

94-270 COMMISSION ON GOVERNMENTAL ETHICS AND ELECTION PRACTICES

Chapter 1: PROCEDURES

SUMMARY: This Chapter describes the nature and operation of the Commission, and establishes procedures by which the Commission's actions will be governed.

SECTION 1. DEFINITIONS

In addition to the definitions provided in Title 21-A, chapters 1, 13, and 14, the following definitions shall apply to the rules of the Commission, unless the context otherwise requires:

1. **Act.** "Act" means the *Maine Clean Election Act*, Title 21-A, chapter 14.
2. **Association.** "Association" means a group of two or more persons, who are not all members of the same immediate family, acting in concert.
3. **Campaign Deficit.** "Campaign deficit" means debts, liabilities, and unmet financial obligations from all previous campaigns as reported to the Commission on campaign termination report forms required by 21-A M.R.S. § 1017(9).
4. **Campaign Surplus.** "Campaign surplus" means money, equipment, property and other items of value remaining after retiring previous campaign deficit as reported to the Commission on campaign termination report forms required by 21-A M.R.S. § 1017(9).
5. **Candidate.** "Candidate" has the same meaning as in 21-A M.R.S. § 1(5) and includes individuals running for office as a write-in candidate.

INFORMATIONAL NOTE: All contributions made after the day of the general election to a candidate who has liquidated all debts and liabilities associated with that election are deemed to be made in support of the candidate's candidacy for a subsequent election, pursuant to section 4.2.A(5)(e) of this rule. A candidate who collects funds subsequent to an election for purposes other than retiring campaign debt is required to register with the Commission. 21-A M.R.S. § 1013-A.

6. **Certified Candidate.** "Certified candidate" has the same meaning as in 21-A M.R.S. § 1122(1).
7. **Commission.** "Commission" means the Commission on Governmental Ethics and Election Practices established by 5 M.R.S. § 12004-G(33), and 1 M.R.S. §§ 1001 *et seq.*
8. **Contribution.** "Contribution" has the same meaning as in 21-A M.R.S. § 1012(2).
9. **Election.** "Election" means any primary, general or special election for Governor, State Senator or State Representative. The period of a primary election begins on the day a person becomes a candidate as defined in 21-A M.R.S. § 1(5) and ends on the date of the primary election. The period of a general election begins on the day following the previous primary election and ends on the date of the general election. The period of a

special election begins on the date of proclamation of the special election and ends on the date of the special election.

10. **Expenditure.** “Expenditure” has the same meaning as in 21-A M.R.S. § 1012(3).
11. **Fund.** “Fund” means the Maine Clean Election Fund established by 21-A M.R.S. § 1124.
- 11-A. **Influence.** “Influence” means to promote, support, oppose or defeat.
12. **In-Kind Contribution.** “In-kind contribution” means any gift, subscription, loan, advance or deposit of anything of value other than money made for the purpose of influencing the nomination or election of any person to political office or for the initiation, support or defeat of a ballot question.
13. **Member.** A “member” of a membership organization includes all persons who currently satisfy the requirements for membership in the membership organization, have affirmatively accepted the membership organization’s invitation to become a member, and either:
 - A. pay membership dues at least annually, of a specific amount predetermined by the membership organization; or
 - B. have some other significant financial attachment to the membership organization, such as significant investment or ownership stake in the organization; or
 - C. have a significant organizational attachment to the membership organization that includes direct participatory rights in the governance of the organization, such as the right to vote on the organization’s board, budget, or policies.

Members of a local union are considered to be members of any national or international union of which the local union is a part, of any federation with which the local, national, or international union is affiliated, and of any other unions which are members or affiliates of the federation. Other persons who have an enduring financial or organizational attachment to the membership organization are also members, including retired members or persons who pay reduced dues or other fees regularly to the membership organization.
14. **Nonparticipating Candidate.** “Nonparticipating candidate” has the same meaning as in 21-A M.R.S. § 1122(5).
15. **Participating Candidate.** “Participating candidate” has the same meaning as in 21-A M.R.S. § 1122(6).
- 15-A. **Public Communication.** “Public communication” has the same meaning as in 21-A M.R.S. § 1001(4).
16. **Qualifying Contribution.** “Qualifying Contribution” has the same meaning as in 21-A M.R.S. § 1122(7).

17. **Qualifying Period.** “Qualifying period” has the same meaning as 21-A M.R.S. § 1122(8), except that for special elections, vacancies, withdrawals, deaths, disqualifications or replacements of candidates, the qualifying period shall be the period specified under 21-A M.R.S. § 1125(11-A) and Chapter 3, § 9(2) of these rules.
18. **Seed Money Contribution.** “Seed money contribution” has the same meaning as in 21-A M.R.S. § 1122(9).
19. **Write-In Candidate.** “Write-in candidate” means a person whose name does not appear on the ballot under the office designation to which a voter may wish to elect the candidate and who has filed a declaration to be a write-in candidate pursuant to 21-A M.R.S. § 722-A.

SECTION 2. ORGANIZATION

1. **Commission.** The Commission on Governmental Ethics and Election Practices is an independent agency of the State, consisting of five (5) members appointed by the Governor, subject to review by the joint standing committee of the Legislature having jurisdiction over legal affairs and confirmation by the Legislature in accordance with 1 M.R.S. § 1002(1). The Commission members will elect one member to serve as Chair. Except for the Chair, the members of the Commission have no individual authority.
2. **Office**
 - A. The Commission employs such staff as may be authorized by the Legislature. A Director supervises the staff and is responsible for all day-to-day operations. In the interim between Commission meetings, the Director reports to the Chair, who acts on behalf of the Commission on certain administrative matters. The Commission’s offices are located at 45 Memorial Circle in Augusta, where any filing or written submission may be made between the hours of 8 a.m. and 5 p.m. on any day when state government offices are open, except that filings by facsimile or electronic means, where otherwise permitted by statute or rule, may be transmitted at any time. The office has a mailing address of 135 State House Station, Augusta, Maine 04333.
 - B. All records of the Commission are maintained in these offices, where they are available for inspection or copying, except as particular records are made confidential by law. The cost of copying Commission documents is set by the Director of the Commission, subject to reasonable limitations and approval of the Commission.
 - C. During any period when the position of Director is vacant, the Chair of the Commission will appoint an acting Director.

SECTION 3. MEETINGS

1. **Regular Meetings.** The Commission shall meet at least once each month in any year in which primary and general elections are held. The Commission’s Director shall circulate proposed meeting dates to the Commission for its approval.

2. **Special Meetings.** The Commission may meet at any time at the call of the Secretary of State, the President of the Senate, the Speaker of the House of Representatives, the Chair of the Commission, or a majority of its members. Each member of the Commission must have at least 24 hours notice of the time, place and purpose of the meeting in writing unless written notice is not possible. In such case, notice must be given by the staff by phone, fax, e-mail or other means available. Each Commissioner may notify the staff of his or her preference for notifications.
3. **Agenda.** The Director will prepare a written agenda for each meeting of the Commission. The agenda will contain items of business to be considered, staff findings and recommendations, and will include the date, time and location of the meeting. The agenda must be mailed to each Commissioner at least 7 days before the meeting unless a different schedule is approved by the Chair who shall provide notice to the Commissioners of the change and the reasons therefore.
4. **Notice.** In addition to the public notice required by the public meetings law, 1 M.R.S. § 406, notice of Commission meetings shall be given to those directly involved in a matter pending before the Commission, as follows:
 - A. **Legislative Ethics.** When a properly filed request or referral is made for an advisory opinion on a question of legislative ethics, notice that the matter has been placed on the agenda for a Commission meeting will be given by mail to the Legislator whose circumstances or conduct is at issue, or to the Presiding Officer of either House referring the inquiry. When a complaint alleging a violation of the laws on legislative ethics is filed, the Legislator will be informed promptly of the nature of the allegations and the existence of any investigation by the Commission. Notice that the matter has been placed on the agenda for a Commission hearing will be given by regular and electronic mail to both the Legislator and the complainant not less than 10 days before the date set for a hearing.
 - B. **Campaign Reports and Finances Law; Lobbyist Disclosure Law.** Notice of the Commission's consideration of any noncompliance with the requirements of the *Campaign Reports and Finances Law*, the *Maine Clean Election Act*, or *Lobbyist Disclosure Law* will be provided to any person or organization alleged to have committed a violation and to any person who has officially requested a Commission investigation or determination, except that notice of the Commission's consideration of issuing subpoenas to conduct an investigation need not be given.
 - C. **Contents of Notice**
 - (1) The notice will include the date, time, and location of the Commission meeting. If mail notice of a meeting is not feasible, the staff will make best efforts to give oral notice to Commission members or to those entitled to notice under this provision.
5. **Public Meetings.** All meetings, hearings or sessions of the Commission will be open to the general public unless, by an affirmative vote of at least 3 members, the Commission requires the exclusion of the public, pursuant to 1 M.R.S. §§ 1005 or 1013(3).

