



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

To: Commissioners  
From: Heidi Hoefler, Political Committee & Lobbyist Registrar  
Date: November 5, 2024  
Re: FAM Political Action Committee – Request of Waiver for Late Filing of Report

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The FAM Political Action Committee (the “FAM PAC”) was late in filing a 2-Day Pre-General Independent Expenditure Report (the “IE report”). Although the report was due by 11:59 p.m. on October 13, 2024, it was not filed until October 25, 2024. A “Notice of Late Filing and Preliminary Penalty” was sent to the treasurer, Melissa Smith, on October 29, 2024, who subsequently requested a waiver or reduction of the \$365.40 preliminary penalty.

### **Applicable Law**

*Filing requirements:* A person, party committee, political committee or political action committee that makes any independent expenditure (“IE”) of more than \$250 per candidate must file a report with the Commission according to the reporting schedule the Commission established by rule. 21-A M.R.S. § 1019-B(4)(A). The rule states that from the 60<sup>th</sup> day through the 14<sup>th</sup> day before an election, a report needs to be filed within 2 calendar days of the expenditure. 94-270 C.M.R. Ch. 1 § 10(3)(B)(2).

*Penalties:* If a person is late in filing the report, the amount of the penalty is set by a formula which takes into consideration a percentage of the total contributions or expenditures in the late-filed report, whichever is greater, the number of prior violations within a two-year period that begins on January 1<sup>st</sup> of each even-numbered year, and the number of calendar days the report is late. 21-A M.R.S. § 1020-A(4-A).

The Commission may waive a penalty in whole or in part if the Commission determines that the penalty is disproportionate to the level of experience of the treasurer or the harm suffered by the public from the late disclosure. The Commission may also waive the penalty in whole or in part if it determines the failure to file a timely report was due to mitigating circumstances as defined in the statute. 21-A M.R.S. § 1020-A(2).

### Staff Analysis and Recommendation

The FAM PAC has been registered with the Commission since May 2022. Ms. Smith has been the Treasurer since 2022. The expenditure that triggered the IE report was made on October 11th, which required that an IE report be filed no later than 11:59 p.m. on October 13<sup>th</sup>; however, it was not filed until October 25<sup>th</sup>, which was 12 days after the deadline for filing.

Based on the statutory formula for calculating late-filing penalties, the preliminary penalty amount was calculated as follows:

<b>Report Name</b>	<b>Activity Amount</b>	<b>Due Date</b>	<b>Days Late</b>	<b>Penalty Rate</b>	<b>Preliminary Penalty</b>
2-Day Pre-General IE	\$1,522.69	10/13/2024	12	2%	\$365.40

In her request for a waiver or reduction of the penalty, Ms. Smith stated that the late filing was an honest error. She explained that on October 22<sup>nd</sup> when preparing the 11-day Pre-General Report due on October 25<sup>th</sup>, she needed to reach out to Commission staff for clarification on how to determine the cost per candidate of the expenditure for a group of mailers sent on October 11th. After applying the guidance received from staff later that day, Ms. Smith realized that some of the expenditures for several candidates were in excess of the \$250 reporting threshold. Promptly after realizing her mistake, Ms. Smith filed the IE report on October 25<sup>th</sup>.

When considering whether to waive or reduce the penalty, factors the Commission may want to consider to determine whether mitigating circumstances exist include:

- Ms. Smith has at least 2 years of experience as Treasurer of this PAC and is familiar with campaign finance reports and the related deadlines;
- Ms. Smith’s acknowledgement of her mistake and willingness to take accountability; and
- Ms. Smith’s prompt filing of the IE report after discovering she needed to file the report.

As shown in the attached table which shows previous Commission decisions on waiver requests related to penalties for late filings by PACs, the Commission has reduced, but not eliminated, the preliminary penalty. In this case, the preliminary penalty of \$365.40 is less than the usual penalty assessed when a PAC files a campaign finance report late. Given the factors in this case and the amount of the preliminary penalty, Commission staff recommends finding the late filing violated the reporting requirements in 94-270 C.M.R. Ch. 1 § 10(3)(B)(2) and no reduction of the penalty.



*Solidarity, not charity*

FAM Political Action Committee  
20 Ivers Street, Brewer, ME 04412  
foodandmedicine.org  
207.989.5860

October 31, 2024

Heidi Hoefler  
Maine Ethics Commission  
135 State House Station  
Augusta, ME 04333-0135

Re: Notice of Late Filing of 2-Day Pre-General Independent Expenditure Report and Preliminary Penalty

Dear Ms. Hoefler,

I'm writing to request that the Commission waive or reduce the penalty assessed in the notice dated October 29, 2024 to FAM Political Action Committee (FAM PAC). The late filing was an honest error on my part; the Independent Expenditure (IE) amounts were small and I believe the harm to the public is minimal or nonexistent.

I have been making every effort to file our reports accurately and timely. On 10/22, in preparation for the upcoming report due on 10/25, I emailed a question about how to determine the cost per candidate for a group of mailers that we sent on 10/11. It was then that I discovered that due to the number of mailers (by HD) that had overlapping Senate candidates and one County Commissioner candidate, a few of the expenditures ended up in excess of \$250 when combined. Once entered into the system, the IE Report became active in our Reports to File, already late; it was immediately filed once discovered. Because I was originally under the impression that our expenditures per candidate were below the IE threshold, I did not file the expenditures within the 2 day requirement, resulting in the late filing.

I take the responsibility of filing these reports very seriously. I ask a lot of questions, and do so in writing so as not to have any misunderstandings, and so we can refer back to them if needed. We are a small PAC and infrequently have any expenses that qualify as IEs. All of our efforts canvassing, literature and mailers are simply informative on our endorsed candidates and speak to our values, as well as voting information. A sample of our Bangor mailer is attached. For this reason, we believe that the harm to the public for this late filing is minimal, if any.

I respectfully request that you and the Commission consider waiving or reducing the penalty, and assure you that we will continue to do everything possible to ensure this does not happen again.

Respectfully,

*Melissa Smith*  
Melissa Smith  
FAM PAC Treasurer



Eastern Maine  
Labor Council  
AFL-CIO

**VOTE ON OR BEFORE  
NOV 5, 2024**

**TURN OVER  
FOR OUR  
ENDORSEMENTS**



**MAINE.GOV  
VOTER INFO**

## **ABSENTEE BALLOTS**

Order absentee ballots now through Oct 31 in person at the City Clerk's office or call 992-4200; or at the Cross Insurance Center from Oct 28-31, 8am-6pm. Read and follow instructions carefully to ensure your ballot is counted. Return your ballot in person by 8pm on Nov 5. Mailed ballots must be RECEIVED by 8pm on Nov 5, so mail your ballot early to allow time for mail processing and delivery.

## **VOTE IN PERSON**

All in-person voting for the City of Bangor occurs at the Cross Insurance Center, 515 Main Street. On Nov 5, polls are open 7am to 8pm; if you are in line at 8pm you can vote. The Community Connector buses are FREE on Election Day, and will bring voters to the polls.

## **LEARN MORE**

If you have any questions about voting in Bangor, call the City Clerk at 207-992-4200. Learn more about Food AND Medicine by visiting our website [foodandmedicine.org](https://foodandmedicine.org) or call 207-989-5860 or email [FAM@foodandmedicine.org](mailto:FAM@foodandmedicine.org)



Food AND Medicine and the Eastern Maine Labor Council proudly endorse and encourage you to vote for these candidates who support our values:

- ***Kamala Harris & Tim Walz*** for President and Vice President of the United States
- ***Jared Golden*** for Maine's 2nd US Congressional District
- ***Joe Baldacci\**** for Maine Senate District 9
- ***Laura Supica*** for Maine House District 22
- ***Dan Tremble*** for Penobscot County Commissioner
- ***Mike Beck*** for Bangor City Council

\*Baldacci only endorsed by Food AND Medicine

## **WHY DO WE ENDORSE?**

*Food AND Medicine and the Eastern Maine Labor Council actively support public officials that support strong unions, worker rights, public transportation, access to healthy food, healthcare as a right, a strong social safety net, and racial equity. Go to our website for a full list of our endorsements: <https://foodandmedicine.org/political>.*

Paid for by FAM Political Action Committee, 20 Ivers Street, Brewer ME 04412.  
The top 3 funders of FAM Political Action Committee are  
Maine Votes, Rebuild Maine and Movement Voter Project  
**Not paid for or endorsed by any candidate.**



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

**Sent via Email and US Mail**

October 29, 2024

Melissa Smith, Treasurer  
FAM Political Action Committee  
20 Ivers Street  
Brewer, ME 04412

Re: Notice of Late Filing of 2-Day Pre-General Independent Expenditure Report and Preliminary Penalty

Dear Ms. Smith:

The Commission on Governmental Ethics and Election Practices (the "Commission") staff finds that the FAM Political Action Committee (the "committee") was late in filing its 11-Day Pre-General Independent Expenditure Report (the "report"). Although the report was due by 11:59 p.m. on October 13, 2024, it was not filed until October 25, 2024.

