



# Local Party Committee Guidebook

Maine Ethics Commission

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### Commission on Governmental Ethics and Election Practices

The Commission is pleased to publish this edition of the Guidebook for Local Party Committees. As always, the Commission staff is available to assist you with any questions regarding campaign finance laws and reporting requirements and may be reached by calling (207) 287-4179.

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*The information in this guidebook reflects the current Election Law pertaining to local party committees as of the First Regular Session of the 130th Legislature. The Commission has taken care to make this guidebook concise and accurate. However, the guidebook is not a substitute for the applicable statutory provisions of the Election Law and Commission's rules. The statutes and rules are controlling in the event of any omission or misstatement in this publication.*

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## Chapter 1 – Introduction

Political parties are a valuable resource for both the electorate and candidates running for office. This guidebook is designed for the local committees of Maine’s political parties that are organized at the municipal and county level, and includes advice on the financial reports that the committees may be required to file with the Commission and limits on contributing to candidates for the 2022 elections. This guidebook is intended to be a resource but not a replacement for the law. Please contact the Commission staff with any questions you have at (207) 287-4179.

### Reporting to the Ethics Commission

Your committee must file campaign finance reports with the Commission once it accepts contributions, incurs obligations, or makes expenditures in the aggregate in excess of \$1,500 in any single calendar year. Once the \$1,500 threshold is met, the committee must file a campaign finance report on the next filing deadline. The report must cover all financial activity since January 1<sup>st</sup>. After that, the committee must file reports covering through December 31<sup>st</sup>, regardless of financial activity. The \$1,500 threshold resets on January 1<sup>st</sup>. So, it is possible that a committee that filed for one year does not need to file during the next year because it has not met the \$1,500 threshold.

Once your committee knows that it will exceed the \$1,500 threshold, you should contact the Commission to have the filing schedule assigned to your e-filing account. Once the filing schedule is assigned you can view and file each report for the year.

### Filing Schedules

The local (municipal, district, and county) committee filing schedule depends on the year. The law outlines when these reports are due. If the date falls on a weekend or holiday, the report is due on the next business day.

<b>ELECTION (EVEN-NUMBERED YEARS) REPORTING SCHEDULE</b>		
<i>Type of Report</i>	<i>Report Due</i>	<i>Reporting Period</i>
July Semiannual	July 15 <sup>th</sup>	January 1 <sup>st</sup> – June 30 <sup>th</sup>
11-Day Pre-General	11 days before the election	July 1 <sup>st</sup> – (14 days before the election)
January Semiannual	January 15 <sup>th</sup>	(13 days before the election) – December 31 <sup>st</sup>

<b>NON-ELECTION (ODD-NUMBERED YEARS) REPORTING SCHEDULE</b>		
<i>Type of Report</i>	<i>Report Due</i>	<i>Reporting Period</i>
July Semiannual	July 15 <sup>th</sup>	January 1 <sup>st</sup> – June 30 <sup>th</sup>
January Semiannual	January 15 <sup>th</sup>	July 1 <sup>st</sup> – December 31 <sup>st</sup>

All reports must be received by 11:59 p.m. on the deadline. For committees granted a waiver to file on paper the Commission must receive the original report signed by the treasurer by 5:00 p.m. on the filing deadline. A properly signed report may be faxed by 11:59 p.m. on the deadline, provided that the original report is received by the Commission within five days of the fax. A report that is sent by certified or registered mail and postmarked at least two days before the filing deadline will not be considered late, even if it is received after the filing deadline. Committees that do not submit a required report by the filing deadline will be assessed a civil penalty.

### Supplemental Reports

In addition to regularly scheduled campaign finance reports, a committee may need to file supplemental reports depending on its activity.

**24-HOUR REPORTS.** If a local party committee receives \$5,000 or more from a single source or makes a payment of \$1,000 or more during the last two weeks before an election, then it is required to file a supplemental report within 24 hours of those transactions. If the report is due on a weekend or holiday, then it is due on that day and not the next business day. If an expenditure is for routine overhead costs, such as rent, insurance, taxes, utility payments, or similar administrative expenses then a 24-Hour Report is not due even if the expenditure exceeds \$1,000.

**INDEPENDENT EXPENDITURE REPORTS.** If a committee makes an expenditure for a communication to members of the public supporting or opposing a candidate (for example, a mailing or advertisement) and that expenditure exceeds \$250 per candidate depicted, then they may be required to file an Independent Expenditure Report. Slate cards/advertisements are exempt from this requirement. (More on this in Chapter 3.)

## Electronic Filing

All committees are required to file their reports through the Commission's e-filing system. Usernames and passwords are assigned to the committee officer(s). All required reports for the year are listed on the committee's e-filing homepage.

If a committee lacks the access to the technology or the technological ability to file electronically, they may submit a request for a waiver from the requirement within 30 days of registering. The Commission will grant all reasonable requests; however, it is strongly recommended that committees utilize the e-filing system.

## Role of the Party Committee Treasurer

The committee must appoint a treasurer who is responsible for maintaining records and filing timely and accurate reports.

