for the nomination or election of a state or federal candidate.

Contribution. Is defined as:

- A. A gift, subscription, loan, advance deposit of money or anything of value given to or received by a committee for the purpose of initiating or influencing a campaign, including but not limited to:

1. Funds that the contributor did not receive in whole or in part for the purpose of influencing a campaign.

Funds provided in response to a solicitation that would lead the contributor to believe that the funds would be used specifically, in whole or in part, for the purpose of initiating or influencing a campaign; and

Funds that can reasonably be determined to have been provided by the contributor for the purpose of initiating or influencing a campaign when viewed in the context of the contribution and the recipient committee's activities regarding a campaign;

Funds deposited or transferred into the campaign bank account;

A contract, promise or agreement, expressed or implied, whether or not legally enforceable, to make a contribution to a committee;

Funds received by a committee that are transferred to any candidate, committee, campaign or organization for the purpose of initiating or influencing a campaign; or

A payment, by any person or organization, of compensation for the personal services of other persons provided to the committee that is used by the committee to initiate or influence a

"Contribution" does not include a loan by a financial institution made in accordance with applicable banking laws and regulations in the ordinary course of business.

Summarized Definition of Contribution. A contribution is essentially anything of value promised and received by the PAC for the intent on it affecting or influencing elections. It is important to remember that loans are considered reportable contributions at the time the pledge or loan is made.

Expenditure. Is defined as:

- A. A purchase, payment, distribution in advance, deposit or gift of anything of value, made for the purpose of initiating or influencing a campaign;
- B. Any purchase, payment, distribution in advance, deposit or gift of money from the campaign bank account;
- C. A contract, promise or agreement, expressed or implied, whether or not enforceable, to make any expenditure for the purposes set forth in this section; and
- D. The transfer of funds by a political committee to another campaign committee.

Summarized Definition of Expenditure. A purchase, payment, or promise or agreement

campaign is a reportable expenditure. It is important to remember unpaid obligations are reported at the time the obligation is made.

"Influence" means to promote, support, or defeat.

Exempt donor. "Exempt donor" means a person who has not received contributions for the purpose of financing a campaign in the prior two (2) years and whose only payments of money to a campaign in the prior two (2) years

are contributions of money to candidates, party committees, PACs or BQCs registered with the Commission or a municipality; or

payments for goods or services with an aggregate value of no more than \$100,000 made to candidates, party committees, PACs or BQCs registered with the Commission or a municipality.

LEGAL REFERENCES

C	21-A M.R.S. § 1052(5)(A)(2)
C	21-A M.R.S. § 10523-D
	21-A M.R.S. § 1053-C
Definitions	21-A M.R.S. § 1052

ER 2

Registration

g with the Ethics Commission

ation that meets the criteria for being
t register with the Commission no later
(7) calendar days after it meets the
reshold. It is important for an
n to keep track of its contributions and
s from the beginning of its campaign-
ivities in order to know if and when it
er. An organization does not have to
it reaches the \$2,500 threshold to
specially when they know they will
qualify as a PAC.

registration, the organization must file
campaign finance report within seven (7)
registering, or within 14 days of being
register, whichever comes first. There
register.

PAC Type. At registration, the PAC
PAC type, with most being Traditional
current member of the Legislature is
ndirectly involved in decision making
(that is not a caucus PAC), then it must
ed as a Leadership PAC. The Caucus
et up exclusively by the political party
f the legislative chambers.

Registration Requirements. To register
must complete the following steps:

1. Select two individuals to serve as
and principal officer. It is recom
PAC select a treasurer that has b
or campaign finance experience.
2. Identify all individuals who are
responsible for making decisions
funds for the committee. A PAC is
to have officers beyond the tre
principal officer, but if it does the
disclosed.
3. Identify the particular candidates o
of candidates the PAC expects to
oppose. If the purpose of the PA
general, the statement should
descriptive as possible.
4. Indicate whether an officer, decisio
fundraiser of the PAC is a Legi
candidate for elected office. The
also certify whether it is directly
maintained or controlled by a curre
of the Legislature. If a current me
Legislature is an officer, the
indicate that on the registration.

the names and addresses of the persons and organizations, if formed by or more for-profit or non-profit persons or other organizations.

the name of the account the fee will use to deposit contributions like expenditures, and the name and of the financial institution where the is established.

ts. When any information provided on tion form changes, the PAC must file d registration within 10 calendar days ge.

Registration for PACs. All PACs must ated registration every election (even-year, between January 1st and March requirement applies even if there has change to the information provided on s registration. New Acknowledgment of ities forms do not have to be filed PAC's officers, decision-makers, or have changed,

Liabilities of PAC Officers

A PAC treasurer is responsible for:

complete and accurate reports and nents.

ing the PAC's records for four years g the election to which they pertain.

if they have been delegated to ano

Treasurer & Principal Officer . The tre principal officer of a PAC are jointly for:

- Compliance with election laws and
- Responding to notices and corre from the Commission.
- Ensuring all required records are k

Treasurer, Principal Officer & Decisio
All of these individuals are assume participated in all spending decisions.

Agents and Former Officers. These may be liable for all or part of a fine if t former officer is directly responsib violation.

Campaign Bank Account

A PAC must establish a separate a bank or other financial institution and n and spend all money received and sp purpose of influencing an election account. Any other money deposited from that account must be reported, re its purpose. The funds in that account commingled with the personal funds o or the general treasury funds of a l nonprofit.

A PAC may request a waiver of this re

very burdensome. Additionally, the organization of a PAC may pay its own out of its general treasury for related activities they perform.

Campaign Finance Report

A campaign finance report must disclose activity made since the opening of the bank account, the first receipt of funds, or the first made expenditure, whichever comes first. The report is due within 30 days of registration.

Penalty for Late Registration

A PAC that does not timely register with the Commission may be subject to a \$2,500 fine and additional penalties for a late-filed initial campaign finance report.

Registration

Out-of-State PACs. A PAC organized outside of Maine may be required to register as a PAC in Maine law if it becomes involved in Maine politics. If an out-of-state PAC has received contributions or made expenditures for the purpose of influencing candidate elections in Maine, it must register as a PAC and file campaign finance reports.

An out-of-state PAC is not required to register and file reports if its *only* financial activity in Maine is limited to contributions to other PACs, party committees, BQCs, or candidates registered with

the Commission or a Maine municipal committee. A PAC has not specifically raised or accepted contributions to influence an election or campaign in Maine.

Donor Exception. An exempt donor is not subject to registration requirements if the donor has not received contributions for the purpose of influencing a campaign in the prior two (2) years and whose *only* payments of money to candidates, PACs, or BQCs in a campaign in the prior two (2) years are contributions, or in-kind contributions, of less than \$100,000 to candidates, party committees, PACs, or BQCs.

Cross Purpose Expenditures. A PAC may spend up to \$10,000 to influence a referendum or ballot question without having to register as a BQC. If a PAC solicits contributions to influence a referendum or election is unable to claim this exception, and the PAC exceeds the \$10,000 threshold in any year, it must register as a BQC, thus the organization will be operating two types of committees.