Per 21-A M.R.S § 1020-A, the late filing of the report triggers an enforcement process. Based on the amount of financial activity in the report, the number of calendar days the report was late, and any history of violations by the committee, the Commission staff determined the penalty for this violation is \$365.40 (see calculation matrix on next page). Please note that if between the date of this notice and December 31, 2025, the committee files another report that is late, the penalty percentage increases from 2% to 4%.

If you disagree with this finding and the related preliminary penalty, the committee may make a written request that the Commission waive the penalty in whole or in part (an "appeal"). Any request for a waiver must be made within 14 calendar days of your receipt of this notice. The appeal request must be in writing and contain a full explanation of the reasons the committee filed late. Upon receiving your request for an appeal, the Commission staff will schedule the hearing of your appeal for an upcoming Commission meeting.

The Commission may waive the penalty if it determines the report was late due to mitigating circumstances, which are defined as: (1) a valid emergency; (2) an error made by the Commission staff; or (3) relevant evidence the committee made a bona fide effort to file the report on time. Also, the Commission may waive the penalty if it is disproportionate to the level of experience of the person filing the report or the harm suffered by the public from the late disclosure.

Please see below for instructions on how to pay the penalty.

Sincerely,

A handwritten signature in blue ink that reads "Heidi Hoefler" with a long horizontal line extending to the right.

Heidi Hoefler  
Political Committee & Lobbyist Registrar

**Committee Name:** FAM Political Action Committee  
**Prior Violations:** 0

<b>Report Name</b>	<b>Activity Amount</b>	<b>Due Date</b>	<b>Days Late</b>	<b>Penalty Rate</b>	<b>Penalty</b>
2024 2-Day Pre-General IE	\$1522.69	10/13/2024	12	2%	\$365.40

The penalty for late filing of a required report is a percentage of the total contributions or expenditures for the filing period, whichever is greater, multiplied by the number of calendar days the report is filed late, as follows:

- For the first violation, 2%
- For the second violation, 4%
- For the third and each subsequent violation, 6%

**A penalty begins to accrue at 11:59 p.m. on the day the report is due.**

As noted above, violations accumulate on reports filed late in the 2-year period that begins on January 1st of each even-numbered year. The waiver of a penalty does not nullify the finding of a violation for the purpose of calculating a future penalty during that time period.

To make a payment, either mail a check payable to "Treasurer, State of Maine" to us at the address above or pay online at [www.maine.gov/ethics](http://www.maine.gov/ethics) by selecting the "Penalty Payment" button at the bottom right of the screen.



Commission on Governmental Ethics and Election Practices  
Mail: 135 State House Station, Augusta, Maine 04333  
Office: 45 Memorial Circle, Augusta, Maine  
Website: [www.maine.gov/ethics](http://www.maine.gov/ethics)  
Phone: 207-287-4179  
Fax: 207-287-6775

## 2024 INDEPENDENT EXPENDITURE REPORT

COMMITTEE		TREASURER	
FAM Political Action Committee 20 Ivers Street Brewer, ME 04412 PHONE: (207) 989-5860 EMAIL: <a href="mailto:fampac@foodandmedicine.org">fampac@foodandmedicine.org</a>		Melissa Smith 20 Ivers Street Brewer, ME 04412 PHONE:(207) 989-5860 EMAIL: <a href="mailto:melissa@foodandmedicine.org">melissa@foodandmedicine.org</a>	
REPORT	DUE DATE	REPORTING PERIOD	
2-Day Pre-General Independent Expenditure Report	10/13/2024	10/11/2024-10/11/2024	

### FINANCIAL ACTIVITY SUMMARY

EXPENDITURES	
Total independent expenditures greater than \$250 per candidate	\$1,522.69
Total independent expenditures of \$250 or less per candidate	\$0.00
Total independent expenditures for all candidates	\$1,522.69

### AFFIRMATION

I, Melissa Smith affirm that each of the expenditures listed in this report was made independently of, and not in cooperation, consultation, or concert with, or at the request of suggestion of, the candidate(s) named or in a race affected by any expenditure in the report, the political committee of the candidate(s), or their agents.

Unsworn falsification is a Class D crime. 17-A M.R.S. § 453

REPORT FILED BY: Melissa Smith  
REPORT FILED ON: 10/25/2024 4:37:44 PM  
LAST MODIFIED:  
COMMITTEE ID: 438237  
REPORT NUMBER: 35887

**SCHEDULE B-IE-1  
CANDIDATE(S) SUPPORTED/OPOSED**

<b>Expenditure Date</b>	<b>Support / Oppose</b>	<b>Candidate Name</b>	<b>Office</b>	<b>District / County</b>	<b>Payee</b>	<b>Expenditure Amount</b>
10/11/2024	SUPPORT	Michael Tipping	Senator	8	Print Bangor	\$460.61
10/11/2024	SUPPORT	Hon. Joseph M Baldacci	Senator	9	Print Bangor	\$342.95
10/11/2024	SUPPORT	Michele LaBree Daniels	Senator	10	Print Bangor	\$376.18
10/11/2024	SUPPORT	Mr. Daniel James Tremble	County Commissioner	District 1	Print Bangor	\$342.95
<b>Total itemized independent expenditures greater than \$250 per candidate</b>						\$1,522.69
<b>Total unitemized independent expenditures of \$250 or less per candidate</b>						\$0.00
<b>Total independent expenditures for all candidates</b>						\$1,522.69

**SCHEDULE B-IE-2  
EXPENDITURES**

EXPENDITURE TYPES				
APP	Apparel (t-shirts, hats, embroidery, etc.)	CON	Contribution to party committee, non-profit, other candidate, etc.	
EQP	Equipment of \$50 or more (computer, tablet, phone, furniture, etc.)	EVT	Campaign and fundraising events (venue or booth rental, entertainment, supplies, etc.)	
FOD	Food for campaign events or volunteers, catering	HRD	Hardware and small tools (hammer, nails, lumber, paint, etc.)	
LIT	Printed campaign materials (palmcards, signs, stickers, flyers, etc.)	MHS	Mail house and direct mail (design, printing, mailing, and postage all included)	
NEW	Newspaper and print media ads only	OFF	Office supplies, rent, utilities, internet service, phone minutes and data	
ONL	Social media and online advertising only	OTH	Other and fees (bank, contribution, and money order fees, etc.)	
PER	Personnel and campaign staff, consulting, and independent contractor costs	PHO	Phones (phone banking, robocalls and texts)	
POL	Polling and survey research	POS	Postage for U.S. Mail and mail box fees	
PRO	Professional services (graphic design, legal services, web design, etc.)	RAD	Radio ads, production costs	
TKT	Entrance cost to event (bean suppers, fairs, party events, etc.)	TRV	Travel (fuel, mileage, lodging, etc.)	
TVN	TV/cable ads, production, and media buyer costs only	WEB	Website and internet costs (website domain and registration, etc.)	
Date of expenditure	Payee	Remark	Expenditure type	Net Amount
10/11/2024	Print Bangor 80 Central Street Bangor, ME, 04401	Mailers in support of endorsed candidates, multiple districts, multiple candidates.	MHS	\$1,522.69
			<b>Total Expenditure</b>	<b>\$1,522.69</b>