## Keeping Required Records

Committees are required to retain records of contributions and expenditures for at least ten days after the election following the election to which the records pertain. Records the committee must keep:

- Any expenditures made to or on behalf of a candidate (specifying the district and office sought), campaign, or committee, including the identity and address of the candidate, campaign, or committee;
- Vendor invoices and receipts stating the particulars of the goods or services purchased for every expenditure more than \$50; and
- Records of each contributor who gave more than \$50 during the year, including their name, address, the date and amount of the contribution.

For example, a committee makes an expenditure of \$100 on May 15, 2020. The expenditure is associated with the November 3, 2020 election. The committee must retain the records for the expenditure until November 18, 2022.

The campaign is not required to submit bills or invoices to the Commission unless they are requested to verify the accuracy of reports.

## Municipal Elections

When a committee makes contributions or expenditures on behalf of a candidate for municipal office, a copy of the reports filed with the Commission must also be filed with the clerk in that candidate's municipality, if it is subject to Maine's campaign finance laws, which includes

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municipalities with a population exceeding 15,000, and any municipality that chooses to be subject to these provisions. As of the publication of this Guidebook, the following towns are subject to this requirement:

<b>City/Town</b>	<b>Website</b>	<b>Telephone</b>
Auburn	<a href="#">Auburn City Clerk Office</a>	(207) 333-6601
Augusta	<a href="#">Augusta City Clerk Office</a>	(207) 626-2310
Bangor	<a href="#">Bangor City Clerk Office</a>	(207) 992-4220
* Bar Harbor	<a href="#">Bar Harbor Town Clerk Office</a>	(207) 288-4098
Biddeford	<a href="#">Biddeford City Clerk Office</a>	(207) 284-9307
Brunswick	<a href="#">Brunswick Town Clerk Office</a>	(207) 725-6658
Gorham	<a href="#">Gorham Town Clerk Office</a>	(207) 222-1670
Lewiston	<a href="#">Lewiston City Clerk Office</a>	(207) 513-3124
Portland	<a href="#">Portland City Clerk Office</a>	(207) 874-8610
Saco	<a href="#">Saco City Clerk Office</a>	(207) 284-4831
Sanford	<a href="#">Sanford City Clerk Office</a>	(207) 324-9125
Scarborough	<a href="#">Scarborough Town Clerk Office</a>	(207) 730-4021
South Portland	<a href="#">South Portland City Clerk Office</a>	(207) 767-3201
* Standish	<a href="#">Standish Town Clerk Office</a>	(207) 642-4678
* Union	<a href="#">Union Town Clerk Office</a>	(207) 785-3658
Waterville	<a href="#">Waterville City Clerk Office</a>	(207) 680-4211
Westbrook	<a href="#">Westbrook City Clerk Office</a>	(207) 591-8131
Windham	<a href="#">Windham Town Clerk Office</a>	(207) 892-1900

(\*Bar Harbor, Standish, and Union have elected to be subject to the provision of Maine’s campaign finance laws with respect to referenda and initiatives, but not candidate elections.)

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If you participate in a municipal election, you must send a copy of your campaign finance report to the clerk for that municipality in addition to filing the report with the Maine Ethics Commission.

**Legal References**

Reporting to the Ethics Commission	21-A M.R.S. § 1017(7)
Filing Schedules	21-A M.R.S. § 1017(4-B)
Supplemental Reports	21-A M.R.S. §§ 1017(4-B)(C); 1019-B
Electronic Filing	21-A M.R.S. § 1017(4-C)
Role of the Party Committee Treasurer	21-A M.R.S. § 1013-A(3)
Keeping Required Records	21-A M.R.S. § 1017-B
Municipal Elections	21-A M.R.S. § 1017(8)



## Chapter 2 – Specifics in Reporting

Each campaign finance report covers a specific period of time. You must report all contributions and expenditures – no matter how small – for the committee during the reporting period. There are seven different parts to the report, this chapter will help you understand those sections.

### What to Report vs. What Not to Report

**CONTRIBUTIONS RECEIVED.** Generally, you must report money or anything of value received for the purpose of influencing the nomination or election of any candidate. If the committee receives contributions from a single source totaling \$200 or less during a report period, the committee may lump all of those contributions together into a single transaction and report them as unitemized contributions. In-kind contributions (goods or services) may be lumped together if the total value for the report period do not exceed \$200 and the contributions are of the same type (e.g. staff time cannot be lumped together with office equipment).

For in-kind contributions, some items or services are excluded from the definition of contribution. These do not have to be reported by party committees as contributions:

- The value of services provided by individuals who volunteer for the committee;
- The use of offices, telephones, computers and similar equipment when that use does not result in additional cost to the provider; or
- Wood or other materials used for political signs that are found or contributed if not originally obtained by the candidate or contributor for campaign purposes.

**EXPENDITURES.** A committee must report all payments or agreements for payments to vendors for the purpose of influencing an election. Some activities and communications are exceptions to the definition of expenditure and do not need to be reported:

- Activity or communication designed to encourage individuals to register to vote or to vote if it does not mention a clearly identified candidate;
- The use of real or personal property and the cost of invitations, food and beverages, by a campaign volunteer for candidate-related activities, if the cumulative value of these activities does not exceed \$250 with respect to any election;
- Any unreimbursed travel expenses incurred by a campaign volunteer and paid for by that individual, if the cumulative amount of these expenses does not exceed \$350 with respect to any election;

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- