



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

To: Commission
From: Emma Burke, Political Committee & Lobbyist Registrar
Date: October 11, 2023
Re: Request for Investigation from Jennifer Small

On August 25, 2023, Ms. Jennifer Small filed a complaint and request for investigation alleging a printed flyer, included in a locally printed political publication, should have been reported as independent expenditure (IE) with the Commission opposing Democratic candidate, now Rep. Sally Cluchey (HD 52). Ms. Small states the flyer was left at houses in Richmond, Bowdoin, and Bowdoinham on or about October 29, 2022. The flyer stated it was “Paid For By Concerned Parents of MSAD75.”

Ms. Small’s complaint states the flyer was a political communication distributed via U.S. mail and must have associated printing and mailing costs and should have been reported on an IE Report with the Commission. The Commission staff believe it is possible the costs of the flyer exceeded \$250 and may have required an IE filing. In addition, the flyer does not include a full statement disclosing who paid for it and whether it was authorized by any candidate or their committee.

Relevant Laws and Rule

Commission Initiation of Investigation

Request from others. The Commission is required to review every request to investigate an alleged violation of campaign finance law and to conduct an “investigation if the reasons stated for the request show sufficient grounds for believing that a violation may have occurred.” 21-A M.R.S. § 1003(2).

Independent Expenditures

An IE is any expenditure not made in cooperation, consultation or concert with, or at the request or suggestion of, a candidate, a candidate’s committee, or an agent of either, and is made to design, produce or disseminate any communication that expressly advocates the election or defeat of a clearly identified candidate. 21-A M.R.S. § 1019-B(1)(A).

Disclosure Statements

Whenever a person makes an expenditure to finance a communication expressly advocating the election or defeat of a clearly identified candidate that is not authorized by a candidate, a candidate's committee or their agents, the communication must clearly and conspicuously state the communication is not authorized by any candidate and state the name and address of the person who made or financed the expenditure for the communication. If the communication is in written form, the communication must contain at the bottom of the communication in print that is no smaller in size than 12-point bold print, Times New Roman font, the words "NOT PAID FOR OR AUTHORIZED BY ANY CANDIDATE." 21-A M.R.S. §§ 1014(1) & (2). Additionally, a communication meeting the definition of an IE must include the following statement: "The top 3 funders of (name of entity that made the independent expenditure) are (names of top 3 funders)." However, the statement is not required to include the name of any funder who has provided less than \$1,000 to the entity making the IE since the day following the most recent general election day. 21-A M.R.S. §§ 1014(2-B) & (2-B)(C)

There is an exception to the disclosure statement requirement for handbills or other literature costing \$100 or less and prepared by individuals who are not required to register or file campaign finance reports with the commission and who are acting independently of a candidate, candidate's committee, party committee, PAC, or BQC. 21-A M.R.S. § 1014(6)

Complaint

Ms. Small's complaint asserts two individuals were involved with the printing and dissemination of the flyer, Guy Lebida and Brian Roy. She understands Mr. Lebida is the printer of the Maine Anchor publication, in which the flyer was placed for delivery to residences in Richmond, Bowdoin, and Bowdoinham. While no evidence was given to support this claim, Ms. Small contends Mr. Roy created the flyer. According to Ms. Small, the flyer "attacked" Sally Cluchey, was printed, and then delivered by USPS in multiple towns, and as such had costs associated with it.

Notice to Mr. Lebida & Mr. Roy

On September 14, 2023, Executive Director Jonathan Wayne mailed and emailed a notice of the complaint to Mr. Lebida and Mr. Roy, and requested any response be sent within two weeks of their receipt of the notice. The Commission have not received any communication from Mr. Lebida or Mr. Roy. The Maine Anchor's website does refer to Mr. Lebida as the editor, in a post published on March 7, 2022, tagged as "From the Editor" and authored by Guy Lebida.

Staff Analysis

The Commission staff find merit with Ms. Small's complaint. The flyer contains language that expressly opposed Rep. Cluchey and it is reasonable to assume there were costs associated with it. There are two potential sources of cost for the communication: printing and distribution. Based on experience of the Commission staff, the printing of a color, two-sided flyer costs a few hundred dollars when printed commercially. The number of flyers printed is unknown, as is whether they were printed commercially or on a home printer. The use of a home printer would drastically reduce the cost, particularly if the individual printing the flyer already owned paper and printer ink not originally purchased for the intent of making a political communication. For distribution purposes, the presence of the cost is clear, though the amount is yet undeterminable. The Maine Anchor displays a postage permit on its front page, meaning the publisher must pay for its dissemination, along with anything included in it, as mail sent with this kind of permit are charged by weight and number of mailed parcels. According to The Maine Anchor's website, it costs \$3 to receive a paper copy of the current issue in the mail. It also allows a person to ship 100 prints of the latest issue for \$125. This cannot be confirmed without further investigation, but it appears The Maine Anchor is disseminated upon request. It is quite possible the cost of the flyer's distribution was more than \$250 and the funder was required to file an IE report within 24 hours with the Commission.