LEGAL REFERENCES

PAC	21-A M.R.S. § 1052(5)
with the Ethics Commission	21-A M.R.S. § 1052-A(1)
requirements	21-A M.R.S. §§ 1052-A(2) & (3)
Registration of PACs	21-A M.R.S. § 1052-A(1)(B)
of Officers	21-A M.R.S. § 1052-A(1)(C)
Bank Account	21-A M.R.S. § 1054-A
Annual Finance Report	21-A M.R.S. § 1059
State Registration	21-A M.R.S. § 1062-A(1)
PACs	21-A M.R.S. § 1053-B

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Restrictions & Prohibitions

Activity for All Committees

Prohibition on Constitutional Officers. The Governor, Lieutenant Governor, Secretary of State, State Treasurer, State Auditor, Attorney General, and any individual running for office, may not form a PAC or be involved in the decision-making or fundraising for a PAC. Legislators, constitutional officers, their staff, and/or family members are prohibited from directly or indirectly soliciting or accepting contributions from any source, including their clients on behalf of a PAC while in session.

Participating in the Maine Clean Energy Fund (MCEA). An MCEA candidate may not serve as treasurer, principal officer, or decision-maker for a PAC (other than a caucus PAC). This prohibition begins April 1st of the general election year and lasts through:

the date the candidate withdraws from a race; the date of the primary or general election (for a candidate who loses either election); or February 1st immediately preceding the next general election (for a candidate who wins the general election).

Contributions from Foreign Nationals. Under federal law, foreign nationals are prohibited from making any contributions or expenditures in connection with any election in the United States. Federal, state, or local political organizations. This information is available at www.fec.gov.

Expenditure Limitations. A PAC may not make a contribution to a candidate for an election if the amount exceeds the limitation for the office sought by the candidate. PACs may not contribute to a candidate in any amount or form to MCEA candidates.

Prohibited Activity for Leadership and Caucus PACs

Leadership and Caucus PACs are prohibited from the following activities in addition to those contained in the Prohibited Activities section of the Committees section.

Compensation and Reimbursement. A Legislator who is a principal officer, fundraiser, or decision maker for a PAC may not compensate them for services provided to the PAC, except reimbursement for travel expenses incurred performing their duties and voting on behalf of the PAC. The PAC may pay mileage for the travel reimbursement at a rate established by the travel reimbursement at a rate established by the state.

...ion by rule, but not for the costs of
... maintaining the Legislator's vehicle.
... may reimburse the Legislator for other
... incurred in the proper performance of
... duties and for purchases made on
... . The PAC may not reimburse the
... for expenses that have been
... by any other source. The PAC may
... r reimburse the Legislator for any
... determined to be for the purpose of the
... personal financial enrichment.

... may not compensate a Legislator's
... family members for services provided
... reimburse them for any expenses for
... al financial enrichment. The PAC may
... ke payments to a business owned or
... the Legislator, or an immediate family
... the Legislator.

... of the PAC may not be commingled
... er funds.

A person who violates these prohibitions
... assessed a penalty of not more than
... amount of the impermissible pay
... reimbursement, whichever is greater.

**Contributions from Lobbyists and Lobby
... and Firms.** When the legislature is in
... lobbyist, lobbyist associate, lobbying
... lobbying firm may not make a contri
... Leadership or Caucus PAC. When the
... is *not* in session:

- A lobbying client and lobbying
... contribute to a Leadership or Caucus
- Lobbyists and lobbyist associates
... contributions to Caucus PACs
- Lobbyists and lobbyist associates
... make contributions to Leadership
... Legislator who is an officer of the
... appear on the ballot where the
... lobbyist associate would vote.

LEGAL REFERENCES

...n Constitutional Officers	21-A M.R.S. § 1063
...articipating in the MCEA	21-A M.R.S. § 1125(6-F)
...from Foreign Nationals	52 U.S.C. § 30121
...mitations	21-A M.R.S. § 1056(1)
...ivity for Leadership PACs -	
...a and Reimbursement	21-A M.R.S. § 1054-B
...ivity for Caucus & Leadership PACs -	
...from Lobbyists & Clients & Firms	1 M.R.S. § 1015-A

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Campaign Finance Reports

Campaign Finance Reports

A campaign finance report is due seven days after registration, or within 14 days after the reportable activity exceeds \$2,500 in contributions or expenditures, whichever comes first, and must include contributions and expenditures made during the course of the campaign.

Campaign Finance Reports

A candidate must file reports until the campaign terminates, even if there is no financial activity.

At the end of the year and activity, PACs file quarterly (4) and eight (8) campaign finance reports annually. All regularly scheduled reports must be filed by 11:59 p.m. on the day of the filing deadline. Failure to file will be subject to a civil penalty.

Quarterly Campaign Finance Reports. A PAC must file four (4) quarterly reports annually, detailing all financial activity.

Pre- and Post-Election Reports in a Candidate

Pre- and Post-Election Reports in a Candidate. In even-numbered years, all PACs must file reports 11 days before and 42 days after the election for primary and general elections, regardless of the amount of financial activity.

Pre- and Post-Election Reports in Odd-Numbered Years

In odd-numbered years, if a PAC has made contributions or expenditures to influence a candidate in a primary election or ballot question election, it must file an 11-Day Pre-Election Report and a 42-Day Post-Election Report, in addition to quarterly reports.

24-Hour Reports

24-Hour Reports provide disclosure of contributions and expenditures activity immediately before an election. Candidates and PACs are required to file an 11-Day Pre-Election Report and a 42-Day Post-Election Report. If they must file a 24-Hour Report, they must file a 24-Hour Report if they receive a contribution received of \$5,000 or more or make an expenditure made of \$1,000 or more within the last 13 days before the election. The report must be filed within 24 hours of receiving the contribution or making the expenditure. If the filing deadline falls on a weekend or holiday, the report must be filed on the next business day. Transactions made on the day before the election must be reported on election day. Contributions and pledges are considered contributions, and debts or obligations for goods or services are considered expenditures for the purpose of 24-hour reporting.

24-Hour Reports are filed online through the Commission's eFiling system. The eFiling system is available at www.elections.ca.gov.

atically add the transactions reported in
Report to the next regularly scheduled

report does not substantially conform
disclosure requirements, the Commission
consider the report late, even if it was
filed on time.

Independent Expenditure Reports

Next chapter, *Supporting Candidates* for
information on Independent Expenditure

Penalties

Who unintentionally makes an omission or
incomplete or inaccurate information in a
finance report, they must promptly file
a correction. All reports are reviewed by the
Commission staff, and if the original version of a

Electronic Filing

PACs must file their campaign financial
reports electronically using the Commission's
e-filing system. Usernames and passwords are
provided to the PAC's Principal Officer, Treasurer,
and other authorized agents upon registration.
The e-filing system has instructions for entering
each transaction, and Commission staff are
available to help filers become familiar with the web

2023 Filing Schedule for PACs

Frequency of Report	Due Date	Reporting Period
Quarterly	April 10, 2023	January 1 - March 31
Quarterly	July 17, 2023	April 1 - June 30
Pre-Quarterly	October 5, 2023	July 1 - September 30
Post-Quarterly	January 16, 2024	October 1 - December 31

2024 Filing Schedule for PACs

Frequency of Report	Due Date	Reporting Period
Quarterly	April 10, 2024	January 1 - March 31
Pre-Primary	May 31, 2024	April 1 - May 31
4-Hour Reports	Within 24 hours of qualifying transaction	May 29 - June 30
Post-Primary	July 23, 2024	May 29 - July 31
Pre-Quarterly	October 7, 2024	July 17 - September 30
Pre-Election	October 25, 2024	October 1 - October 31
4-Hour Reports	Within 24 hours of qualifying transaction	October 23 - November 3
Post-Election	December 17, 2024	October 23 - December 31

f Reports

For cash contributions exceeding \$50, the PAC must report the date and amount of the contribution, the name and mailing address of the contributor, and the occupation and employer of the contributor. If the PAC is unable to obtain the contributor's employment information, it should indicate "information requested" when reporting the transaction, and amend the report when the information is received.

Contributions of \$50 or less do not have to be reported and are reported in one unitemized per report.

Contributions of goods or services valued at more than \$50 must be reported with the name, address, occupation and employer of individual contributors, a date and description of the goods or services, and the fair market value. If another organization donates paid staff time, the PAC should include a description of the activities with the number of hours contributed. Contributed staff time and expenditures must be reported

Contributions of \$50 or less do not have to be reported and are reported in one unitemized per report.

Overlooked Contributions.

Contributions from the general treasury of the organization which founded the PAC

- Contributions of paid staff time received from the PAC from the founding organization.
- Other in-kind contributions of goods and services.

Reporting Interest from Bank Accounts. Bank account interest is reported using the "Interest Receipts" contribution type.

Expenditures. All expenditures made from the campaign account must be reported, including the purpose of their purpose. The date, amount, and purpose of every expenditure must be reported. The "payee" is the vendor that provides goods and services. If someone is reimbursed for an expenditure, the PAC must report the name of the vendor as the payee and state whether reimbursement was made to in the description of the expenditure.

Expenditures made to support or oppose a candidate or ballot question must include the name of the candidate, committee name, ballot question and whether the expenditure was made to support or oppose the candidate or ballot question.

Each expenditure must have an explanation of the expenditure as shown on the next page, and include as much information as possible to describe the expenditure. For instance, if the expenditure is for professional services, the PAC should include the specific type of service performed.

time and production costs separately, individual stations for the buys.

er should obtain receipts or paid for all sub-vendor purchases by the on behalf of the PAC.

received loans, loan repayments, and ns must be reported.

unpaid debts and obligations for goods s, including unpaid bills, that are owed of a reporting period must be reported. disclosed in each report until the debt fully paid. If an order has been placed and services but the exact amount is he PAC must disclose an estimate vendor for reporting purposes. Once a paid, any remaining balance from the mate can be closed out.

Termination

er must retain all relevant records, bank statements, invoices, and receipts

for expenditures of more than \$50, for of four (4) years.

Termination

When a PAC determines it will no financially active, it can file a final re termination statement. The final report time from the close of the last reporting the date of termination. Prior to term PAC must dispose of all surplus funds how they were disposed in the final PAC can do this by making contributi PACs, BQCs, party committees, cand profits, or by making a transfer b general treasury of the founding org appropriate. The PAC must also disp loans, debts, or other obligations that or outstanding at the time of its termin manner prescribed by the Commissio termination statement is filed, the continue to file reports.

LEGAL REFERENCES

gn Finance Reports	21-A M.R.S. § 1059
aign Finance Reports	21-A M.R.S. § 1059(2)
rts	21-A M.R.S. § 1059(2)(E)
ng	21-A M.R.S. § 1062-A(2)
ports	21-A M.R.S. § 1059(5)
Made by a Consultant	21-A M.R.S. § 1060
	94-270 C.M.R. Ch. 1 § 7(1)
	21-A M.R.S. §§ 1052(3)(A), 1060
	94-270 C.M.R. Ch. 1 § 7(3)
tion	21-A M.R.S. § 1057

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Supporting Candidates

Contributions

Limits. Generally, there are no limits on the types of entities a PAC may contribute to, except they may not contribute to participating in the MCEA program. PACs may contribute to other PACs, BQCs, and political local party committees and other entities. Contributions can be in cash or in-kind. Traditionally financed candidates are limited to the amount they can accept from a single source, including PACs. The contribution limits for a primary election (the primary and general elections are separate elections) for traditionally financed candidates are as follows (21-A M.R.S. §

Traditionally financed candidates - \$475 per election

Ballot question candidates - \$1,950 per election

Ballot question candidates - \$975 per election

Ballot question candidates - \$575 per election

Ballot question candidates and candidates who are not affiliated with a political party are only eligible to receive contributions for the general election, as long as they do not participate in a primary.

In-Kind Contributions. A PAC may provide goods and services of value to a candidate. A candidate does not reimburse the PAC for the value the PAC has made an in-kind contribution to the candidate. The amount of the contribution is the value of the goods and services provided, not the reimbursement the candidate has made to the PAC. In-kind contributions are subject to the same contribution limits and restrictions as cash contributions for calculation purposes.

Independent Expenditures

Definition of Independent Expenditure. The term “independent expenditure” applies to any expenditures for communications that are intended to influence a candidate election. IEs are not subject to any obligations made by a person or entity acting independently of candidate campaign committees or communications expressly advocating for the election or defeat of a candidate. Communications include, but are not limited to:

- print media advertisements;
- online advertisements;
- radio and television advertisements;

s and robocalls;

mail pieces;

email communications;

sign signs;

ards; and

ampaign literature.

enditures are considered made at the

the following events:

cement of an order for a good or

ing of a contract for a good or service;

ery of a good or service;

se or an agreement to pay; or

ment for a good or service.

E reporting law also covers a

tion naming or depicting a “clearly

candidate and is made within certain

s before an election, which are:

days, including election day, before a

election;

bor Day to the day of the general

; and

days, including election day, before a

The costs of these communication

unless the spender demonstrate

Commission the expenditure did no

purpose or effect of influencing a

nomination or election (as discussed o

IEs must be made completely indep

any candidate mentioned in the com

“Candidate” includes the candi

candidate’s committee, and agents of

expenditure is made to promote or

nomination or election of a candidate,

the candidate’s opponent(s), and the

is made in cooperation, consultation

with, or at the request or sugges

candidate, the expenditure is conside

contribution from the spender to the ca

For example, if a PAC runs a new

supporting a candidate and ob

candidate’s photograph from that ca

the ad, the entire cost of the ad is a co

the candidate. An IE must be made

without cooperation from, consultation

in concert with the candidate or the

committee or agents.

Some communications are exemp

reporting, such as membership commu

Definition of “Cooperation, Consulta

Concert With.” Per the Commission’s

definition includes, but is not limited to:

- Discussion or participation be

or of a communication, or the person for that communication regarding any aspects on the content, timing, location, intended audience, volume of circulation, or frequency of placement of it.