### Commission Penalty Decisions on Late Filings by PACs (2018 - Present)

Committee Name	Requested Waivers of Late-Filing Penalties	Preliminary Penalty	Final Penalty	Commission Meeting Date
Women's Leadership Fund PAC	Late IE Report	\$100.00	\$50.00	08/11/20
Women's Leadership Fund PAC	Late IE Report	\$100.00	\$50.00	08/11/20
Maine Truck PAC	Late 24-Hour Report	\$2,203.08	\$500.00	10/16/20
Revive Hometown Maine PAC	Late October Quarterly	\$510.00	\$250.00	10/30/20
Mainers for Health and Parental Rights	Late 24-Hour Report	\$980.00	\$750.00	01/27/21
Energy PAC for Maine	Late 24-Hour Report	\$8,840.00	\$750.00	03/31/21
Protect Maine Elections	Late Initial Report	\$1,004.00	\$750.00	10/29/21
Mainers for Local Power PAC	Late 24-Hour Report	\$300,000.00	\$25,000.00	02/28/22
Mainers for Local Power PAC	Late 24-Hour Report	\$98,500.00	\$10,000.00	02/28/22
American Leadership Committee-Maine PAC	Late IE report Oct. Quarterly Report	\$679.88	\$679.88	11/30/22
Planned Parenthood Maine Action Fund	Late IE report	\$2,433.60	\$750.00	11/30/22
We the People PAC	Late IE report	\$5,000.00	\$1,000.00	11/30/22
We the People PAC	Late IE report	\$99.96	\$99.96	11/30/22
Maine AFL-CIO Committee on Political Education PAC	Late 24-Hour Report	\$4,860.00	\$750.00	02/28/23
Maine United Auto Workers Council PAC	Two Late 24-Hour Reports	\$4,900.00	\$1,000.00	02/28/23
American Leadership Committee-Maine PAC	Late 42-Day Post-General Report	\$55,654.00	\$2,500.00	05/31/23
We the People PAC	Late 11 day Pre-special election report	\$1,147.50	\$400.00	08/23/23
Star City PAC	Late 11 day Pre-special election report	\$370.50	\$150.00	08/23/23
Friends of Maine Hospitals PAC	Late 24-Hour Report	\$900.00	\$500.00	09/25/24
Local 349 PAC Fund	Substantially non-compliant 42-Day Post-Primary Report	\$1,369.00	\$500.00	09/25/24
Maine Labor Climate PAC	Late 60-Day Pre-General IE Report	\$534.44	\$400.00	09/25/24
Bright Future Maine PAC	Late 2-Day Pre-Primary IE	\$6,411.30	\$375.00	09/25/24

## 21-A M.R.S. § 1019-B. Reports of independent expenditures

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**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

**B.** Unless the person, party committee or political action committee making the expenditure demonstrates under subsection 2 that the expenditure did not have a purpose or effect of influencing 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.

**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 a purpose of influencing 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. The commission shall determine by a preponderance of the evidence whether the cost was incurred with a purpose of, or had the effect of, influencing the nomination, election or defeat of a candidate. In order to make this determination, the commission shall consider whether the language and other elements of the communication would lead a reasonable person to conclude that the communication had a purpose of, or had the effect of, influencing an election. The commission may consider other factors, including, but not limited to, the timing of the communication, the recipients of the communication or, if the communication is a digital communication, any links to publicly accessible websites related to the nomination, election or defeat of a candidate. The commission’s executive director shall make an initial determination on the request, which must be posted on the commission’s publicly accessible website. Any person may appeal the initial determination, which must be considered by the commission at the next public meeting that is feasible.

**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.

**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 unsworn falsification, as provided in Title 17-A, section 453, a statement 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.

**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 adopts an exception for persons who lack access to the required technology or the technological ability to file reports electronically.

**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;
- 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
- D.** A voter guide that consists primarily of candidates' responses to surveys and questionnaires and that contains no advocacy for or against any candidate.

## **21-A M.R.S. § 1020-A. Failure to file on time**

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**1. Registration.** A candidate that fails to register the name of a candidate, treasurer or political committee with the commission within the time allowed by section 1013-A, subsection 1 may be assessed a forfeiture of \$100. The commission shall determine whether a registration satisfies the requirements for timely filing under section 1013-A, subsection 1.

**2. Campaign finance reports.** A campaign finance report is not timely filed unless a properly signed or electronically submitted copy of the report, substantially conforming to the disclosure requirements of this subchapter, is received by the commission by 11:59 p.m. on the date it is due. Except as provided in subsection 7, the commission shall determine whether a report satisfies the requirements for timely filing. The commission may waive a penalty in whole or in part if the commission determines that the penalty is disproportionate to the size of the candidate's campaign, the level of experience of the candidate, treasurer or campaign staff or the harm suffered by the public from the late disclosure. The commission may waive the penalty in whole or in part if the commission determines the failure to file a timely report was due to mitigating circumstances. For purposes of this section, "mitigating circumstances" means:

- A.** A valid emergency determined by the commission, in the interest of the sound administration of justice, to warrant the waiver of the penalty in whole or in part;
- B.** An error by the commission staff;
- C.** Failure to receive notice of the filing deadline; or
- D.** Other circumstances determined by the commission that warrant mitigation of the penalty, based upon relevant evidence presented that a bona fide effort was made to file the report in accordance with the statutory requirements, including, but not limited to, unexplained delays in postal service or interruptions in Internet service.