6. **Quorum.** Every decision of the Commission must be made at a meeting at which at least 3 members of the Commission participate and vote. When it is impossible or impractical for a member of the Commission to travel to Augusta to attend a meeting in person, the member may participate remotely consistent with the Commission's policy on remote participation. Members who participate remotely will be considered part of the quorum.
7. **Minutes**
 - A. The Director will prepare minutes of each business meeting of the Commission. These minutes will be the official record of Commission meetings, and will accurately record all matters considered.
 - B. The minutes will record any executive session of the Commission and its subject matter, but will not report the proceedings of the executive session. Likewise, minutes will not be taken of any public hearing held by the Commission, since hearings are separately recorded.

SECTION 4. INITIATION OF PROCEEDINGS

1. **Legislative Ethics.** The Commission is authorized to investigate and make advisory recommendations to either House of the Maine Legislature concerning legislative conflicts of interest or any breach of the legislative ethics set forth in 1 M.R.S. §§ 1001-1023. The Commission's opinion may be sought by three methods, or the Commission may act on its own motion.
 - A. **Legislator's Own Conduct**
 - (1) A Legislator seeking an advisory opinion with respect to his or her own circumstances or conduct should make a written request for an opinion, setting forth the pertinent facts with respect to the legislative matter at issue and the circumstances of the Legislator giving rise to the inquiry.
 - (2) The request will be officially filed only when received at the offices of the Commission. The Director will promptly send a copy of the request to the Chair, and the matter will be placed on the agenda for the next Commission meeting, or if necessary, at a special meeting.
 - (3) An oral request by a Legislator for an opinion with respect to his or her own circumstances will not be considered an official request for an advisory opinion, and a Legislator making such a request will be so notified, by letter, and encouraged to file a written request.
 - (4) The Director may, in his or her discretion, provide advice on legislative ethics issues to a Legislator through more informal means, such as electronic mail, telephone, or letter.
 - B. **Complaints.** Any written complaint will be included in the agenda of the next Commission meeting.
 - (1) **Complaint by a Legislator.** Copies of any sworn complaint filed by a Legislator will promptly be sent to the Legislator against whom the

complaint has been lodged. A complaint invokes the Commission's authority only if made under oath and only if it addresses an alleged conflict of interest relating to circumstances arising during the term of the legislature then in office.

(2) **Other Complaints**

- (a) The Director will review each complaint to determine whether the matter relates to the Commission's statutory mandate. When a complaint is filed, the Director, in consultation with Commission Counsel, will review the matter to determine whether the complaint has sufficient merit to warrant recommending the calling of a meeting. When a meeting is called, the Commission will determine in executive session whether to hear the complaint. If the nature of the complaint clearly does not fall within the scope of the Commission's jurisdiction, the Director will so notify the complainant by letter within 14 days of receiving the complaint. In such cases, the respondent need not be notified. The Commission may reverse any administrative decision.
- (b) An oral complaint by any person alleging a conflict of interest concerning any legislator does not constitute a complaint under 1 M.R.S. § 1013(2)(B), and a person registering such a complaint will be so notified, by letter.

- C. **Referral by Presiding Officer.** When a Legislator has requested an advisory opinion from the Presiding Officer of the House of which he/she is a member, and the Presiding Officer has referred the inquiry directly to the Commission, the Director will arrange a meeting of the Commission as soon as possible to consider the question.

2. **Election Campaign Reporting and *Maine Clean Election Act* Violations**

- A. **Compliance Review.** The Commission staff will review all campaign finance reports filed by candidates pursuant to 21-A M.R.S., chapters 13 and 14 to verify compliance with the financial disclosure and documentation requirements set by statute or rule. The staff will review a selection of other campaign finance reports filed by non-candidate committees with the Commission for compliance with legal requirements. Notice of any omission, error, or violation will be given to the filer by electronic mail or U.S. Mail. The Commission staff will establish a reasonable time period for the filer to remedy any omission or error. The Commission staff shall schedule any substantial violations for possible action by the Commissioners at a public meeting. If the filer fails to remedy minor violations, the Commission staff will use its discretion whether to take any further action. Minor violations include, but are not limited to, failing to report the employment information for a contributor or misusing an expenditure code to describe the purpose of an expenditure.
- B. **Late Reports and Registrations.** Where required by statute, notice of failure to file a required report will be timely sent by Commission staff. When a report or

registration is filed late, the Director's recommendations will be based on the following considerations:

- (1) Lateness of report or registration,
 - (2) Reason for lateness,
 - (3) Kind of report (more stringent application for pre-election reports),
 - (4) Amount of campaign funds not properly reported,
 - (5) Previous record of the filer; and
 - (6) Good faith effort of the filer to remedy the matter.
- C. Any person (as defined in 21-A M.R.S. § 1001(3)) may make an official complaint or request for a Commission investigation by filing a signed written request at the Commission's office, setting forth such facts with sufficient details as are necessary to specify the alleged violation. A copy of the signed request may be filed by facsimile or by electronic mail. Statements should be made upon personal knowledge. Statements which are not based upon personal knowledge must identify the source of the information which is the basis for the request, so that respondents and Commission staff may adequately respond to the request. A copy of any such written request will be promptly transmitted to the candidate or organization alleged to have violated the statutory requirements. The Director may conduct preliminary fact finding to prepare a matter for presentation to the Commission. The Director, in consultation with Counsel, will prepare a summary of staff findings and recommendations for inclusion on the agenda.
- D. An oral report of a violation, or a written request containing insufficient detail to specify the violation charged, does not constitute an official request for a Commission determination, and a person registering such a complaint will be so notified.
- E. The signature of a person authorized to sign a report or form constitutes certification by that person of the completeness and accuracy of the information reported. The use of a password in filing an electronic report constitutes certification of the completeness and accuracy of the report.

3. Lobbyist Disclosure Procedures

- A. **Compliance Review.** The Commission staff will review lobbyist registrations and monthly reports for compliance with disclosure requirements. The Commission staff will establish a reasonable time period by which a lobbyist must remedy any apparent omission or error. The Commission staff shall place on the agenda of a Commission meeting any substantial violation of the disclosure requirements, regardless of whether the lobbyist has remedied the violation.
- B. **Late Registrations and Reports.** Notice will be given by mail to any lobbyist whose registration or monthly disclosure report is late. The Commission and its staff shall follow the notice and penalty procedures set out in 3 M.R.S. § 319(1).

For purposes of 3 M.R.S. § 319(1), the month will end on the 15th day of the month following the month in which a report was due. Any failure to submit a required report, registration, or penalty fee will be noted on the Commission agenda.

- C. **Suspensions.** The Commission may suspend any person from lobbying who fails to file a required report or pay an assessed fee. A notice of the suspension must be mailed to the lobbyist by U.S. Certified Mail within three days following the suspension. Reinstatement will occur on the date the required report or payment is received in the Commission office. A notice of the reinstatement must be mailed to the lobbyist by U.S. Certified Mail or given directly to the lobbyist within three days following receipt of the required report or payment.
 - D. **Request for Penalty Waiver.** A lobbyist may request a waiver of any late penalty the lobbyist incurs. The request must be made in writing to the Commission and must state the reason for the delinquency. Any such request must be noted on the agenda of the next Commission meeting. Only the Commission may grant penalty waivers.
 - E. **Request for Waiver of Non-session Reporting Requirement.** A lobbyist may request a waiver of the monthly non-session reporting requirement set forth in 3 M.R.S. § 317(4) if the lobbyist does not expect to be engaged in lobbying when the Legislature is not in session. The Director is authorized to provisionally grant such waivers pending approval by the Commission. Provisional waivers may be granted only where a request is properly filed, the statement properly completed, and where there is no apparent reason to doubt the statement is true. During the period in which the waiver is effective, reports will not be required. If lobbying is resumed during the period for which the waiver was granted, the lobbyist must file a monthly disclosure report for the month or months lobbying was conducted.
 - F. **Faxing Duly Executed Lobbyist Registration, Reports.** Any registration or report required by 3 M.R.S. chapter 15 may be provisionally filed by transmission of a facsimile copy of the duly executed report to the Commission, provided that the original of the same report is received by the Commission within 5 calendar days thereafter.
4. **Matters Outside the Commission's Jurisdiction.** If the Director and Counsel are in agreement that the subject matter of a request for an investigation is clearly outside the jurisdiction of the Commission, the staff may forward the request to the appropriate authority or return it to the person who made the request, provided that the staff notifies the Commission members of the action at the next Commission meeting.

SECTION 5. FACT FINDING AND INVESTIGATIONS

1. **Before Commission Meeting.** With respect to any inquiry, complaint, or request for Commission action properly filed in accordance with the preceding section, or any potential violation that comes to the attention of Commission staff through an audit or review of reports, the Director may conduct such preliminary investigation as is deemed prudent and desirable. If the preliminary investigation suggests that a complaint is without factual basis, the Director may inquire with the person filing the complaint whether he wishes to withdraw the request for further investigation. When a matter is ready for presentation to the Commission, the Director, in consultation with Counsel, will prepare a summary of findings and recommendations for inclusion on the agenda.
2. **By the Commission.** Once any matter is reached on the agenda of a Commission meeting, the Commission will control any further investigation or proceedings. No hearings will be held except by direction of the Commission. On a case-by-case basis, the Commission may authorize its Chair, Director, or any ad hoc committee of its members, to conduct further investigative proceedings on behalf of the Commission between Commission meetings. Any authorization so conferred will be fully reflected in the minutes of the Commission meeting. Consultations between the Commission and its Counsel concerning an investigation (including the issuance of subpoenas) where premature public knowledge of the investigation would place the Commission or another investigatory office at a substantial disadvantage may be held in executive session pursuant to 1 M.R.S. §§ 405(6)(E), 1005, & 1013(3-A).
3. **Use of Commission's Subpoena Power.** The Chair is authorized to issue subpoenas in the name of the Commission to compel the attendance of witnesses or the production of records, documents or other evidence when the Chair and the Commission's Counsel are in agreement that the testimony or evidence sought by the subpoena is necessary to disposition of the matter; and to issue any subpoena in the name of the Commission on behalf of any person having a statutory right to an agency subpoena. Any oral testimony compelled by a subpoena issued by this provision will be presented to the Commission or its staff.
4. **Hearings.** The Commission may hold a hearing to receive testimony under oath. Any hearing must be conducted in accordance with the *Maine Administrative Procedure Act*, 5 M.R.S. §§ 8001 *et seq.*, and Chapter 2 of the Commission's Rules.

SECTION 6. CONTRIBUTIONS AND OTHER RECEIPTS

1. The date of a contribution is the date it is received by a candidate, an agent of the candidate, a candidate's committee, a party committee and its agents, or a political action committee and its agents.
2. A loan is a contribution at the time it is made unless the loan was made by a financial institution in the State of Maine in the ordinary course of business. Loans continue to be contributions until they are repaid. Loans are subject to the candidate contribution limitations, except for loans made by the candidate, the candidate's spouse, or a financial institution in the State of Maine in the ordinary course of business. The Commission may consider any reported loan to be a cash contribution if it remains unpaid four years after the election in which it was incurred.

3. Candidates and political action committees must report the name, address, occupation and employer of each individual contributor who gives, in the aggregate, more than \$50 for the reporting period. The reporting is required for private contributions raised by privately financed candidates and for seed money contributions to candidates participating in the *Maine Clean Election Act*. Candidates, political action committees, ballot question committees, and party committees must make a reasonable effort to obtain the employment information of the contributor when required by statute. The reasonable effort must include requesting the employment information and providing a convenient means for the donor to provide the information, such as a paper form to be submitted with a contribution or text fields to enter the information on an online fundraising screen. If a candidate or committee is unable to obtain the information from the contributor in response to a candidate's or committee's request, the candidate or committee shall indicate "information requested" in the occupation and employer sections of the campaign finance report. If the Commission staff believes that due to the amount of missing information further inquiry is warranted, the Commission staff shall verify whether the candidate or committee has made a reasonable effort to obtain the information.
4. Unless specifically exempted under 21-A M.R.S. §§ 1012 & 1052 or this section, the provision of any goods or services without charge or at a charge that is less than the usual and customary charge for such goods or services is an in-kind contribution. Examples of such goods and services include, but are not limited to: equipment, facilities, supplies, personnel, advertising, and campaign literature. If goods or services are provided at less than the usual and customary charge, the amount of the in-kind contribution is the difference between the usual and customary charge and the amount charged the candidate or political committee.
 - A. A commercial vendor that has provided a discount to a candidate or political committee because of a defect in performance or other business reason has not made a contribution if the vendor grants substantially similar discounts to other customers in the ordinary course of the vendor's business.
 - B. If a candidate is a public official who is provided a vehicle for transportation by a public entity for the purpose of conducting official duties, the use of such vehicle for campaign purposes is considered to be an in-kind contribution to the candidate from the public entity unless the candidate reimburses the public entity for the use of the vehicle.
5. An employer that has authorized an employee to provide services without charge to a candidate or political committee during the employee's paid work-time has made an in-kind contribution to the candidate or political committee. No contribution has been made if the employee is providing services as a volunteer outside of the employee's paid work-time.
6. A commercial vendor that has extended credit to a candidate or political committee has not made a contribution if the credit is extended in the ordinary course of the vendor's business and the terms are substantially similar to extensions of credit made to nonpolitical customers that are of similar risk and size of obligation. The Commission shall presume any debt that remains unpaid more than six months after the election in which the debt was incurred to be a contribution to the candidate or political committee unless the candidate or committee provides clear and convincing evidence to the Commission that they intend to raise funds or take other measures to satisfy the debt. The Commission shall determine whether any debt that remains unpaid for more than four

years after the election should be deemed a contribution to the candidate or committee. The Commission may take into consideration any evidence it believes is relevant, including evidence that the creditor did not intend to make a contribution to the candidate or committee or that the candidate or committee is unable to pay the debt.

7. For the purposes of the limitations imposed by 21-A M.R.S. § 1015, 21-A M.R.S. § 1018-B, and 21-A M.R.S. § 1056, the following guidelines shall apply:
 - A. All contributions received through the day of the primary election by candidates enrolled in a political party are deemed to be received for the primary election, unless the candidate designates the contribution for the general election on the applicable campaign finance report. If a candidate receives a contribution before the primary election and designates it for the general election, the candidate must deposit the contribution in an account that is separate from all funds received for the primary election and may not use the contribution in any way to promote the candidate's nomination in the primary election.
 - A-1. For an election determined by ranked-choice voting, the day of the primary election is deemed to be the date on which the Secretary of State submits the tabulation of election results to the Governor, pursuant to 21-A M.R.S. § 722.
 - A-2. Before a primary election, a candidate for state office who is not enrolled in a political party may designate a contribution as received for the primary or general election. The contribution will count toward the primary or general election limitation designated by the candidate.
 - B. If a candidate loses in the primary, all contributions made to that candidate for the purpose of liquidating debts and liabilities associated with the candidate's candidacy are deemed to be made in the primary election.
 - C. All contributions made to a general election candidate, regardless of party enrollment, from the day after the primary election through the date of the general election are deemed to be made for the general election.
 - D. All contributions made after the general election to a general election candidate for the purpose of reducing debts and liabilities associated with the candidate's candidacy are deemed to be made in the general election.
 - E. After the day of a candidate's last election, all contributions made to a candidate who has liquidated all debts and liabilities associated with that election are deemed to be made in support of the candidate's candidacy for a subsequent election.
 - F. Subparagraphs A through E above shall apply to any write-in candidate who has qualified under 21-A M.R.S. § 723, or who has received contributions or made expenditures with the intent of qualifying as a candidate.
8. If a political committee that is required to file reports with the Commission sells an item to raise funds, the entire amount received is a contribution to the committee. If the political committee provides meals or entertainment at a fundraising event, the entire amount paid by the donor is a contribution to the committee. [FOR EXAMPLE: IF A SUPPORTER PAYS A CANDIDATE COMMITTEE \$20 FOR A T-SHIRT THAT

COST THE CAMPAIGN \$5, THE SUPPORTER HAS MADE A \$20 CONTRIBUTION. IF A SUPPORTER PAYS \$100 FOR A TICKET TO A FUNDRAISING DINNER, THE SUPPORTER HAS MADE A \$100 CONTRIBUTION EVEN IF THE COMMITTEE PROVIDES A MEAL WORTH \$30.]

9. If an expenditure is made to promote or support the nomination or election of a candidate, or to oppose or defeat the candidate's opponent(s), and the expenditure is made in cooperation, consultation or concert with, or at the request or suggestion of, the candidate, the expenditure is considered to be a contribution from the spender to the candidate. As used within this subsection, the term "candidate" includes a committee authorized by the candidate to promote or support his or her election, and all agents of the candidate or the authorized committee.

A. In cooperation, consultation or in concert with includes, but is not limited to:

- (1) discussion between the candidate and the creator, producer or distributor of a public communication, or the person paying for that public communication, regarding the content, timing, location, mode, intended audience, volume of distribution or frequency of placement of that public communication, and
- (2) participation by the candidate in making any decision regarding the content, timing, location, mode, intended audience, volume of distribution, or frequency of placement of the public communication.

B. An expenditure is presumed to be made in cooperation, consultation or concert with, or at the request or suggestion of a candidate, when

- (1) the expenditure is made in cooperation, consultation or in concert with any person who, during the twelve months preceding the expenditure, has been the candidate's treasurer or an officer of the candidate's authorized committee, has had a paid or unpaid position managing the candidate's campaign, or has received any campaign-related compensation or reimbursement from the candidate; or
- (2) when the candidate has directly shared the candidate's campaign plans, activities, or needs with the spender for the purpose of facilitating a payment by the spender on a public communication to voters to promote or support the candidate.

The candidate or spender may rebut the presumption by submitting sufficient contrary evidence.

C. If a candidate requests that a party committee, political action committee, or other potential spender not make any expenditure to promote or support the candidate, or oppose or defeat the candidate's opponent(s), the request does not constitute cooperation or coordination.

D. An expenditure will not be presumed to have been made in cooperation, consultation or concert with, or at the request or suggestion of a candidate, solely because:

- (1) the spender has obtained a photograph, biography, position paper, press release, logo, or similar material about the candidate from a publicly available source;
- (2) the person making the expenditure has previously provided advice to the candidate on suggested communication strategies, budgets, issues of public policy, or other campaign plans or activities;
- (3) the person makes an expenditure in response to a general, non-specific request for support by a candidate, provided that there is no discussion, cooperation or consultation with the candidate prior to the expenditure relating to the details of the expenditure;
- (4) the spender has also made a contribution to the candidate, or has discussed with the candidate his or her campaign plans or activities as part of the candidate's solicitation for a donation;
- (5) the expenditure is made by a for-profit or non-profit organization for invitations, announcements, food and beverages and similar costs associated with an event to which the candidate has been invited by the organization to make an appearance before the organization's members, employees, shareholders and the families thereof; or
- (6) the expenditure is made by an individual who spends \$100 or less for costs associated with a sign that is lettered or printed individually by hand and that reproduces or replicates a candidate's campaign-related design or graphic.

E. A paid public communication that disseminates, distributes, or republishes, in whole or in substantial part, a public communication designed, produced, paid for or distributed by the candidate is a contribution to the candidate regardless whether the candidate suggested or requested the expenditure for the public communication, or cooperated with or consulted on the expenditure.

- 10.** Funds or services received solely for the purpose of conducting activities to determine whether an individual should become a candidate are not contributions if the individual does not become a candidate. Examples of such activities include, but are not limited to, conducting a poll, telephone calls, and travel. The individual shall keep records of all such funds or services received. If the individual becomes a candidate, the funds or services received are contributions and are subject to the reporting requirements of 21-A M.R.S. §1017. The amount and source of such funds or the value of services received must be disclosed in the first report filed by the candidate or the candidate's authorized campaign committee, regardless of the date when the funds or services were received, in accordance with the Commission's procedures for reporting contributions.

Funds or services used by an individual for activities indicating that he or she has decided to become a candidate for a particular office are contributions. Examples of such activities include, but are not limited to: using general public political advertising to publicize his or her intention to campaign for office; hiring staff or consultants for campaign activities; raising funds in excess of what could reasonably be expected to be used for exploratory activities; making or authorizing statements that refer to him or her as a candidate; or taking action to qualify for the ballot.

11. The statutory exception to the definition of “contribution” in 21-A M.R.S. § 1012 (2)(B)(2) applies when an individual provides real or personal property or pays for invitations, food or beverages as an incidental cost of providing voluntary personal services for a candidate-related activity. The costs of food and beverages are exempt only if they relate to the personal services provided by the volunteer (for example, assisting at a house party, or hosting an evening of envelope-stuffing by volunteers). The costs of invitations for a campaign event may not be shared and are exempt only if paid by a single volunteer providing the real property for the event.
12. A political action committee, ballot question committee or party committee registered with the Department of Public Safety pursuant to 17 M.R.S. § 1832 may hold one game night per calendar year to raise revenue through games of chance provided that they disclose the financial activity consistent with this rule.
 - A. The committee shall keep a written account of all participants in the game night who have paid, in the aggregate, an amount greater than the applicable contribution reporting threshold as an entry fee or to pay for chips, tokens, food, or other costs. The record shall contain the participant’s name and address, and the total amount paid. If the participant has purchased food, memorabilia, or other goods at the game night, the committee may deduct the value of the item(s) from the amount of the payment. The committee is not required to keep a record of participants whose payments are less than or equal to the contribution reporting threshold or payments made to a third-party vendor at the event, such as a food truck.
 - B. The contribution reporting threshold is \$50 for political action committees and ballot question committees and \$200 for the committees of political parties.
 - C. In the next regularly scheduled campaign finance report, the committee shall report the proceeds of the game night as contributions. The committee shall itemize contributions that exceed the contribution reporting threshold. Contributions that do not exceed the threshold may be reported as an unitemized lump sum. The committee shall report as in-kind contributions any goods or services received in support of the game night, such as items to be awarded as prizes, or the donation of food or an event space. Costs incurred by the committee in connection with the game night shall be reported as expenditures.

SECTION 7. EXPENDITURES

1. **Expenditures by Consultants, Employees, and Other Agents of a Political Campaign**
 - A. Each expenditure made on behalf of a candidate, political committee, or political action committee by any person, agency, firm, organization, etc., employed or retained for the purpose of organizing, directing, managing or assisting the candidate, the candidate's committee, or the political action committee must be reported separately by the candidate or committee as if made or incurred by the candidate or committee directly. The report must include the name of the third party vendor or payee to whom the expenditure was made, the date of the expenditure, and the purpose and amount of the expenditure. It is not sufficient to report only the total retainer or fee paid to the person, agency, firm, organization,

etc., if that retainer or fee was used to pay third party vendors or payees for campaign-related goods and services.

- B. If a candidate or committee has paid a media buyer, advertising consultant or similar contractor to purchase advertising time or for the production of television or radio advertising, the candidate or committee may disclose the advertising time and production costs in the aggregate, rather than itemizing each payment made by the contractor to a third party vendor or payee. *Maine Clean Election Act* candidates must obtain from their contractor(s) documentation of every payment of \$50 or more made on their behalf by a contractor or subcontractor related to television or radio advertising.

2. **Expenditures by Political Action Committees.** In addition to the requirements set forth in 21-A M.R.S. § 1060(4), the reports must contain the purpose of each expenditure and the name of each payee and creditor.

3. **Reporting Debts and Unpaid Obligations**

- A. The following events constitute expenditures, even if the payment for a good or service has not been made at the time of the event:
- (1) The placement of an order for a good or service;
 - (2) The signing of a contract for a good or service;
 - (3) The acceptance of the delivery of a good or the performance of a service by a vendor; or
 - (4) A promise or an agreement (including an implied one) that a payment will be made in exchange for a good or service.
- B. For reporting purposes, the expenditures listed in paragraph A are designated as debts or obligations prior to payment for the goods or services being made.
- C. If a person required to file a campaign finance report has a debt or obligation which remains unpaid at the end of the report period, the person shall report the date, amount, vendor, and purpose of the debt or obligation. If the exact amount is not known, the person filing the report shall report an estimate of the amount (preferably obtained in a written statement from the vendor).
- D. If a debt or obligation occurs in the same report period as a payment for that debt or obligation, the person filing the report will report only the payment, not the debt or obligation.
- E. A candidate or committee is not required to report a payment for a good or service in a 24-Hour Report, if the candidate or committee reported a debt for that good or service in the last regularly scheduled campaign finance report.

4. **Advance Purchases of Goods and Services for the General Election [Repealed]**

5. All campaign-related payments made with the personal funds or credit card of the candidate or an individual authorized by the candidate must be reported as expenditures

in the reporting period during which the payment to the vendor or payee is made. The candidate must report the name of the vendor or payee to whom the payment was made, the date of the expenditure, and the purpose and amount of the expenditure. When the expenditure is reported, the candidate should indicate the person who made the payment by entering “Paid by [name of candidate or supporter]” in the remarks section of the expenditure schedule. It is not sufficient to report only the name of the candidate or authorized individual to whom reimbursement was made and the total amount of the reimbursement.

6. Multiple expenditures for bank fees and for vehicle travel may be reported in an aggregate amount, provided that the candidate or committee identifies the time period of the expenditures in the remarks section of the report.
7. When a political action committee or party committee makes an expenditure for a public communication to voters for the purpose of influencing the election of a clearly identified candidate, the amount spent to influence that candidate’s election must be specified on the regularly filed campaign finance report of the committee, regardless whether the public communication expressly advocates for the election or defeat of the candidate. If a single expenditure influences the election of more than one candidate, the political action committee or party committee shall itemize the amount spent per candidate.
8. Payments made or obligations incurred solely for the purpose of conducting activities to determine whether an individual should become a candidate are not expenditures if the individual does not become a candidate. Examples of such activities include, but are not limited to, conducting a poll, telephone calls, and travel. The individual shall keep records of all such payments and obligations. If the individual becomes a candidate, the payments made or obligations incurred are expenditures and are subject to the reporting requirements of 21-A M.R.S. § 1017. Such expenditures must be disclosed in the first report filed by the candidate or the candidate’s authorized campaign committee, regardless of the date when the funds were expended, in accordance with the Commission’s procedures for reporting expenditures.

Payments made for activities indicating that an individual has decided to become a candidate for a particular office are expenditures. Examples of such activities include, but are not limited to: using general public political advertising to publicize his or her intention to campaign for office; hiring staff or consultants for campaign activities; raising funds in excess of what could reasonably be expected to be used for exploratory activities; making or authorizing statements that refer to him or her as a candidate; or taking action to qualify for the ballot.

9. Exception to Disclaimer Requirements for Certain Handbills, Campaign Signs, and Internet or E-Mail Public Communications

For purposes of applying the exclusions listed in 21-A M.R.S. § 1014(6)(A)-(C), the following terms have the following meanings:

- A. “Cost” includes all payments or obligations incurred, and the value of all goods and services received, for the purpose of creating, designing, preparing or distributing the public communications.
- B. “Internet or e-mail activities” means any public communication transmitted over the Internet, including but not limited to: sending or forwarding electronic

messages; social networking; providing a hyperlink or other direct access to another person's website; creating, maintaining or hosting a website or blog; placing material on another person's website; and any other form of public communication distributed over the Internet.

- C. "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 [thereof]" means acting without any suggestion, request, direct or indirect authorization or compensation or reimbursement from any such candidate, committee or agent.

10. Press Exemption. In order for the costs of preparing and disseminating a news story, commentary, or editorial to be exempt from the definitions of expenditure under the press exemptions in 21-A M.R.S. §§ 1012(3)(B)(1) & 1052(4)(B)(1), the following criteria must be met:

- A. the names of the persons or entities who own, control and operate the broadcasting station or publication are identified within the publication or otherwise made known to the public; and
- B. the broadcasting station or publication is not owned or controlled by any political party, political action committee or ballot question committee and is not owned or controlled by any candidate for state, county or municipal office whose candidacy, election campaign, or opponent is a subject of the news story, commentary or editorial, or by the authorized campaign committee of such a candidate, or by a member of such a candidate's immediate family.

In addition to the above criteria, to qualify as a periodical publication, including one in electronic form on the Internet, or a newspaper or magazine, a publication (i) must have been disseminating news stories, commentaries or editorials on a variety of topics to the general public on a periodic basis for at least the previous twelve months, or (ii) must have a record of disseminating news stories, commentaries or editorials on a variety of topics to the general public or other objective indicators that the publication will continue to be published on a periodic basis beyond the election cycle during which the press exemption is claimed.

For purposes of this section, broadcasting station includes a cable television system.

11. Shared Expenditures by Candidates. When two or more candidates have jointly purchased a public communication to voters or another good or service, a candidate will not be considered to have received an in-kind contribution if the cost is allocated among the candidates in proportion to the benefit received by each candidate.

12. Disclosure of top funders in paid public communications. If an entity makes an independent expenditure in excess of \$250 to influence a candidate's election, the public communication is required to contain the entity's top three funders under 21-A M.R.S. § 1014(2-B).

- A. The disclosure included in a public communication made through cable, satellite, or broadcast television must conform with those portions of federal regulations 47 CFR § 73.1212(a)(2)(ii) and 47 CFR § 76.1615(a) which regulate text size and duration of sponsorship information. Specifically

- (1) the font size must be equal to or greater than four percent of the vertical picture height, and
 - (2) the text must appear for not less than four seconds.
- B. For public communications listed in 21-A M.R.S. § 1014(2-B) with a visual aspect other than television or video communications, the statement of funders must appear in a font size that is 12-point or larger.
 - C. If the public communication is funded by a political action committee that is a separate or segregated fund as defined in 21-A M.R.S. § 1052(5)(A)(1), but not a separate legal entity, the top three funders to be listed are the top three funders of the legal entity (corporation, membership organization, cooperative or labor or other organization) that established the fund.
 - D. If the public communication is funded by a political action committee that is fully funded or controlled by another political action committee or legal entity, the top three funders to be listed are the top three funders of that entity that fully funds or controls the political action committee.
 - E. For any other political action committee that does not fall within the parameters of paragraphs C or D, the top three funders are the contributors who have given the top three aggregate contributions, as defined in 21-A M.R.S. § 1052(3), during the time period specified in 21-A M.R.S. § 1014(2-B)(A).

Public communications for which including the statement required by 21-A M.R.S. § 1014(2-B) would be impossible or impose an unusual hardship due to their format or medium are exempt from the requirements of that section.

SECTION 8. PROHIBITED COMMUNICATIONS

Commission members shall not discuss any specific case under investigation, or any case which may reasonably be expected to be the subject of investigation, as long as the matter is pending before the Commission. Members of the Commission may discuss its final determination regarding the matter with members of the press or other interested persons only after the appeal period has expired and no appeal is filed, or if an appeal is filed, only after the appellant has exhausted all administrative or judicial remedies.

SECTION 9. ACCELERATED REPORTING SCHEDULE *[Repealed]*

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

21-A M.R.S. § 1012(1).

- B. "Expressly advocate" means any public 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 public 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 21-A M.R.S. § 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 60th day through the 14th day before an election, a report must be filed within two calendar days of the expenditure.
- (3) **One-Day Report.** After the 14th 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 21-A M.R.S. §§ 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.

4. Multi-Candidate Expenditures. When a person or organization is required to report an independent expenditure for a public communication that supports multiple candidates, the cost should be allocated among the candidates in rough proportion to the benefit received by each candidate.

- A. The allocation should be in rough proportion to the number of voters who will receive the communication and who are in electoral districts of candidates named or depicted in the public communication. If the approximate number of voters in each district who will receive the public communication cannot be determined, the cost may be divided evenly among the districts in which voters are likely to receive the communication.

[NOTE: FOR EXAMPLE, IF CAMPAIGN LITERATURE NAMING SENATE CANDIDATE X AND HOUSE CANDIDATES Y AND Z ARE MAILED TO 10,000 VOTERS IN X'S DISTRICT AND 4,000 OF THOSE VOTERS RESIDE IN Y'S DISTRICT AND 6,000 OF THOSE VOTERS LIVE IN Z'S DISTRICT, THE ALLOCATION OF THE EXPENDITURE SHOULD BE REPORTED AS: 50% FOR X, 20% FOR Y, and 30% FOR Z.]

- B. If multiple county or legislative candidates are named or depicted in a public communication, but voters in some of the candidates' electoral districts will not receive the public communication, those candidates should not be included in the allocation.

[NOTE: FOR EXAMPLE, IF AN EXPENDITURE ON A LEGISLATIVE SCORECARD THAT NAMES 150 LEGISLATORS IS DISTRIBUTED TO VOTERS WITHIN A TOWN IN WHICH ONLY ONE LEGISLATOR IS SEEKING RE-ELECTION, 100% OF THE COST SHOULD BE ALLOCATED TO THAT LEGISLATOR'S RACE.]

5. Requests for an Independent Expenditure Determination. Under 21-A M.R.S. § 1019-B(1)(B), an expenditure made to design, produce or disseminate a public communication that names or depicts a clearly identified candidate and that is disseminated during the 28 days before a primary election, the 35 days before a special election or from Labor Day to the general election is an independent expenditure, unless the person making the expenditure demonstrates to the Commission that the expenditure did not have a purpose or effect of influencing the nomination, election or defeat of the candidate.

- A. The following types of public communications may be covered by 21-A M.R.S. § 1019-B(1)(B):
 - (1) Advertisements in newspapers and other print media;
 - (2) Broadcast, cable, or satellite advertisements;

- (3) Direct mail, handbills, and other printed literature;
 - (4) Prerecorded automated telephone messages;
 - (5) Communications placed or promoted for a fee on another person's website, digital device, application or advertising platform in order to increase the circulation, prominence or availability of the communication on that website, digital device, application or advertising platform; and
 - (6) Other types of general public political advertising.
- B. The following types of public communications and activities are not covered by 21-A M.R.S. § 1019-B(1)(B):
- (1) news stories and editorials, unless the facilities distributing the public communication are owned or controlled by the candidate, the candidate's immediate family, or a political committee;
 - (2) activity or public communications designed to encourage individuals to register to vote or to vote if that activity or communication does not name or depict a clearly identified candidate;
 - (3) any public communication from a membership organization to its members or from a corporation to its stockholders if the organization or corporation is not organized primarily for the purpose of influencing the nomination or election of any person for state or county office;
 - (4) the use of offices, telephones, computers, or similar equipment when that use does not result in additional cost to the provider; and
 - (5) other public communications and activities that are excluded from the legal definition of "expenditure" in the Election Law.
- C. If an expenditure is covered by 21-A M.R.S. § 1019-B(1)(B) and is greater than \$250 per candidate per election, the person making the expenditure must file an independent expenditure report or request a determination by the Commission that the cost of the public communication is not an independent expenditure. The person may make the request by submitting a signed written statement that the expenditure did not have a purpose of, and will not have an effect of, influencing the nomination, election or defeat of a candidate. The filing of independent expenditure reports should be made in accordance with the filing schedule in subsection 3(B) of this rule. Any independent expenditure of \$250 or less per candidate per election does not require the filing of an independent expenditure report or a rebuttal statement.
- D. If a committee or association distributes copies of printed literature to its affiliates or members, and the affiliates or members distribute the literature directly to voters, the applicable date of dissemination for purposes of 21-A M.R.S. § 1019-B(1)(B) is the date on which the public communication is disseminated directly to voters, rather than the date on which the committee or association distributes the literature to its affiliates or members.

- E. For the purposes of determining whether a public communication is covered by 21-A M.R.S. § 1019-B(1)(B), the date of dissemination is the date of the postmark, hand-delivery, or broadcast of the communication.
- F. An organization that has been supplied printed public communications covered by 21-A M.R.S. 1019-B(1)(B) and that distributes them to voters must report both its own distribution costs and the value of the materials it has distributed, unless the organization supplying the public communications has already reported the costs of the materials to the Commission. If the actual costs of the public communications cannot be determined, the organization distributing the public communication to voters must report the estimated fair market value.
- G. Persons requesting a determination that no independent expenditure report is required are encouraged to submit their requests early, if possible before making the expenditure for the public communication. The request must include the complete public communication and be specific as to when and to whom the public communication will be disseminated.
- H. The Commission's Director shall make an initial determination 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 accordance with 21-A M.R.S. § 1019-B(2). Any person may appeal the Director's determination to the Commission within two days of their receipt of the determination or the posting of the determination to the Commission's website, whichever is earlier.
- I. If the Director or Commission determines that an independent expenditure report was required and the report is not filed by the deadline in subsection 3(B), the late-filing penalty in 21-A M.R.S. § 1020-A shall apply. The late filer may pay the penalty or request a waiver. In the alternative, the Director or Commission may, for good cause, extend the deadline to file the report for a short period after the determination sufficient for the person to file the report without delay. If the report is filed within the extension period, the report will be considered on time.

SECTION 11. REPORTS OF BALLOT QUESTION CAMPAIGN ACTIVITY BY PERSONS AND ORGANIZATIONS OTHER THAN POLITICAL ACTION COMMITTEES

[Repealed]

SECTION 12. PROHIBITED CONTRIBUTIONS BY LOBBYISTS AND AFFILIATED CONTRIBUTORS

1. **Definitions.** For purposes of this section, unless the context otherwise requires:
 - A. "Political committee" includes a party committee (state or county, district, or municipal), a political action committee as defined in 21-A M.R.S. § 1052(5), or a ballot question committee as defined in 21-A M.R.S. § 1052(2-A), unless the context suggests otherwise.

- B. “Covered Official” means the Governor, a Legislator, a constitutional officer (Attorney General, Secretary of State, State Treasurer) and the staff or agent of any of these officials.
2. **Covered Contributions.** The prohibitions in 1 M.R.S. § 1015-A apply to both traditional campaign contributions and seed money contributions received by candidates seeking to qualify for Maine Clean Election Act funding.
 3. **Political Committees Led by Officials.** During a legislative session, lobbyists, lobbyist associates, their clients and their lobbying firms may not give, offer or promise a contribution to a political committee of which a covered official is a treasurer, officer, or primary fund-raiser or decision maker, except as permitted by the exceptions in 1 M.R.S. § 1015-A(2)(D). During the session, these political committees may not solicit or accept a contribution from lobbyists, lobbyist associates, their clients or their lobbying firms, but they may accept contributions from other individuals and organizations. The prohibitions in 1 M.R.S. § 1015-A do not apply to political committees when the Legislature is not in session.
 4. **Client’s Political Action Committee.** During a legislative session, a client of a registered lobbyist may not make a contribution to a covered official through a political action committee with which the client is affiliated or direct that the affiliated political action committee make a contribution to a covered official.

SECTION 13. REPORTS OF PUBLIC COMMUNICATIONS BY MEMBERSHIP ORGANIZATIONS OR CORPORATIONS

When a membership organization or corporation is required under 21-A M.R.S. § 1019-A to file a report of a public communication to members or shareholders, the organization or corporation must file the following reports by 11:59 p.m. on the following deadlines:

1. A report must be filed on the 42nd day before the election is held and be complete as of the 49th day before the election.
2. A report must be filed on the 11th day before the election is held and be complete as of the 14th day before the election.
3. A report must be filed on the 42nd day after the election is held and be complete as of the 35th day after the election.

SECTION 14. STATEMENT OF SOURCES OF INCOME

Legislators and executive employees are required to file with the Commission annual statements identifying the sources of income received, positions held, and certain liabilities under 1 M.R.S. § 1016-G and 5 M.R.S. § 19, respectively. The Commission staff shall prepare written and online forms for purposes of reporting. For the disclosure of gifts received by officials, the Commission may require an official to enter a category for the gift, such as transportation or conference fees, or a description of the gift. The Commission may require officials to enter a type of organization in which the official holds a position, such as non-profit, corporation or partnership. For purposes of this reporting, if a Legislator or executive employee is estranged from a spouse or domestic

partner, the definition of “immediate family” does not include the estranged spouse or domestic partner.

SECTION 15. SIMPLIFIED REGISTRATION AND REPORTING PROCEDURES FOR CERTAIN POLITICAL COMMITTEES

1. **Waivers of the separate campaign account requirement.** A political action committee or ballot question committee may apply for a waiver of the requirement in 21-A M.R.S. § 1054 to maintain a separate campaign bank account on the grounds that maintaining a separate account would be administratively burdensome. The Commission’s Director shall make the initial decision on the application. The committee may appeal the Director’s decision to the Commission. The Director and the Commission shall consider expected or actual expenditures aggregating more than \$25,000 as a factor in opposition to a waiver, except for a ballot question committee that consists of a single individual.

The committee receiving the waiver shall disclose all expenditures made for activities to initiate or influence a campaign in Maine and operational expenditures that promote or support those activities. The committee may pro-rate operational expenditures based on the portion that may reasonably be attributed to initiating or influencing a Maine campaign. The committee shall disclose all contributions made to or received by the committee for the purpose of initiating or influencing a campaign and any other funds used to make reported expenditures. The committee shall maintain records of these contributions and expenditures in accordance with 21-A M.R.S. § 1057.

2. **Individual qualifying as a ballot question committee.** An individual who qualifies as a ballot question committee may file a simplified registration form that discloses contact information for the individual and for any treasurer or other person authorized to file campaign finance reports. The registration must also include the ballot question the individual expects to support or oppose. If the individual is sharing fundraising or spending decisions with another person, they shall comply with the full registration requirements of 21-A M.R.S. § 1052-A.

In lieu of full compliance with the record-keeping requirements in 21-A M.R.S. § 1057(1)-(4), an individual qualifying as a ballot question committee shall keep a vendor invoice or receipt for every expenditure in excess of \$50 made for the purpose of initiating or influencing a Maine campaign, and records of any contributions from a donor that has provided contributions exceeding \$50 in the aggregate for purposes of initiating or influencing the campaign.

SECTION 16. FOREIGN GOVERNMENT-INFLUENCED ENTITIES

1. **Definitions.** For purposes of this section, the Commission incorporates the definitions in 21-A M.R.S. § 1064(1). In addition, the following terms have the following meanings when used in § 1064 or in this section:
 - A. **Campaign Advertisement.** “Campaign advertisement” means a paid public communication to influence the nomination or election of a candidate or to influence the initiation or approval of a referendum.
 - B. **Contribution.** “Contribution” has the meaning set forth in 21-A M.R.S.

§ 1012(2) if the contribution is directed to a candidate or a candidate’s political committee. “Contribution” has the meaning set forth in 21-A M.R.S. § 1052(3) if the contribution is directed to any other person or entity.

- C. **Direct participation.** To “directly” participate in a decision-making process means to participate in the decision-making process through a person who is an employee or official of a foreign government or an employee, director, owner, or member of a foreign government-owned entity.
- D. **Donation.** “Donation” means any gift, subscription, loan, advance or deposit of money or anything of value, regardless of whether it satisfies the definition of a contribution.
- E. **Disbursement of funds.** “Disbursement of funds” means any purchase, payment, distribution, loan, advance, deposit or gift of money or anything of value, regardless of whether it satisfies the definition of an expenditure.
- F. **Expenditure.** “Expenditure” has the meaning set forth in 21-A M.R.S. § 1012(3) if made by a candidate for office or the candidate’s political committee. “Expenditure” has the meaning set forth in 21-A M.R.S. § 1052(4) if made by any other person or entity.
- G. **Indirect beneficial ownership.** “Indirect beneficial ownership” means having an ownership interest in an entity as a result of owning an interest in an intermediate entity that either directly owns part or all of the entity or indirectly owns part or all of the entity through other intermediate entities. For example:
- (1) if a foreign government wholly owns a firm that has a 10% interest in a Maine corporation, the foreign government indirectly owns 10% of that corporation; or
 - (2) if a foreign government holds a 25% ownership interest in Maine Corporation A and Maine Corporation A, in turn, holds a 40% ownership interest in Maine Corporation B, the foreign government indirectly owns 10% of Maine Corporation B.
- H. **Indirect participation.** To “indirectly” participate in a decision-making process means to participate in the decision-making process using an intermediary, whether or not the intermediary has any formal affiliation with the foreign government or foreign government-owned entity.
- I. **Internet platform.** “Internet platform” means an entity that controls any public-facing website, internet application, or mobile application that sells advertising space and:
- (1) is also a print news outlet, television or radio broadcasting station, or provider of cable or satellite television; or
 - (2) publishes content primarily intended for audiences within Maine.
- J. **Media provider.** “Media provider” means a television or radio broadcasting station, provider of cable or satellite television, print news outlet or Internet platform, as defined in this section.

- K. **Print news outlet.** “Print news outlet” means an entity that publishes physically printed news or news commentary on a periodical basis in which advertisers may purchase advertising space and which distributes at least 25 percent of its copy for one or more publications within the State of Maine.
- L. **Participate.** To “participate” in a decision-making process with regard to the activities of a firm, partnership, corporation, association, organization or other entity to influence the nomination or election of a candidate or the initiation or approval of a referendum, means, with the invitation, consent, or acquiescence of the firm, partnership, corporation, association, organization, or other entity, to deliberate or vote on a decision of that firm, partnership, corporation, association, organization or other entity concerning donations and disbursements to influence the nomination or election of a candidate or the initiation or approval of a referendum.
- Participation does not include:
- (1) making, deliberating on, or voting on a shareholder resolution concerning donations and disbursements to influence the nomination or election of a candidate or the initiation or approval of a referendum if the person making, deliberating on, or voting on the resolution holds, owns, controls or otherwise has direct or indirect beneficial ownership of less than 5% of the total equity, outstanding voting shares, membership units or other applicable ownership interests;
 - (2) sending an unsolicited communication regarding a decision-making process; or
 - (3) participating in an entity’s decision-making process for general budget decisions, including setting overall budgets for political donations and disbursements on an annual basis at a “not to exceed” amount, provided that there is no participation in any other decision-making concerning political donations and disbursements or the selection of individuals who will make such decisions.
- M. **Provider of cable or satellite television.** “Provider of cable or satellite television” means an entity that is engaged in the provision of cable or satellite television service in Maine to a public audience and sells advertising space for transmission through its service.
- N. **Structure.** “Structure” means to arrange for financial activity to be made by or through a person for the purpose of evading the prohibitions and requirements of 21-A M.R.S. § 1064. Structuring includes, but is not limited to, creating a business entity whose ownership cannot be readily ascertained for the purpose of concealing ownership or control by a foreign government.
- O. **Television or radio broadcasting station.** “Television or radio broadcasting station” means an entity that broadcasts television or radio signals from within the state of Maine to a public audience and sells advertising space for broadcast through those signals.

2. **Ownership or control by a foreign government.** An entity does not qualify as a foreign government-influenced entity pursuant to 21-A M.R.S. § 1064(1)(E)(2)(a) solely because multiple foreign governments or foreign government-owned entities have ownership interests in the entity that, if combined, would exceed 5% of the entity's total equity or other ownership interests.
3. **Campaign spending by foreign governments prohibited.** A foreign government-influenced entity may not make, directly or indirectly, a contribution, expenditure, independent expenditure, electioneering communication or any other donation or disbursement of funds to influence the nomination or election of a candidate or the initiation or approval of a referendum.
4. **Solicitation or acceptance of contributions from foreign governments prohibited.** A person may not knowingly solicit, accept or receive a contribution or donation prohibited by subsection 3.
5. **Substantial assistance prohibited.** A person may not knowingly or recklessly provide substantial assistance, with or without compensation:
 - A. In the making, solicitation, acceptance or receipt of a contribution or donation prohibited by subsection 4; or
 - B. In the making of an expenditure, independent expenditure, electioneering communication or disbursement prohibited by subsection 3.
6. **Circumvention through structuring financial activity**
 - A. **Prohibition.** A person may not structure or attempt to structure a solicitation, contribution, expenditure, independent expenditure, electioneering communication, donation, disbursement or other transaction to evade the prohibitions and requirements in 21-A M.R.S. § 1064.
 - B. **Enforcement.** The Commission shall assess a penalty against a person for illegally structuring a transaction only upon finding that the person intended to evade the prohibitions and requirements in 21-A M.R.S. § 1064.
7. **Disclaimer in paid public communications**
 - A. **Disclaimer required.** A disclaimer is required whenever a foreign government-influenced entity makes a disbursement of funds to finance a public communication not otherwise prohibited by 21-A M.R.S. § 1064 or this section if it meets either of the following criteria:
 - (1) A reasonable observer would understand the content of the public communication to be seeking to influence the public or any state, county or local official or agency regarding the formulation, adoption or amendment of any state or local government policy; or,
 - (2) The public communication promotes the political or public interest of or government relations with a foreign country or a foreign political party.

- B. **Disclaimer content.** A public communication subject to the disclaimer requirement of this subsection must clearly and conspicuously contain the words “Sponsored by” immediately followed by the name of the foreign government-influenced entity that made the disbursement and a statement identifying that foreign government-influenced entity as a “foreign government” or a “foreign government-influenced entity.” The disclaimer may include language to indicate that “foreign government” and “foreign government-influenced entity” are defined terms under state law, as follows: “sponsored by [entity], a [foreign government or foreign government-influenced entity, as appropriate] as defined in Maine law.”
- C. **Applicability.** This subsection applies only to public communications purchased from media providers or otherwise intended to be viewed primarily by Maine residents.

8. Requirements for media providers

- A. **Policies, procedures and controls.** Each media provider must establish due diligence policies, procedures and controls that are reasonably designed to ensure that it does not broadcast, distribute or otherwise make available to the public a campaign advertisement purchased by a foreign government-influenced entity. Nothing in these rules may be interpreted to prohibit or otherwise restrict a media provider from reproducing a campaign advertisement prohibited by 21-A M.R.S. § 1064 as part of a news story, commentary, or editorial.
- B. **Safe harbor.** A media provider will be deemed to satisfy the requirements of subsection 8(A) if it adopts a policy containing the following features:
- (1) The policy prohibits publication of any campaign advertisement that the media provider knows to originate from a foreign government-influenced entity, except that the policy may allow reproduction of a campaign advertisement in a news story to which the campaign advertisement is relevant.
 - (2) The policy requires a purchaser of a campaign advertisement to certify in writing that it is not a foreign government-influenced entity or acting on behalf of a foreign government-influenced entity. The policy may allow certification via electronic means and may allow the advertiser to certify by checking a box or other similar mechanism, as long as the box or other mechanism is clearly labeled as a certification that the advertiser is not a foreign government-influenced entity or acting on behalf of a foreign government-influenced entity.
 - (3) The policy requires that such certifications be preserved by the media provider for a period of not less than 2 years.
 - (4) The policy requires the media provider to decline to publish a campaign advertisement if:
 - a. the purchaser fails to provide the certification required by subsection (8)(B)(2); or

- b. the media provider has actual knowledge of facts indicating that, notwithstanding the purchaser's written confirmation to the contrary, the purchaser is a foreign government-influenced entity or is acting on behalf of a foreign government-influenced entity.
- (5) If the media provider is an Internet platform, its policy provides that, upon discovery that the Internet platform has distributed a campaign advertisement purchased by or on behalf of a foreign government-influenced entity, the Internet platform shall immediately remove the public communication and notify the Commission.
- C. **Other policies permitted.** Nothing in this section prevents a media provider from adopting a due diligence policy containing provisions other than those described in subsection (8)(B) above, so long as the policy is reasonably designed to ensure that it does not broadcast, distribute or otherwise make available to the public a campaign advertisement purchased by or on behalf of a foreign government-influenced entity.
- D. **Investigations not required.** A due diligence policy need not require the media provider to investigate their advertisers or to monitor comment sections or other similar fora that the media provider makes available to subscribers, users, or the general public to post commentary.
- E. **Takedown requirement.** If an Internet platform discovers that it has distributed a campaign advertisement purchased by a foreign government-influenced entity, the Internet platform shall immediately remove the public communication and notify the Commission.
9. **Effective Date.** This section takes effect and becomes enforceable on the date, if any, that the U.S. District Court for the District of Maine removes or modifies the injunction against enforcement of 21-A M.R.S. § 1064 issued in *Central Maine Power, et al. v. Comm'n on Governmental Ethics and Election Practices, et al.*, Docket No. 1:23-cv-00450 (D. Me.), provided that, if the District Court modifies the injunction, this section takes effect and becomes enforceable only to the extent that the District Court permits enforcement of the corresponding provisions of § 1064.
10. **Severability.** In the event any portion of 21-A M.R.S. § 1064 is finally determined by a court of competent jurisdiction to be invalid or unenforceable, these rules are enforceable to the extent that corresponding provisions of 21-A M.R.S. § 1064 are valid and enforceable.

STATUTORY AUTHORITY: 1 M.R.S.A. §1003(1); 21-A M.R.S.A. §1126.

EFFECTIVE DATE:
April 29, 1987

AMENDED:

December 28, 1991
December 14, 1994

REPEALED AND REPLACED:

November 1, 1998 - also converted to MS Word format

NON-SUBSTANTIVE CHANGES:

December 3, 1998 - minor spelling and formatting

AMENDED:

May 9, 2005 – effective date of routine technical language adopted (signed by Chair on January 14, 2004 and signed by an Assistant Attorney General on February 19, 2004), filing 2005-133

May 9, 2005 – effective date of routine technical language adopted (signed by Chair on April 8, 2005 and signed by an Assistant Attorney General on April 28, 2005), filing 2005-134

May 4, 2005 – date of filing with the Secretary of State of Provisional Adoption (major substantive) language signed by Chair on April 8, 2005 and by an Assistant Attorney General on April 28, 2005, filing LR-2005-15, submitted by the Commission to the Legislature for review

October 12, 2005 - effective date major substantive final adoption (signed by Chair on July 13, 2005 and filed with the Secretary of State on September 12, 2005), filing 2005-379

April 25, 2007 - effective date of routine technical language adopted (signed by Chair on April 6, 2007 and signed by an Assistant Attorney General on April 17, 2007), filing 2007-144

March 15, 2008 - filing 2008-116

April 12, 2009 - filing 2009-152

November 29, 2009 – filing 2009-615

August 27, 2010 - filing 2010-387 (EMERGENCY)

November 25, 2010 – emergency period having expired, reverted to previous version

July 31, 2011 - effective date of major substantive final adoption (signed by Chair on June 23, 2011 and signed by an Assistant Attorney General on July 20, 2011), filing 2011-254

September 3, 2012 – filing 2012-245

May 11, 2013 - filing 2013-111

May 25, 2015 - filing 2015-097

February 16, 2016 - Section 7 subsection 12, Section 10, filing 2016-023

September 20, 2016 - Section 6 subsection 11, filing 2016-151

July 2, 2018 - Section 6 subsection 7, filing 2018-115

May 7, 2019 - Sections 7, 14, filing 2019-068

March 24, 2024 filing 2024-073

July 20, 2024 filing 2024-160

March 3, 2026 filing 2026-027

APAO ACCESSIBILITY CHECK (Word):

March 5, 2026