An expenditure is presumed to be made in cooperation or consultation with a candidate

if the spender cooperated or consulted with any person who, during the twelve months preceding the expenditure, has been the candidate's treasurer or an officer of the candidate's committee, has had a paid or unpaid position managing the candidate's campaign, or has received any campaign-compensation or reimbursement from the candidate;

if the candidate has directly shared their campaign plans, activities, or needs with the spender for the purpose of facilitating a contribution on a communication to voters to elect or support them; or

if the communication replicates, reproduces, imitates, or disseminates, in whole or in substantial part, a communication designed, prepared, paid for, or distributed by the candidate.

A request for a candidate requests any potential spender not to make expenditures to support them, or oppose them. If a request for a candidate (or candidate(s)), the request does *not* constitute

An expenditure will *not* be presumed to be made in cooperation, consultation or cooperation with a candidate if the expenditure is made in response to a request or suggestion of a candidate because:

- The spender
 - * obtained a photograph, position paper, press release, or similar material about the candidate from a publicly available source;
 - * made a contribution to the candidate; or
 - * has discussed with the candidate the candidate's campaign plans or activities as a result of the candidate's solicitation for a donor.
- The person making the expenditure
 - * has previously provided advice to the candidate on communication budgets, issues of public policy, or campaign plans or activities;
 - * does so in response to an unspecific request for support from the candidate, provided there was no discussion, cooperation, or consultation with the candidate about the expenditure prior to dissemination;
- The expenditure is made by
 - * A person for invitations, announcements, food, beverages, and similar items associated with an event to

ore the organization's members, employees, shareholders, and families; or individual who spends \$100 or less for sign lettered or printed individually by and reproduces or replicates a candidate's campaign-related design or graphic.

Communications Containing Express Advocacy.

"advocate" means a communication such as:

for the Governor;"

your Representative;"

the Democratic nominee;"

our ballot for the Republican challenger in District 1;"

for House of Representatives;"

Pro-Choice" or "vote Pro-Life" accompanied by clearly identified candidates listed as pro-choice or pro-life;

" or "defeat" accompanied by a picture of more candidates; or

the incumbent."

Advocacy also includes communications with a reasonable interpretation that ask to vote for or against a clearly identified

Requesting a Determination a Communication is not an IE. If a communication referring to a specific candidate is disseminated during the time periods on page 16, the requester may request a determination the communication is not an IE from the Commission within 10 days of dissemination. The Commission Executive Director will make a determination on each request. The requester must include the complete communication and be as specific as to when and to what audience the communication will be disseminated. If the Commission determines the communication does not have the purpose or effect of influencing an election, no IE Report is required.

While there is no penalty for failing to file a determination request itself within 10 calendar days, if the Commission determines a communication was an IE and an IE Report is not filed on time, the PAC making the communication will be assessed a penalty for the late-

Exclusions. An IE does not include:

- An expenditure made by a candidate, in cooperation, consultation, or concurrence with the request or suggestion of, a candidate's committee, or their agent;
- A telephone survey meeting generally accepted standards for polling research, not conducted for the purpose of convincing a voter of the merits of a voting position of the recipient, or discouraging them from voting;

phone call naming a clearly identified candidate that identifies an individual's name on a candidate, ballot question, or political party for the purpose of encouraging an individual to vote, as long as the call contains no advocacy for or against any candidate; and

an opinion guide consisting primarily of candidates' responses to surveys and questionnaires and contains no advocacy for or against any candidate.

File an IE Report. Whether an individual for a communication has to be required to file an IE Report depends on: (1) if more than \$500 was spent on the communication per

candidate, and (2) when the expenditure was made (refer to the chart below).

Filing Independent Expenditure Reports must be filed when they are made, regardless of weekend or holiday. The reports must be filed online, faxed, or scanned and e-mailed.

Late Independent Expenditure Reports If an individual files an IE report late, the maximum penalty is \$5,000, except if the reported activity exceeds \$50,000, in which case the maximum penalty is 100% of the reported financial activity.

Membership Communications

The costs of communications by political organizations and corporations

Independent Expenditure Reporting Schedule

Reporting Period	Report and Due Date
on or before the 61 st day before an election	60-Day Pre-Election IE Report due on or before the 61 st day before an election
61 st day to the 14 th day before an election	2-Day Pre-Election IE Report within 2 days of making the expenditure
15 th day to the 13 th day before an election to and including election day	1-Day Pre-Election IE Report within 1 day of making the expenditure

2024 Independent Expenditure Reporting Schedule

Reporting Period	Report Name	Report Due Date
January 1 - April 11	60-Day Pre-Primary IE Report	April 12 by 11:59 p.m.
April 12 - May 28	2-Day Pre-Primary IE Report	Within two (2) days of making the expenditure
May 29 - June 10	1-Day Pre-Primary IE Report	Within one (1) day of making the expenditure
June 11 - September 5	60-Day Pre-General IE Report	September 6 by 11:59 p.m.
September 6 - October 22	2-Day Pre-General IE Report	Within two (2) days of making the expenditure
October 23 - November 4	1-Day Pre-General IE Report	Within one (1) day of making the expenditure

for or against a clearly identified are not considered expenditures, and s do not count toward the \$2,500 or registering a PAC. The spender report with the Commission if the cost communication in any one race exceeds report is available on the Commission's

membership organization" is one whose satisfy any membership requirements, organization's invitation to become a d:

membership dues, at least annually, of an set by the organization;

significant financial attachment to the ation; or

significant professional attachment to organization, including direct participatory its governance, such as the right to the organization's board, budget, or

of a local union are considered f any national or international union of

which the local union is a part, fed which the local, national, or international affiliated, and other unions which are affiliates of the federation.

If a communication by a membership is disseminated to a larger audience members or shareholders, the communication forfeits its status as a membership communication and will be considered an IE or contribution to the candidate(s) mentioned. Additionally, the costs will count threshold amount for registering a PAC Commission.

LEGAL REFERENCES

utions	21-A M.R.S. §§ 1015, 1056
Expenditures	21-A M.R.S. § 1019-B
Consultation, in Concert With	94-270 C.M.R Ch. 1 § 6(9)
Capacity	94-270 C.M.R Ch. 1 § 10(2)(B)
Requesting Determination	21-A M.R.S. § 1019(2) 94-270 C.M.R Ch. 1 § 10(3)
is	21-A M.R.S. § 1020-A(2)

ER 6

Disclosure Statements on Campaign Communications

Communications & Candidate Elections

If a person makes an expenditure to disseminate a communication expressly advocating the election or defeat of a clearly identified candidate, it must clearly and conspicuously state whether it has been authorized by the candidate, and if not, the name and address of the person who made or financed it.

Communications Authorized and/or Financed by a Candidate.