**3. Municipal campaign finance reports.** Municipal campaign finance reports must be filed, subject to all the provisions of this subchapter, with the municipal clerk on forms prescribed by the Commission on Governmental Ethics and Election Practices. The municipal clerk shall send any notice of lateness required by subsection 6 and shall notify the commission of any late reports subject to a penalty.

**4. Basis for penalties.** [MRSA T. 21-A §1020-A, sub-§4 (RP).]

**4-A. Basis for penalties.** The penalty for late filing of a report required under this subchapter is a percentage of the total contributions or expenditures for the filing period, whichever is greater, multiplied by the number of calendar days late, as follows:

- A.** For the first violation, 2%;

**B.** For the 2nd violation, 4%; and

**C.** For the 3rd and subsequent violations, 6%.

Any penalty of less than \$25 is waived.

Violations accumulate on reports with filing deadlines in a 2-year period that begins on January 1st of each even-numbered year. Waiver of a penalty does not nullify the finding of a violation.

A report required to be filed under this subchapter that is sent by certified or registered United States mail and postmarked at least 2 days before the deadline is not subject to penalty.

**5. Maximum penalties.** [MRSA T. 21-A §1020-A, sub-§5 (RP).]

**5-A. Maximum penalties.** Penalties assessed under this subchapter may not exceed:

**A.** Five thousand dollars for reports required under section 1017, subsection 2, paragraph B, C, D, E or H; section 1017, subsection 3-A, paragraph B, C, D, D-1 or F; and section 1017, subsection 4, except that if the dollar amount of the financial activity that was not timely filed or did not substantially conform to the reporting requirements of this subchapter exceeds \$50,000, the maximum penalty is 100% of the dollar amount of that financial activity;

**A-1.** Five thousand dollars for reports required under section 1019-B, subsection 4, except that if the dollar amount of the financial activity that was not timely filed or did not substantially conform to the reporting requirements of this subchapter exceeds \$50,000, the maximum penalty is 100% of the dollar amount of that financial activity;

**B.** Five thousand dollars for state party committee reports required under section 1017-A, subsection 4-A, paragraphs A, B, C and E, except that if the dollar amount of the financial activity that was not timely filed or did not substantially conform to the reporting requirements of this subchapter exceeds \$50,000, the maximum penalty is 100% of the dollar amount of that financial activity;

**C.** One thousand dollars for reports required under section 1017, subsection 2, paragraphs A and F and section 1017, subsection 3-A, paragraphs A and E; or

**D.** Five hundred dollars for municipal, district and county committees for reports required under section 1017-A, subsection 4-B.

**E.** [PL 2011, c. 558, §5 (RP).]

**6. Request for a commission determination.** If the commission staff finds that a candidate or political committee has failed to file a report required under this subchapter, the commission staff shall mail a notice to the candidate or political committee within 3 business days following the filing deadline informing the candidate or political committee that a report was not received. If a candidate or a political committee files a report required under this subchapter late, a notice of preliminary penalty must be sent to the candidate or political committee whose registration or campaign finance report was not received by 11:59 p.m. on the deadline date, informing the candidate or political committee of the staff finding of violation and preliminary penalty calculated under subsection 4-A and providing the candidate or political committee with an opportunity to request a determination by the commission. Any request for a determination must be made within 14 calendar days of receipt of the commission's notice. A candidate or political committee requesting a determination may either appear in person or designate a representative to appear on the candidate's or political committee's behalf or submit a sworn statement explaining the mitigating circumstances for consideration by the commission. A final determination by the commission may be appealed to the Superior Court in accordance with Title 5, chapter 375, subchapter 7 and the Maine Rules of Civil Procedure, Rule 80C.

**7. Final notice of penalty.** If a determination has been requested by the candidate or political committee and made by the commission, notice of the commission's final determination and the penalty, if any, imposed pursuant to this subchapter must be sent to the candidate and the political committee.