Additionally, though not raised specifically by Ms. Small, unless the entire cost for the printing and dissemination of the flyer cost \$100 or less, the disclosure statement of "Paid For By Concerned Parents of MSAD75" is not compliant, as it omits an address and an affirmation it was not paid for or authorized by any candidate (if there was, in fact, no authorization). If the entire cost was greater than \$250, the disclosure statement is also potentially missing top funder information.

Conclusion

The Commission staff find it reasonable to investigate Ms. Small's complaint, despite it being filed almost a year after the flyer in question was sent. The flyer specifically refers to and opposes Rep. Cluchey, had to be associated with some amount of cost, and mostly likely omits a proper disclosure statement. While the potential cost for this flyer is on a wide spectrum, from very little to potentially greater than \$1,000, without investigation it is not known if an IE Report was required, and what disclosure statement the flyer necessitated. It would appear from the information and facts known at this juncture the residents who received this flyer were not made aware of who was financing an oppositional communication, as is their right under Maine law. Therefore, the Commission staff recommend conducting an investigation.

August 26, 2023

Emma Burke
Maine Ethics Commission
45 Memorial Circle
Augusta, ME 04330

Dear Emma,

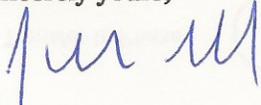
I am writing to file a formal complaint and request a Maine Ethics Commission investigation regarding a political mailing I received last fall which I believe is in violation of state statute.

On or about October 29, 2022, I received a copy of a newspaper called "The Maine Anchor" in my mailbox. I know that my neighbors received it, too, along with many other people in Richmond, Bowdoin, and Bowdoinham. I believe it was delivered by the U.S. postal carrier. Inside the newspaper was a very troubling flyer that attacked Sally Cluchey, a candidate for Maine House District 52.

Photos of the newspaper and flyer are attached. The flyer included disclosure language reading, "Paid for by Concerned Parents of MSAD75." This was clearly a political expenditure, with costs for printing and distribution, but I don't believe any reports were filed. My understanding is that the newspaper is printed by Guy Lebida of Bowdoin, and the flyer was created by Brian Roy of Bowdoin (brianroy01@hotmail.com). It is also my understanding that a report must be filed for expenditures exceeding \$250.

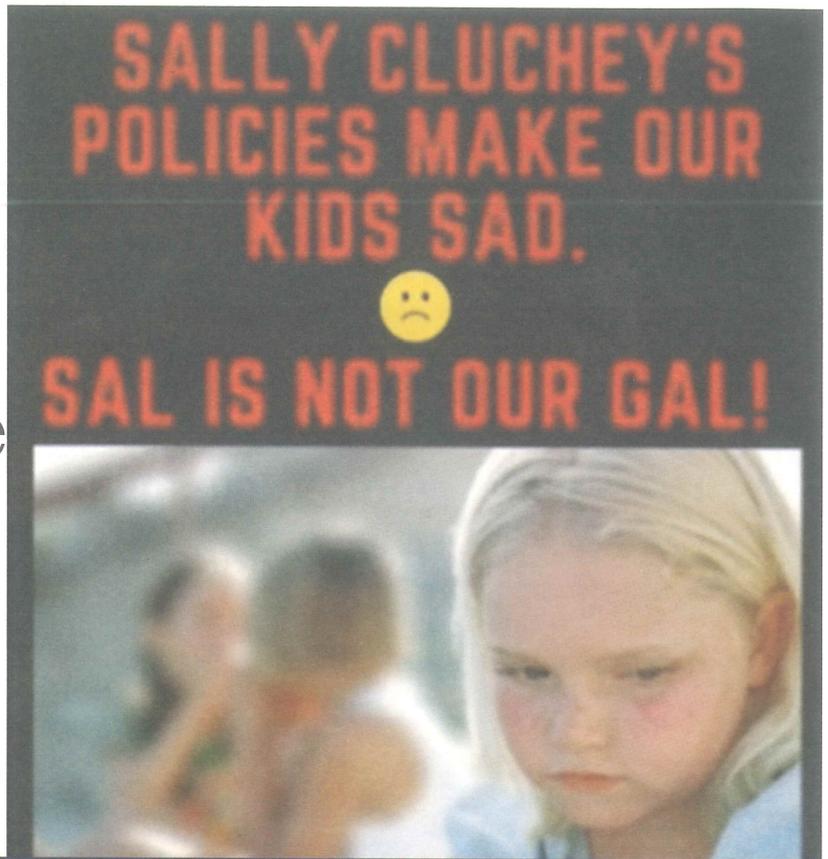
Please consider investigating this issue. Thank you for your time.

Sincerely yours,



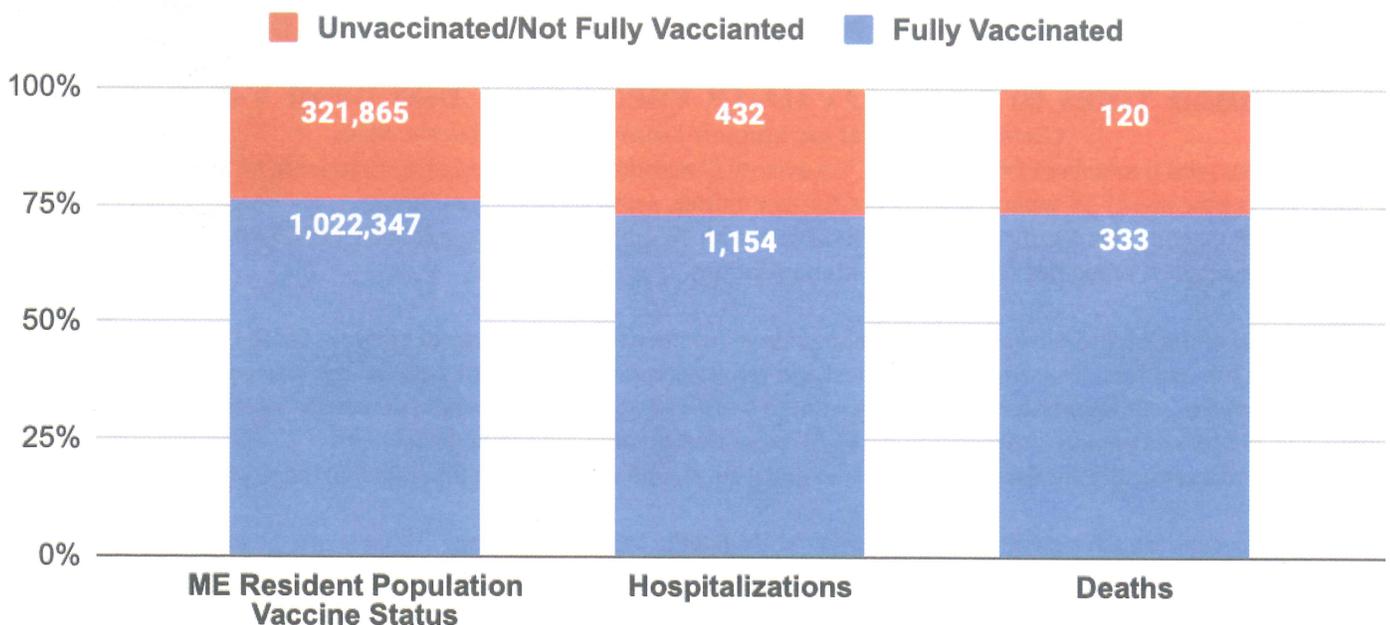
Jennifer Small

Elections have consequences and a vote for candidates like Sally Cluchey is dangerous for our kids.



Why does Sally endorse mandated “medicine” despite the failure of the MRNA jabs?

Hospitalizations and Deaths Associated with COVID-19 by Vaccine Status, from 3/4/22 to 10/16/22

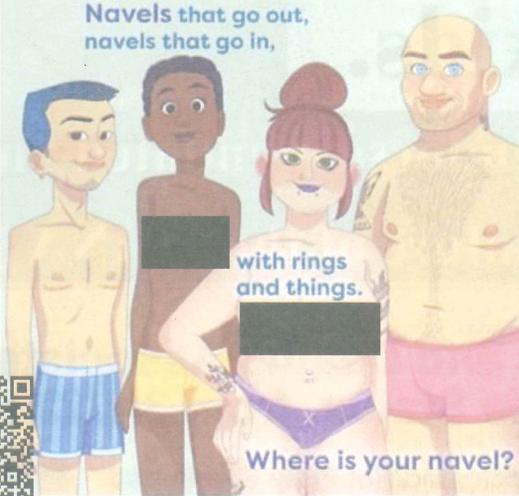
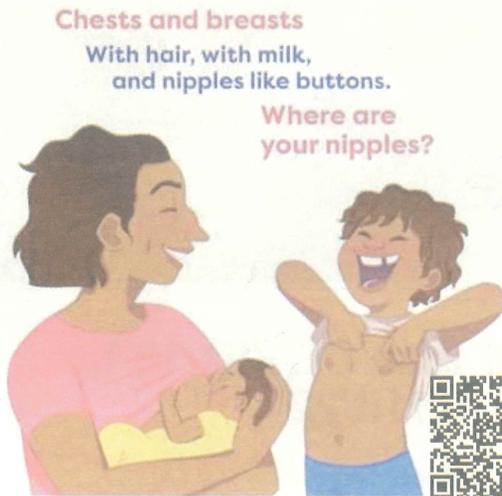


Source: ME CDC Breakthrough Data Updates

Can we trust candidate Sally Cluchey if she thinks this is “joyful and innocuous”?
Do we want our schools teaching this confusion?
This is a gateway to child indoctrination and abuse.

“I attended the school board meeting on May 19'th where this topic was discussed... I found them to be appropriate and joyful books with fitting illustrations.”

-Sally Cluchey Bowdoinham- Letters, Portland Press May 31



Shouldn't we be teaching our children the three Rs and history instead of this controversial and divisive material?
Shouldn't we let parents teach morality at home?
Concerned Parents of MSAD75

Dr. Shah Votes to Add COVID-19 Vaccine to Childhood V-Schedule

Gives Clear Signal for Maine's Future under Governor Mills

Meet the newest voting member of the The CDC's Advisory Committee on Immunization Practices (ACIP) - Maine's own Dr. Nirav Shah. He is now one of 15 voting members of this committee, set to serve a 4 year term.

In his first ACIP meeting, Dr. Shah cast his vote in concert with 14 other members to add the COVID-19 Vaccines to the recommended schedules for childhood immunizations.

Maine has some of the harshest laws in the nation regarding vaccines required for school entry. In 2019, Governor Mills signed LD 798 into law, removing philosophical and religious exemptions for all schools - private and public. This all removed any flexibility for parents who want to work with their pediatrician to create an "alternative schedule." LD 798 passed on party lines on the backs of every Democrat in the Maine legislature.

Why would he recommend it for the schedule on a national stage, and not do so for the state that employs him as the CDC Director?

It is all too clear what his advice will be for Governor Mills and the Maine Legislature. What is also clear is that his opinion is the minority view among Maine parents. Only 44% of children ages 5-11 and less than 6% of children 0-4 years of age have received a COVID-19 vaccine in Maine.

If the Democrats continue to control the Governor and Maine's Legislature after the November 8 election, there is little doubt that they will use education and childcare to coerce parents into injecting their children with these experimental, dangerous and ineffective shot. Vote accordingly.



Video of Dr Shah lying under oath



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

September 14, 2023

By Email and Regular Mail

Guy Michael Lebida
54 Bowdoin Pines
Bowdoin, ME 04287

Brian Roy
165 Adams Rd
Bowdoin, ME 04287

Dear Mr. Lebida and Mr. Roy:

This letter is to advise you that the Maine Ethics Commission received a complaint about a flyer critical of 2022 House candidate Sally Cluchey distributed in mailboxes in Richmond, Bowdoin, and Bowdoinham, Maine on or around October 29, 2022. The flyer was included inside another communication named The Maine Anchor.

Communications naming candidates close to a general election may be required to include information concerning who paid for the communication and whether it was authorized by any candidate. Sometimes, the communication requires the filing of a financial report with our office. At a meeting on October 25, 2023, the Commission will consider whether to take any action on the complaint, such as directing its staff to conduct an investigation.

The Commission has drawn no conclusions concerning whether the complaint is accurate or whether you are involved. Because you are mentioned in the complaint, you are invited to respond or provide any information you would like for purposes of the Commission's October 25 meeting (please see details on next page).

Potential Compliance Issues

Disclosure statement. If a person pays for a communication (such as a flyer) to voters after Labor Day during an election year and the communication names a clearly identified candidate, the communication must state the name and address of the person who paid for the communication and whether it was authorized by any candidate. 21-A M.R.S. §§ 1014(1)-(2-A).

Guy Lebida and Brian Roy

Page 2

September 14, 2023

Independent expenditure reporting. A paid communication advocating for the election or defeat of a candidates may require the filing of a campaign finance report with the Commission. 21-A M.R.S. § 1019-B. This “independent expenditure report” is required only if more than \$250 is spent per candidate and the expenditure for the communication is made independently of the candidates in the race and their political committees.

Contribution to candidates. If a candidate, his political committee, or their agents request or suggest that another person makes an expenditure to influence the candidate’s race, or cooperates or consults on the expenditure, the expenditure is a contribution to the candidate. 21-A M.R.S. § 1015(5). In 2022, a source could make a contribution of no more than \$425 per election to a legislative candidate. § 1015(1). Candidates are required to report cash or in-kind contributions they have received.

Your Opportunity to Respond

The Commission staff has scheduled the complaint for preliminary consideration by the members of the Commission at a meeting on October 25, 2023. The meeting will begin at 9:00 a.m. at our office at 45 Memorial Circle. If you would like to provide any information in advance of the meeting, within two weeks of your receipt of this letter please email the information to Jonathan.Wayne@maine.gov or mail it to our office at 135 State House Station, Augusta, Maine 04333. You are also welcome to participate in the meeting in person or remotely through zoom. The meeting will be streamed to our YouTube channel. Thank you.

Sincerely,



Jonathan Wayne
Executive Director

cc: Ms. Jennifer Small (by email)

§1003. Investigations by commission

1. Investigations. The commission may undertake audits and investigations to determine whether a person has violated this chapter, chapter 14 or the rules of the commission. For this purpose, the commission may subpoena witnesses and records whether located within or without the State and take evidence under oath. A person or entity that fails to obey the lawful subpoena of the commission or to testify before it under oath must be punished by the Superior Court for contempt upon application by the Attorney General on behalf of the commission. The Attorney General may apply on behalf of the commission to the Superior Court or to a court of another state to enforce compliance with a subpoena issued to a nonresident person. Service of any subpoena issued by the commission may be accomplished by:

- A. Delivering a duly executed copy of the notice to the person to be served or to a partner or to any officer or agent authorized by appointment or by law to receive service of process on behalf of that person; [PL 2013, c. 162, §1 (NEW).]
- B. Delivering a duly executed copy of the notice to the principal place of business in this State of the person to be served; or [PL 2013, c. 162, §1 (NEW).]
- C. Mailing by registered or certified mail a duly executed copy of the notice, addressed to the person to be served, to the person's principal place of business. [PL 2013, c. 162, §1 (NEW).]
[PL 2013, c. 162, §1 (AMD).]

2. Investigations requested. A person may apply in writing to the commission requesting an investigation as described in subsection 1. The commission shall review the application and shall make the investigation if the reasons stated for the request show sufficient grounds for believing that a violation may have occurred.
[PL 2011, c. 389, §4 (AMD).]

2-A. Confidentiality.
[PL 2001, c. 535, §1 (RP).]

3. State Auditor. The State Auditor shall assist the commission in making investigations and in other phases of the commission's duties under this chapter, as requested by the commission, and has all necessary powers to carry out these responsibilities.
[PL 1999, c. 426, §31 (AMD).]

3-A. Confidential records. Investigative working papers of the commission are confidential, except that the commission may disclose them to the subject of the audit or investigation, other entities as necessary for the conduct of an audit or investigation and law enforcement and other agencies for purposes of reporting, investigating or prosecuting a criminal or civil violation. For purposes of this subsection, "investigative working papers" means documents, records and other printed or electronic information in the following limited categories that are acquired, prepared or maintained by the commission during the conduct of an audit, investigation or other enforcement matter:

- A. Financial information not normally available to the public; [PL 2007, c. 571, §6 (NEW).]
- B. Information that, if disclosed, would reveal sensitive political or campaign information belonging to a party committee, political action committee, ballot question committee, candidate or candidate's political committee, or other person who is the subject of an audit, investigation or other enforcement matter, even if the information is in the possession of a vendor or 3rd party; [PL 2013, c. 470, §1 (AMD).]
- C. Information or records subject to a privilege against discovery or use as evidence; and [PL 2007, c. 571, §6 (NEW).]
- D. Intra-agency or interagency communications related to an audit or investigation, including any record of an interview, meeting or examination. [PL 2013, c. 470, §1 (AMD).]

The commission may disclose investigative working papers or discuss them at a public meeting, except for the information or records subject to a privilege against discovery or use as evidence, if the information or record is materially relevant to a memorandum or interim or final report by the commission staff or a decision by the commission concerning an audit, investigation or other enforcement matter. A memorandum or report on the audit or investigation prepared by staff for the commission may be disclosed at the time it is submitted to the commission, as long as the subject of the audit or investigation has an opportunity to review it first to identify material that the subject of the audit or investigation considers privileged or confidential under some other provision of law. [PL 2019, c. 323, §3 (AMD).]

4. Attorney General. Upon the request of the commission, the Attorney General shall aid in any investigation, provide advice, examine any witnesses before the commission or otherwise assist the commission in the performance of its duties. The commission shall refer any apparent violations of this chapter to the Attorney General for prosecution. [PL 2001, c. 470, §5 (AMD).]

SECTION HISTORY

PL 1985, c. 161, §6 (NEW). PL 1989, c. 504, §§1,31 (AMD). PL 1991, c. 839, §1 (AMD). PL 1991, c. 839, §34 (AFF). PL 1999, c. 426, §31 (AMD). PL 2001, c. 237, §1 (AMD). PL 2001, c. 470, §5 (AMD). PL 2001, c. 535, §1 (AMD). PL 2005, c. 301, §5 (AMD). PL 2007, c. 571, §6 (AMD). PL 2009, c. 524, §4 (AMD). PL 2011, c. 389, §§3, 4 (AMD). PL 2013, c. 162, §1 (AMD). PL 2013, c. 470, §1 (AMD). PL 2019, c. 323, §3 (AMD).

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§1019-B. Reports of independent expenditures

1. Independent expenditures; definition. For the purposes of this section, an "independent expenditure" means any expenditure made by a person, party committee or political action committee that is not made in cooperation, consultation or concert with, or at the request or suggestion of, a candidate, a candidate's authorized political committee or an agent of either and that:

A. Is made to design, produce or disseminate any communication that expressly advocates the election or defeat of a clearly identified candidate; or [PL 2021, c. 132, §7 (AMD).]

B. Unless the person, party committee or political action committee making the expenditure demonstrates under subsection 2 that the expenditure was not intended to influence the nomination, election or defeat of the candidate, is 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. [PL 2021, c. 132, §7 (AMD).]

[PL 2021, c. 132, §7 (AMD).]

2. Commission determination. A person, party committee or political action committee may request a determination that an expenditure that otherwise meets the definition of an independent expenditure under subsection 1, paragraph B is not an independent expenditure by filing a signed written statement with the commission within 7 days of disseminating the communication 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, party committee or political action committee chooses to submit. The commission may gather any additional evidence it determines relevant and material and shall determine by a preponderance of the evidence whether the cost was incurred with intent to influence the nomination, election or defeat of a candidate.

[PL 2021, c. 132, §8 (AMD).]

3. Report required; content; rules.

[PL 2009, c. 524, §6 (RPR); MRSA T. 21-A §1019-B, sub-§3 (RP).]

4. Report required; content; rules. A person, party committee or political action committee that makes any independent expenditure in excess of \$250 during any one candidate's election shall file a report with the commission. In the case of a municipal election, the report must be filed with the municipal clerk.

A. A report required by this subsection must be filed with the commission according to a reporting schedule that the commission shall establish by rule that takes into consideration existing campaign finance reporting requirements. Rules adopted pursuant to this paragraph are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. [PL 2011, c. 558, §2 (AMD).]

B. A report required by this subsection must contain an itemized account of each expenditure in excess of \$250 in any one candidate's election, the date and purpose of each expenditure and the name of each payee or creditor. The report must state whether the expenditure is in support of or in opposition to the candidate and must include, under penalty of perjury, as provided in Title 17-A, section 451, a statement under oath or affirmation whether the expenditure is made in cooperation, consultation or concert with, or at the request or suggestion of, the candidate or an authorized committee or agent of the candidate. [PL 2015, c. 350, §6 (AMD).]

C. A report required by this subsection must be on a form prescribed and prepared by the commission. A person filing this report may use additional pages if necessary, but the pages must be the same size as the pages of the form. The commission may adopt procedures requiring the electronic filing of an independent expenditure report, as long as the commission receives the statement made under oath or affirmation set out in paragraph B by the filing deadline and the commission adopts an exception for persons who lack access to the required technology or the

technological ability to file reports electronically. The commission may adopt procedures allowing for the signed statement to be provisionally filed by facsimile or electronic mail, as long as the report is not considered complete without the filing of the original signed statement. [PL 2013, c. 334, §16 (AMD).]

[PL 2019, c. 323, §17 (AMD).]

5. Exclusions. An independent expenditure does not include:

A. [PL 2021, c. 132, §9 (RP).]

B. A telephone survey that meets generally accepted standards for polling research and that is not conducted for the purpose of changing the voting position of the call recipients or discouraging them from voting; [PL 2011, c. 389, §21 (NEW).]

C. A telephone call naming a clearly identified candidate that identifies an individual's position on a candidate, ballot question or political party for the purpose of encouraging the individual to vote, as long as the call contains no advocacy for or against any candidate; and [PL 2011, c. 389, §21 (NEW).]

D. A voter guide that consists primarily of candidates' responses to surveys and questionnaires and that contains no advocacy for or against any candidate. [PL 2011, c. 389, §21 (NEW).]

[PL 2021, c. 132, §9 (AMD).]

SECTION HISTORY

PL 2003, c. 448, §3 (NEW). PL 2007, c. 443, Pt. A, §20 (AMD). PL 2009, c. 366, §5 (AMD). PL 2009, c. 366, §12 (AFF). PL 2009, c. 524, §§6, 7 (AMD). PL 2011, c. 389, §§20, 21 (AMD). PL 2011, c. 389, §62 (AFF). PL 2011, c. 558, §2 (AMD). PL 2013, c. 334, §§15, 16 (AMD). IB 2015, c. 1, §§5, 6 (AMD). PL 2015, c. 350, §6 (AMD). PL 2019, c. 323, §§15-17 (AMD). PL 2021, c. 132, §§7-9 (AMD).

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§1014. Publication or distribution of political communications

1. Authorized by candidate. Whenever a person makes an expenditure to finance a communication expressly advocating the election or defeat of a clearly identified candidate through broadcasting stations, cable television systems, newspapers, magazines, campaign signs or other outdoor advertising facilities, publicly accessible sites on the Internet, direct mails or other similar types of general public political advertising or through flyers, handbills, bumper stickers and other nonperiodical publications, the communication, if authorized by a candidate, a candidate's authorized political committee or their agents, must clearly and conspicuously state that the communication has been so authorized and must clearly state the name and address of the person who made or financed the expenditure for the communication. A communication financed by a candidate or the candidate's committee is not required to state the address of the candidate or committee that financed the communication. If a communication that is financed by someone other than the candidate or the candidate's authorized committee is broadcast by radio, only the city and state of the address of the person who financed the communication must be stated.

[PL 2013, c. 494, §1 (AMD).]

2. Not authorized by candidate. If the communication described in subsection 1 is not authorized by a candidate, a candidate's authorized political committee or their agents, the communication must clearly and conspicuously state that the communication is not authorized by any candidate and state the name and address of the person who made or financed the expenditure for the communication, except that a communication broadcast by radio is only required to state the city and state of the address of the person that financed the communication. If the communication is in written form, the communication must contain at the bottom of the communication in print that is no smaller in size than 12-point bold print, Times New Roman font, the words "NOT PAID FOR OR AUTHORIZED BY ANY CANDIDATE."

[PL 2013, c. 362, §2 (AMD).]