If a communication expressly advocating the election or defeat of a clearly identified candidate is disseminated, the communication, if authorized by a candidate, their committee, or their committee *financed* by another entity, must clearly and conspicuously state it has been so authorized and the name and address of the person who made or financed it. There is an exception for this requirement for radio and television communications: only the city and state of the person who financed it must be

If a communication *authorized and financed* by a candidate or their committee is *not* required to include the name and address of the candidate or their

Communications Not Authorized or Financed by a Candidate

If a communication has *not* been authorized by a candidate, their committee, or their committee, and it expressly advocates for the election or defeat of a clearly identified candidate, it must clearly and conspicuously state it is *not* authorized by the candidate and include the name and address of the person who made or financed the communication. Communications with a radio or television component, including all IEs, must have the following at the bottom in 12-point, bold print, Times New Roman font: "NOT PAID FOR OR AUTHORIZED BY A CANDIDATE."

Other Communications.

If a communication clearly identifies a candidate but does not expressly advocate for their election or defeat, it must still clearly and conspicuously state the name and address of who financed the communication disseminated during:

- the 28 days before a primary election
- the 35 days before a special election
- Labor Day and the day of a general election

If the communication has been authorized by a candidate, the disclosure statement must include the name and address of the candidate or their committee, if such.

ages. Text messages sent with the use of mass distribution technology must include the name of the person who made or disseminated the message, unless it expressly advocates for the defeat of a candidate; or it contains a disclosure statement that does so.

Funders Disclosure on IEs

If an organization makes an IE to support or oppose a candidate, they are required to name its top three largest funders on or in the communication, in addition to the “paid for” information discussed in the previous section.

Communications Requiring a Top 3 Funders Disclosure

A communication must include this disclosure statement if the communication:

costs more than \$250 per candidate; and is disseminated through television, radio, internet, direct mail, newspaper, or other periodical publications.

Disclosures for communications *not* requiring the top 3 funders disclosure statement are:

- direct phone calls;
- direct mail advertising; and
- internet advertisements of 30 seconds or less.

Requirements for a Top 3 Funders Disclosure Statement

The communication must clearly and prominently include the statement:

“The top 3 funders of [PAC Name] are: [Top Funder 1], [Top Funder 2], and [Top Funder 3].”

Audio and visual communications (video or audio only) require *both* an audio *and* visual component.

The visual portion of a top 3 funders disclosure statement in television communication must:

conform to federal regulations on television advertising, including duration of sponsorship information, spacing, and font size.

- text size must be equal to or greater than 1/16th of an inch (16 percent of the vertical picture height);
- sponsorship information must appear for at least four seconds.

For communications with a visual aspect but no audio component (i.e., printed newspaper advertisements or static online advertisements) the top 3 funders disclosure statement must appear in 12 point font size or larger.

The following is an example of a top 3 funders disclosure statement, coupled with the required disclosure statement:

“Paid for by the Mainly Maine PAC, 123 Pine Street, Bangor, Maine 04401. The top 3 funders of the Mainly Maine PAC are Americans for More Places in Maine, the National Council for the English States, and Support Snappers Project. **Not paid for or authorized by any candidate.**”

contains some exceptions for small or communications. If a communication is: less than 30 seconds and is 30 seconds or less, the disclosure portion of the statement only requires the organization's top funder. The visual disclosure must still include the top three (3) funders and is not larger than 20 square inches. If the statement only requires the organization's top funder. If the communication is in an audio-only format and is 30 seconds or less, the statement only requires the organization's top funder.

Funders. A funder is any entity that provides a cash or in-kind contributions to the organization since the day after the last general election. If a communication is paid for by a PAC that is a segregated fund established by an organization to engage in political activity, the top three funders of that organization must be named in the disclosure.

If a communication is paid for by a PAC fully controlled by another PAC or organization, the disclosure must contain the top three funders of the entity funding or controlling the communication.

If two or more funders are tied, the tie must be broken by naming the funders in chronological order, with the oldest first. If a tie cannot be broken, the tied funders to include in the disclosure.

If an organization's top funders change, the disclosure for any communication paid for after the change must be updated.

An organization does not have to name a funder if the contribution is giving less than \$1,000, or whose contribution can be *proven* to have been used for purposes other than the communication on the basis of which the funds were either spent in the order received or are strictly segregated in other accounts.

If there are fewer than 3 funders, the disclosure should be modified to read: "The top 1 funder of..." or "The top 2 funders of..." The disclosure statement is not required if none of the top three contributors meets the criteria for the disclosure.

Federal Requirements

The Federal Communications Commission requires sponsorship identification for political advertisements on television, in print, on the internet, automated voice messages, and in direct mail calls. For more information on federal sponsorship identification regulations, contact the FCC at the number listed at the end of this guidebook.

LEGAL REFERENCES

ER 7

Enforcement Actions by the Commission

are assessed for late campaign finance reporting using a formula established by statute, which considers the number of days the report is late, any previous violations by the PAC during the (2) year period, and the amount of financial activity during the reporting period. The reporting period begins on January 1st of each reporting year.

The maximum penalty that can be assessed on a PAC for a late-filed, or substantially non-compliant campaign finance report is \$10,000. If the amount of the financial activity reported late exceeds \$50,000, the maximum penalty is the percentage of that financial activity. A PAC that fails to file a required report within 30 days of the reporting period may also be charged with a Class

Enforcement Actions by the Commission

The Commission publishes the filing schedule on its website and the required reports and their due dates are listed on the PAC's eFiling homepage.

Commission staff send courtesy reminders before each filing, failure to receive

Commission's Review of Reports

The Commission staff reviews reports for completeness and compliance with the rules. You may contact the PAC if it appears incomplete or requires additional information.

Requesting a Penalty Waiver

If a PAC files a report late, the Commission will send a letter informing the treasurer of the amount of the penalty and advises them to pay it or seek a waiver. If a waiver is requested within 14 days, the penalty is not final.

Waiver requests are considered by members of the Commission at a public meeting - not by Commission staff. Although not required, the PAC's treasurer or representative is encouraged to attend the Commission meeting. Before the Commission meets, notice of the request for determination and the penalty imposed will be sent to the PAC.

The Commission may waive a penalty in part if there are mitigating circumstances, such as a valid emergency, an error by Commission staff, or other circumstances.

ered by the public from the late
A penalty of less than \$25 is
ly waived. However, the late-filed
still be considered a violation and will
d the calculation of any future penalty.

r must be paid in full within 30 days of
the Commission's final penalty notice,
r payment arrangements are made. If
thin 30 days, the Commission will refer
to the Attorney General's office for
a civil action.

Waiver of a Penalty Determination

may appeal the Commission's final
on by filing a petition for review with
r Court within 30 days of receiving
the final determination. Maine's
ive Procedures Act (5 M.R.S. § 11001
d Rule 80C of the Maine Rules of Civil
govern the process for an appeal to
r Court.