If a determination is not requested, the preliminary penalty calculated by the commission staff is final. The commission staff shall mail final notice of the penalty to the candidate and treasurer. A detailed summary of all notices must be provided to the commission.

**8. Failure to file report.** The commission shall notify a candidate who has failed to file a report required by this subchapter, in writing, informing the candidate of the requirement to file a report. The notice must be sent by certified mail. If a candidate fails to file a report after 2 notices have been sent by the commission, the commission shall send a final notice by certified mail informing the candidate of the requirement to file and that the matter may be referred to the Attorney General for criminal prosecution. A candidate who fails to file a report as required by this subchapter after the commission has sent the notices required by this subsection is guilty of a Class E crime.

**8-A. Penalties for failure to file report.** The penalty for failure to file a report required under this subchapter may not exceed the maximum penalties as provided in subsection 5-A.

**9. List of late-filing candidates.** The commission shall prepare a list of the names of candidates who are late in filing a report required under section 1017, subsection 2, paragraph C or D or section 1017, subsection 3-A, paragraph B or C within 30 days of the date of the election and shall make that list available for public inspection.

**10. Enforcement.** A penalty assessed pursuant to this section that has not been paid in full within 30 days after issuance of a notice of the final determination may be enforced in accordance with section 1004-B.

## ETHICS COMMISSON RULES, 94-270 C.M.R. ch. 1, § 1(10)

### SECTION 10. REPORTS OF INDEPENDENT EXPENDITURES

1. **General.** Any person, party committee, political committee or political action committee that makes any independent expenditure in excess of \$250 per candidate in an election must file a report with the Commission according to this section.
2. **Definitions.** For purposes of this section, the following phrases are defined as follows:
  - A. "Clearly identified," with respect to a candidate, has the same meaning as in Title 21-A, chapter 13, subchapter II.
  - B. "Expressly advocate" means any communication that
    - (1) uses phrases such as "vote for the Governor," "reelect your Representative," "support the Democratic nominee," "cast your ballot for the Republican challenger for Senate District 1," "Jones for House of Representatives," "Jean Smith in 2002," "vote Pro-Life" or "vote Pro-Choice" accompanied by a listing of clearly identified candidates described as Pro-Life or Pro-Choice, "vote against Old Woody," "defeat" accompanied by a picture of one or more candidate(s), "reject the incumbent," or communications of campaign slogan(s) or individual word(s), which in context can have no other reasonable meaning than to urge the election or defeat of one or more clearly identified candidate(s), such as posters, bumper stickers, advertisements, etc. which say "Pick Berry," "Harris in 2000," "Murphy/Stevens" or "Canavan!"; or
    - (2) is susceptible of no reasonable interpretation other than as an appeal to vote for or against a clearly identified candidate.
  - C. "Independent expenditure" has the same meaning as in Title 21-A §1019-B. Any expenditure made by any person in cooperation, consultation or concert with, or at the request or suggestion of, a candidate, a candidate's political committee or their agents is considered to be a contribution to that candidate and is not an independent expenditure.
3. **Reporting Schedules.** Independent expenditures in excess of \$250 per candidate per election made by any person, party committee, political committee or political action committee must be reported to the Commission in accordance with the following schedule:
  - A. *[Repealed]*
  - B. *[Repealed]*
    - (1) **60-Day Pre-Election Report.** A report must be filed by 11:59 p.m. on the 60th day before the election is held and be complete as of the 61st day before the election.
    - (2) **Two-Day Report.** From the 60<sup>th</sup> day through the 14<sup>th</sup> day before an election, a report must be filed within two calendar days of the expenditure.
    - (3) **One-Day Report.** After the 14<sup>th</sup> day before an election, a report must be filed within one calendar day of the expenditure.

For purposes of the filing deadlines in this paragraph, if the expenditure relates to a legislative or gubernatorial election and the filing deadline occurs on a weekend, holiday,

or state government shutdown day, the report must be filed on the deadline. If the expenditure relates to a county or municipal election, the report may be filed on the next regular business day.

- C. Reports must contain information as required by Title 21-A, chapter 13, subchapter II (§§ 1016-1017-A), and must clearly identify the candidate and indicate whether the expenditure was made in support of or in opposition to the candidate.
- D. A separate 24-Hour Report is not required for expenditures reported in an independent expenditure report.

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