2-A. Other communications. Whenever a person makes an expenditure to finance 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 during the period of time from Labor Day to the election day for a general election through the media described in subsection 1, the communication must state the name and address of the person who made or financed the communication and a statement that the communication was or was not authorized by the candidate, except that a communication broadcast by radio is only required to state the city and state of the address of the person that financed the communication. The disclosure is not required if the communication was not made for the purpose of influencing the candidate's nomination for election or election.

[PL 2019, c. 323, §5 (AMD).]

2-B. Top 3 funders; independent expenditures. A communication that is funded by an entity making an independent expenditure as defined in section 1019-B, subsection 1 must conspicuously include the following statement:

"The top 3 funders of (name of entity that made the independent expenditure) are (names of top 3 funders)."

The information required by this subsection may appear simultaneously with any statement required by subsection 2 or 2-A. A communication that contains a visual aspect must include the statement in written text. A communication that does not contain a visual aspect must include an audible statement. This statement is required only for communications made through broadcast or cable television, broadcast radio, Internet audio and video programming, direct mail or newspaper or other periodical publications.

A cable television, broadcast television or Internet video communication must include both an audible and a written statement. For a cable television, broadcast television or Internet video communication 30 seconds or less in duration, the audible statement may be modified to include only the single top funder.

The top funders named in the required statement consist of the funders providing the highest dollar amount of funding to the entity making the independent expenditure since the day following the most recent general election day.

A. For purposes of this subsection, "funder" includes:

(1) Any entity that has made a contribution as defined in section 1052, subsection 3 to the entity making the independent expenditure since the day following the most recent general election day; and

(2) Any entity that has given a gift, subscription, loan, advance or deposit of money or anything of value, including a promise or agreement to provide money or anything of value whether or not legally enforceable, except for transactions in which a fair value is given in return, since the day following the most recent general election day. [IB 2015, c. 1, §3 (NEW).]

B. If funders have given equal amounts, creating a tie in the ranking of the top 3 funders, the tie must be broken by naming the tying funders in chronological order of the receipt of funding until 3 funders are included in the statement. If the chronological order cannot be discerned, the entity making the independent expenditure may choose which of the tying funders to include in the statement. In no case may a communication be required to include the names of more than 3 funders. [IB 2015, c. 1, §3 (NEW).]

C. The statement required under this subsection is not required to include the name of any funder who has provided less than \$1,000 to the entity making the independent expenditure since the day following the most recent general election day. [IB 2015, c. 1, §3 (NEW).]

D. If only one or 2 funders must be included pursuant to this subsection, the communication must identify the number of funders as "top funder" or "top 2 funders" as appropriate. If there are no funders required to be included under this subsection, no statement is required. [IB 2015, c. 1, §3 (NEW).]

E. When compiling the list of top funders, an entity making an independent expenditure may disregard any funds that the entity can show were used for purposes unrelated to the candidate mentioned in the communication on the basis that funds were either spent in the order received or were strictly segregated in other accounts. [IB 2015, c. 1, §3 (NEW).]

F. In any communication consisting of an audio broadcast of 30 seconds or less or a print communication of 20 square inches or less, the requirements of this subsection are satisfied by including the name of the single highest funder only. [IB 2015, c. 1, §3 (NEW).]

G. If the list of funders changes during the period in which a recurring communication is aired or published, the statement appearing in the communication must be updated at the time that any additional payments are made for that communication. [IB 2015, c. 1, §3 (NEW).]

H. The commission may establish by routine technical rule, adopted in accordance with Title 5, chapter 375, subchapter 2-A, forms and procedures for ensuring compliance with this subsection. Rules adopted pursuant to this paragraph must ensure that the information required by this subsection is effectively conveyed for a sufficient duration and in a sufficient font size or screen size where applicable without undue burden on the ability of the entity to make the communication. The rules must also provide an exemption for types of communications for which the required statement would be impossible or impose an unusual hardship due to the unique format or medium of the communication. [IB 2015, c. 1, §3 (NEW).]

[PL 2021, c. 132, §§5, 6 (AMD).]

3. Broadcasting prohibited without disclosure. No person operating a broadcasting station or cable television system within this State may broadcast any communication, as described in subsections 1 to 2-A, without an oral or written visual announcement of the disclosure required by this section.

[PL 2011, c. 389, §11 (AMD).]

3-A. In-kind contributions of printed materials. A candidate, political committee or political action committee shall report on the campaign finance report as a contribution to the candidate, political committee or political action committee any contributions of in-kind printed materials to be used in the support of a candidate or in the support or defeat of a ballot question. Any in-kind contributions of printed materials used or distributed by a candidate, political committee or political action committee must include the name or title of that candidate, political committee or political action committee as the authorizing agent for the printing and distribution of the in-kind contribution.

[PL 2009, c. 190, Pt. A, §3 (AMD).]

3-B. Newspapers. A newspaper may not publish a communication described in subsections 1 to 2-A without including the disclosure required by this section. For purposes of this subsection, "newspaper" includes any printed material intended for general circulation or to be read by the general public, including a version of the newspaper displayed on a website owned or operated by the newspaper. When necessary, a newspaper may seek the advice of the commission regarding whether or not the communication requires the disclosure.