Investigations & Audits

The Commission is authorized to
investigations and audits of the financ
of PACs. The Commission may
investigation on its own or in resp
request submitted by the public. The C
will review the request to determine v
allegations set forth sufficient g
believing that a violation may have occ

LEGAL REFERENCES

Review of Reports	94-270 C.M.R. Ch. 1 § 5(1)
Late-Filed Campaign Finance Failure to File Reports	21-A M.R.S. § 1062-A(2)
Waiver of a Penalty	21-A M.R.S. § 1062-A(5)
Penalty Determination	21-A M.R.S. § 1062-A(5)

DIX

ment of Political Signs & Letter from DOT

Robocall Advisory

TORY

on Governmental Ethics and Election Practices

45 Memorial Circle, Augusta

Mail: 135 State House Station
Augusta, Maine 04333

(207) 287-4179

Email: ethics@maine.gov

www.maine.gov/ethics

eFiling: www.mainecampaignfinance.com

t of the Secretary of State, Division of Elections

111 Sewall Street, Augusta
Cross Office Building 4th Floor

Mail: 101 State House Station
Augusta, Maine 04333

(207) 624-7650

Email: cec.elections@maine.gov

www.maine.gov/sos/cec/

t of Transportation, Right of Way Control Section

16 State House Station
Augusta, Maine 04333

Phone: (207) 624-3611

ctions Commission

99 E Street, NW
Washington, DC 20463

Phone: (800) 424-9530

www.fec.gov

Phone: (202) 694-1000

munications Commission, Office of Political Programming

445 12th Street, SW
Washington, DC 20554

Phone: (888) 225-5322

[www.fcc.gov/media/policy/
political-programming](http://www.fcc.gov/media/policy/political-programming)

Phone: (202) 418-1440

ociation of Broadcasters

69 Sewall Street
Augusta, Maine 04330

Phone: (207) 623-3870



STATE OF MAINE
DEPARTMENT OF TRANSPORTATION
16 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0016

John T. Mills
GOVERNOR

Bruce A. Van Note
COMMISSIONER

To Whom it May Concern:

As we approach another campaign season the Maine Department of Transportation would like to take this opportunity to offer some information regarding the placement of temporary signs in the right-of-way on state and state aid highways.

Changes were made to the temporary sign laws during the 129th Legislature. The law allows temporary signs, which include campaign signs, to be placed in the right-of-way for up to 6 weeks from January 1st to June 30th and another 6 weeks between July 1st and December 31st. The law further states that individual signs bearing substantially the same message must be placed at least 30 feet from one another and requires that each sign be labeled with the owner's name, address and the date on which the sign was erected. This will help MaineDOT discern whether a sign is in compliance and also allows the Department to contact an entity if a sign needs to be removed for any reason.

There are areas within the state's roadway system that are off limits to temporary signs. These areas include the Maine Interstate System, the Maine Turnpike Authority system, Route 1 between Bath and Brunswick and all connecting interchanges and ramps. Along with the interstate system, some sections of state highways have been designated as "control of access" (C.O.A) roadways where ingress and egress to and from the highway is prohibited/limited. **No temporary signs of any kind can be placed along these control of access areas.** These areas have been officially designated with signage indicating the beginning and ending of a C.O.A. A sample of these signs has been provided below for your reference:



Note: The interstate, including the Maine Turnpike and all their ramps and the portion of Route 1 between Bath and Brunswick do not have C.O.A. signage. The signage denoted to the right has been erected on those other roadways that have C.O.A.

Temporary signs are also prohibited on traffic control devices (stop signs, yield signs, warning signs, guide signs, regulatory signs, etc.), all utility poles and trees,

on islands within a rotary/roundabout, and in medians/islands in the center of the road that are less than 6 feet wide.

Here are some questions that campaign personnel may ask regarding the placement of political signs:

How do I recognize a "control of access" area?

- *Aside from the Interstate System, MaineDOT officials have marked C.O.A areas across the state. These areas will have signs indicating the beginning and ending of a C.O.A.*

What will happen to my sign if it has been placed within a C.O.A. section?

- *MaineDOT personnel have been advised to remove temporary signs from within the C.O.A. areas. Maintenance crews have also been instructed to safely store the signs until the owner of the sign can be contacted or 60 days, whichever comes first.*

Does MaineDOT enforce these sign placement restrictions statewide?

- *MaineDOT is committed to providing the equitable enforcement of these sign restrictions upon notification of a violation.*
- *Per a recent statute change, Temporary Signs within Urban compact areas may be enforced by the municipality they are within.*

What do I need to know about placing my sign along the roadway?

- *The first thing to consider in placement is the safety of the traveling public. Please do not install your signs where they will limit the sight line of anyone trying to pull out of a side road or driveway. Signs that block a driver's sight line will be removed and held at the closest MaineDOT maintenance lot to be picked up by the owner.*

In summary, when placing political signs, the important areas to avoid are the interstate system with the connecting interchanges, including the MTA system, and control of access areas across the state. Also, individual signs bearing the same message can be no closer than 30 feet from one another and must contain appropriate contact information and the date in which the sign was placed in the ROW. Candidates/referendums/special interest signage may want to work with sign making companies to have the contact information printed on their signs. MaineDOT will continue to provide the necessary information to help Maine's candidates.

For more information regarding the appropriate placement of political signs, please contact the Department's Legislative Liaison, Meghan Russo at Meghan.russo@maine.gov.

MaineDOT appreciates your cooperation in this effort.

Sincerely,



Stephen Landry, P.E.

State Traffic Engineer

MaineDOT

PUBLIC NOTICE

Federal Communications Commission
445 12th St., S.W.
Washington, D.C. 20554

News Media Information 202
Internet: <http://www.fcc.gov>
TTY: 1-888-225-5322

DATE: 12/15/15
MARCH 2016
Enforcement Advisory No. 15-10

FCC ENFORCEMENT ADVISORY

TELEPHONE CONSUMER PROTECTION ACT ROBOCALL AND TEXT RULES

BIENNIAL REMINDER FOR POLITICAL CAMPAIGNS ABOUT ROBOCALL AND TEXT ABUSE

As the 2016 campaign season underway, the FCC's Enforcement Bureau reminds political campaigns and candidates that there are clear limits on the use of autodialed calls or texts (known as "robocalls") and prerecorded voice calls. The FCC is committed to protecting consumers from harassing, intrusive, and unwanted calls and texts, including to cell phones and other mobile devices.

Since its adoption in 1991, the Telephone Consumer Protection Act ("TCPA") has placed limits on unsolicited autodialed telemarketing calls to landline home telephones, and all autodialed calls or prerecorded voice calls to cell phones, toll-free numbers, emergency numbers, and patient rooms at health care facilities. The FCC's corresponding rules governing automated telephone calls set forth restrictions that govern the use of prerecorded voice calls and automatic telephone dialing systems including those that deliver text messages. These restrictions apply to all such prerecorded voice calls and autodialed calls or texts, including those made by political campaigns or other organizations involved in the 2016 election. The restrictions vary according to whether the call is made to a business or residential landline telephone, a cell phone, or some other category of protected telephone lines such as toll-free lines, emergency lines, or those lines servicing hospitals, nursing homes, and other emergency services.²

This Advisory will facilitate compliance with the law and rules by senders of campaign related robocalls and autodialed calls and texts and again remind all those using these tools to carefully observe the law and rules. The FCC's Enforcement Bureau will rigorously enforce the important consumer protections in the TCPA and its corresponding rules.

² 47 CFR § 64.1200.

In this Enforcement Advisory, the FCC's Enforcement Bureau highlights certain obligations under the TCPA and its corresponding Commission rules. Failure to receive this notice does not absolve an entity of the obligation to comply with the provisions of the Communications Act of 1934, as amended, or the Commission's rules and orders. Campaigns, candidates, and other entities should read the full text of the relevant portions of the TCPA and corresponding Commission rules, respectively, at 47 U.S.C. § 227 and 47 CFR § 64.1200.

Against Prerecorded Voice Messages and Autodialed Calls to Cell Phones and Other Mobile Services

Prerecorded voice messages and autodialed calls (including autodialed live calls, prerecorded voice messages, and text messages) to cell phones and other mobile services such as paging systems, subject to only three exceptions: (1) calls made for emergency purposes, (2) calls made with the prior express consent of the called party, (3) and calls made to collect debts "owed to or guaranteed by the United States." This broad prohibition covers prerecorded voice and autodialed calls, including those sent by political campaign-related organizations. Callers contending that they have the prior express consent to make prerecorded voice or autodialed calls to cell phones or other mobile service numbers have the burden of proving they obtained such consent.⁴ Further, call recipients may revoke their consent to be called using any method including verbally or in writing.⁵

Prohibition on Prerecorded Voice Messages and Autodialed Calls to Landline Telephones.

Political campaign-related prerecorded voice messages or autodialed calls—whether live or prerecorded—to most landline telephones are prohibited, so long as they adhere to the identification requirements set forth immediately below. However, political campaign-related voice messages or autodialed calls to emergency telephone lines; lines in hospitals, nursing homes, or similar establishments; or toll-free lines are prohibited unless the called party has agreed to receive such calls.⁶

Identification Requirements for Prerecorded Voice Messages.

All prerecorded voice messages, campaigns, or other entities, that are permissible under Section 227 of the Communications Act of 1934, as amended, and the Commission's rules must include certain information to identify the party responsible for the message.

Artificial and prerecorded voice messages must state clearly, at the beginning of the message, the name of the business, individual, or other entity that is responsible for initiating the call.⁷

If a business or other corporate entity is responsible for the call, the prerecorded voice message must also state that entity's official business name (the name registered with a state corporation commission or other regulatory authority).⁸

In addition, the telephone number of such business, individual, or other entity must be provided to the called party before or after the prerecorded voice message.⁹

⁴ 47 U.S.C. § 227(b)(1)(A)(iii); see also 47 CFR § 64.1200(a)(1)(iii) (prohibiting such calls to "any telephone number, including a paging service, cellular telephone service, specialized mobile radio service, or other radio communication service, except any service which the called party is charged for the call"). Congress has amended the TCPA to exempt political campaign collection calls and the Commission is in the process of implementing rules related to that exemption.

⁵ *Regulations Implementing the Telephone Consumer Protection Act of 1991*, Declaratory Ruling and Order, 30 FCC Rcd at 7996, para. 64 (2015) (*TCPA Omnibus Declaratory Ruling and Order*); see also *Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991*, Declaratory Ruling, 23 FCC Rcd 559, 565, para. 10 (2008) (stating that creditors and debt collectors claiming prior express consent to deliver prerecorded voice or autodialed calls to cell phones are responsible for demonstrating such consent was granted).

⁶ *TCPA Omnibus Declaratory Ruling and Order*, 30 FCC Rcd at 7996, para. 64.

⁷ 47 U.S.C. § 227(b)(1)(A); 47 CFR § 64.1200(a)(1).

⁸ 47 U.S.C. § 227(d)(3)(A)(i); 47 CFR § 64.1200(b)(1).

⁹ 47 CFR § 64.1200(b)(1).

are by Prerecorded Voice Messages and Autodialed Calls. Automatic telephone dialing systems and prerecorded voice messages must release the called party's telephone line within five seconds of disconnection if no communication is transmitted to the system that the called party has hung up.¹⁰ In addition, an automatic telephone dialing system may not be used in a way that simultaneously engages two or more telephone lines for the purpose of conducting business.¹¹

As we have done in previous election cycles, we remind senders of campaign-related prerecorded voice messages and autodialed calls or texts that failure to comply with the relevant sections of the TCPA and FCC's implementing rules may subject them to enforcement action, including monetary forfeitures as high as \$10,000 per violation for any person who does not hold a license or other authorization issued by the Commission.

For example, a person who sends a prerecorded message player that placed the call, (2) a 900 number, or (3) any other number for which the caller must incur local or long distance transmission charges. 47 CFR § 64.1200(b)(2).

§ 227(d)(3)(B); 47 CFR § 68.318(c).

§ 227(b)(1)(D); 47 CFR § 64.1200(a)(5).

The amount reflects inflation adjustments to the forfeitures specified in Section 503(b)(2)(D) of the Communications Act. Section 503(b)(2)(D) provides for forfeitures of up to \$10,000 for each violation by a person who is not a broadcast station licensee, cable operator, common carrier, or applicant for any broadcast station, cable operator, or common carrier license issued by the Commission. See 47 U.S.C. § 503(b)(2)(D). The Federal Civil Penalties Inflation Adjustment Act of 2001, Pub. L. No. 101-410, 104 Stat. 890, as amended by the Debt Collection Improvement Act of 1996, Pub. L. No. 104-134, Sec. 31001, 110 Stat. 1321 (DCIA), requires the Commission to adjust its forfeiture penalties periodically for inflation.

See 28 U.S.C. § 2461 note (4). The Commission most recently adjusted its penalties to account for inflation in 2013. See *Amendment of Section 1.80(b) of the Commission's Rules, Adjustment of Civil Monetary Penalties*, 28 FCC Rcd 10785, 10786-790, paras. 3-5 (EB 2013); see also *Inflation Adjustment of Maximum Forfeiture Penalties*, 78 Fed. Reg. 49370-01, 49370 (2013) (setting September 13, 2013, as the effective date for the adjustment). The Commission has made such inflation adjustments and the current maximum forfeiture is \$16,000 per violation under Section 503(b)(2)(D). See *Inflation Adjustment of Maximum Forfeiture Penalties*, 78 Fed. Reg. 49370-01, 49370 (2013). The penalties for broadcast station licensees, cable operators, common carriers, and applicants for broadcast station license, cable operator, and common carrier licenses are higher.

For more information? For further information regarding requirements for prerecorded voice and autodialed calls, contact Kristi Thompson at (202) 418-1318 or kristi.thompson@fcc.gov or Mary Romano at (202) 418-1318 or mary.romano@fcc.gov in the Telecommunications Consumers Division, Enforcement Bureau. More information can also be found at www.fcc.gov/guides/robocalls. To file a complaint, visit www.consumercomplaints.fcc.gov or call 1-888-CALL-FCC.

For more information, inquiries should be directed to Will Wiquist at (202) 418-0509 or will.wiquist@fcc.gov.