[PL 2007, c. 443, Pt. A, §9 (AMD).]

4. Enforcement. A violation of this section may result in a civil penalty of no more than 100% of the amount of the expenditure in violation, except that an expenditure for yard signs lacking the required information may result in a maximum civil penalty of \$200. In assessing a civil penalty, the commission shall consider, among other things, how widely the communication was disseminated, whether the violation was intentional, whether the violation occurred as the result of an error by a printer or other paid vendor and whether the communication conceals or misrepresents the identity of the person who financed it. If the person who financed the communication or who committed the violation corrects the violation within 10 days after receiving notification of the violation from the commission by adding the missing information to the communication, the commission may decide to assess no civil penalty.

[IB 2015, c. 1, §4 (AMD).]

5. Telephone calls. Prerecorded automated telephone calls and scripted live telephone communications that name a clearly identified candidate during the 28 days, including election day, before a primary election, during the 35 days, including election day, before a special election or during the period of time from Labor Day to the general election day for a general election must clearly state the name of the person who made or financed the expenditure for the communication and whether the communication was authorized by a candidate, except for prerecorded automated telephone calls paid for by the candidate that use the candidate's voice in the telephone call and that are made in support of that candidate. Telephone surveys that meet generally accepted standards for polling research and that are not conducted for the purpose of influencing the voting position of call recipients are not required to include the disclosure.

[PL 2019, c. 323, §6 (AMD).]

6. Exclusions. The requirements of this section do not apply to:

A. Handbills or other literature produced and distributed at a cost not exceeding \$100 and prepared by one or more individuals who are not required to register or file campaign finance reports with the commission and who are acting independently of and without authorization by a candidate, candidate's authorized campaign committee, party committee, political action committee or ballot question committee or an agent of a candidate, candidate's authorized campaign committee, party

committee, political action committee or ballot question committee; [PL 2011, c. 389, §13 (NEW).]

B. Campaign signs produced and distributed at a cost not exceeding \$100, paid for by one or more individuals who are not required to register or file campaign finance reports with the commission and who are acting independently of and without authorization by a candidate, candidate's authorized campaign committee, party committee, political action committee or ballot question committee or an agent of a candidate, candidate's authorized campaign committee, party committee, political action committee or ballot question committee; [PL 2013, c. 494, §2 (AMD).]

C. Internet and e-mail activities costing less than \$100, as excluded by rule of the commission, paid for by one or more individuals who are not required to register or file campaign finance reports with the commission and who are acting independently of and without authorization by a candidate, candidate's authorized campaign committee, party committee, political action committee or ballot question committee or an agent of a candidate, candidate's authorized campaign committee, party committee, political action committee or ballot question committee; [PL 2013, c. 494, §2 (AMD).]

D. Communications in which the name or address of the person who made or authorized the expenditure for the communication would be so small as to be illegible or infeasible, including communications on items such as ashtrays, badges and badge holders, balloons, campaign buttons, clothing, coasters, combs, emery boards, envelopes, erasers, glasses, key rings, letter openers, matchbooks, nail files, noisemakers, paper and plastic cups, pencils, pens, plastic tableware, 12-inch or shorter rulers, swizzle sticks, tickets to fund-raisers and similar items determined by the commission to be too small and unnecessary for the disclosures required by this section and in electronic media advertisements where compliance with this section would be impractical due to size or character limitations; and [PL 2013, c. 494, §3 (NEW).]

E. Campaign signs that are financed by the candidate or candidate's authorized committee and that clearly identify the name of the candidate and are lettered or printed individually by hand. [PL 2013, c. 494, §3 (NEW).]

[PL 2013, c. 494, §§2, 3 (AMD).]

SECTION HISTORY

PL 1985, c. 161, §6 (NEW). PL 1987, c. 188, §17 (AMD). PL 1989, c. 504, §§5,6,31 (AMD). PL 1991, c. 466, §37 (AMD). PL 1991, c. 839, §§8-10 (AMD). PL 1995, c. 483, §6 (AMD). PL 2003, c. 302, §1 (AMD). PL 2003, c. 510, §F1 (AMD). PL 2003, c. 510, §F2 (AFF). PL 2003, c. 599, §15 (AFF). PL 2005, c. 301, §§10-12 (AMD). PL 2005, c. 308, §1 (AMD). PL 2005, c. 542, §1 (AMD). PL 2007, c. 443, Pt. A, §9 (AMD). PL 2009, c. 183, §1 (AMD). PL 2009, c. 190, Pt. A, §§2, 3 (AMD). PL 2009, c. 652, Pt. A, §20 (AMD). PL 2011, c. 360, §1 (AMD). PL 2011, c. 389, §§10-13 (AMD). PL 2013, c. 362, §§1-3 (AMD). PL 2013, c. 494, §§1-3 (AMD). IB 2015, c. 1, §§3, 4 (AMD). PL 2019, c. 323, §§5, 6 (AMD). PL 2021, c. 132, §§5, 6 (AMD).

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