For more information, contact materials in accessible formats for people with disabilities (Braille, large print, electronic files, and audio), contact the Enforcement Bureau at (202) 418-0530 or enforcement@fcc.gov.

For more information, email to fcc504@fcc.gov or call the Consumer & Governmental Affairs Bureau at (202) 418-0530 or (202) 418-0432 (TTY). You may also contact the Enforcement Bureau on its TTY line at (202) 418-1148 for more information about this Enforcement Advisory, or the FCC on its TTY line at 1-888-TELL-FCC (1-888-835-5322) for more information about the Telephone Consumer Protection Act.

Attachments: (1) "At a Glance," Political Calls; (2) Frequently Asked Questions.

"AT A GLANCE"**POLITICAL CALLS**

Political campaign-related calls are subject to restrictions governing prerecorded voice and autodialed

There are no restrictions on live manually-dialed political calls, which may be delivered to any landline phone or cell phone.

Prerecorded voice and autodialed calls may NOT be delivered to the following types of landline phones without the prior express consent of the called party:

- ✓ any emergency line (including any 911 line and any emergency line of a hospital, medical clinic, physician or service office, health care facility, poison control center, or fire protection or law enforcement agency);
- ✓ the telephone line of any guest room or patient room of a hospital, health care facility, nursing home, or similar establishment; or
- ✓ any service for which the called party is charged for the call such as toll-free lines.

Prerecorded voice and autodialed calls (including live calls, prerecorded voice messages, and text messages) may NOT be delivered to cell phones, pagers, or other mobile devices without the prior express consent of the called party. This restriction governs all prerecorded voice and autodialed

Prerecorded voice messages must contain the following information:

- ✓ the name of the person or entity responsible for the call, which must be provided at the beginning of the message;
- ✓ the telephone number of the person or entity responsible for the call, which must be provided during or after the message.

National Do-Not-Call Registry and company-specific do-not-call lists do not apply to political campaign-related calls. Individuals or entities who do not hold (and are not required to hold) FCC licenses responsible for transmitting lawful political prerecorded voice messages or autodialed calls may face forfeiture penalties of up to \$10,000 per violation. The penalties are higher for FCC licensees, such as broadcasters, cable operators, and common carriers.

FREQUENTLY ASKED QUESTIONS

Following Frequently Asked Questions are addressed in this Advisory:

What are the rules covering prerecorded voice messages and autodialed calls, and where can I find them?

What is an autodialed call?

Are nonprofit organizations exempt from the prohibition against making prerecorded voice calls or autodialed calls or texts to cell phones and other mobile service numbers?

What does it mean to make a prerecorded voice or autodialed call for "emergency purposes"?

Does the same prohibition against making autodialed calls to cell phones apply to sending automated text messages to cell phones?

Do the rules allow me to send campaign-related prerecorded voice messages to a landline telephone number that is registered on the National Do Not Call Registry?

Before making a prerecorded voice or autodialed call, how can I determine whether the target telephone number is associated with a landline phone or a wireless phone?

What if I have questions?

What are the rules covering prerecorded voice messages and autodialed calls, and where can I find them?

Autodialed calls are subject to the general restrictions on prerecorded voice messages and autodialed calls, found in 47 CFR § 227 and 47 CFR § 64.1200.

What is an autodialed call?

An autodialed call is any type of call or message, including a text message, that is made by an "autodialing system," which is "equipment which has the capacity to store or produce telephone numbers to be called using a random or sequential number generator and to dial such numbers."¹ The Commission has emphasized that this definition covers any equipment—including predictive dialers—that has the capacity to dial numbers without human intervention whether or not the numbers called are randomly or sequentially generated or come from calling lists.² The Commission has further emphasized that the definition of a dialing system is not limited to any current configuration or present ability but also includes

¹ 47 CFR § 64.1200(f)(2).

² See *Report and Regulations Implementing the Telephone Consumer Protection Act of 1991*, Report and Order, 18 FCC Rcd 4092-93, para. 133 (2003) (*2003 TCPA Order*). Predictive dialers use automated equipment to dial numbers from lists or randomly or sequentially) and then connect the called party to a live person. The distinction

functionalities that are more than mere theoretical possibilities.³ Finally, the Commission has modified its rules regarding Internet-to-phone text messaging technology and text messaging apps that send to all or virtually all U.S. phone numbers constitute autodialers.⁴

Are nonprofit organizations exempt from the prohibition against making prerecorded voice calls or autodialed calls or texts to cell phones and other mobile service numbers?

Although nonprofit organizations enjoy certain exemptions under the TCPA, there is NO blanket exemption for nonprofit organizations to make either prerecorded voice calls or autodialed calls or texts to cell phones or other mobile service numbers without prior express consent.

What does it mean to make a prerecorded voice or autodialed call for "emergency purposes"?

Under the Commission rules, "emergency purposes means calls made necessary in any situation affecting the health, safety or property of consumers." 47 CFR § 64.1200(f)(4). Political campaign-related prerecorded voice messages and autodialed calls are NOT included in this definition.

Do the same prohibition against making autodialed calls to cell phones and other mobile service numbers apply to sending autodialed text messages to cell phones?

The Commission has determined that the prohibition against placing autodialed calls to cell phones and other mobile service numbers without prior express consent "encompasses both voice calls and text calls to wireless numbers including, for example, text messages (SMS) calls, provided the call is made to a telephone number assigned to [a wireless number]." Accordingly, only manually placed text messages are permissible without prior express consent.

Do the rules allow me to send political campaign-related prerecorded voice messages to a landline telephone number that is registered on the National Do-Not-Call Registry?

Political campaign-related prerecorded voice messages (as well as live political calls) are not subject to the National Do-Not-Call Registry because such messages (or live calls) do not include telephone solicitations.

When making a prerecorded voice or autodialed call, how can I determine whether the target telephone number is associated with a landline phone or a wireless phone?

There are a variety of commercial services that callers may use to identify wireless telephone numbers.

Do I have questions?

For more information regarding requirements for prerecorded voice and autodialed calls, contact one of the staff individuals in the Telecommunications Consumers Division, Enforcement Bureau: Kristi Thompson at (202) 418-1318 or kristi.thompson@fcc.gov or Mary Romano at (202) 418-0975 or mary.romano@fcc.gov. For more information, visit www.consumercomplaints.fcc.gov or call 1-888-CALLFCC.

For more information, inquiries should be directed to Will Wiquist at (202) 418-0509 or will.wiquist@fcc.gov.

³ See *Final Regulations Implementing the Telephone Consumer Protection Act of 1991*, Declaratory Ruling and Order, 30 FR 7961, 7974-77, paras. 15-21 (2015).

⁴ See *Final Regulations*, paras. 108-22.

⁵ See *Final Regulations*, 18 FCC Rcd at 14115, para. 165.

⁶ To constitute a "telephone solicitation," a call or message must be "for the purpose of encouraging the purchase of, or investment in, property, goods, or services." 47 CFR § 64.1200(f)(1); see also 47 CFR §

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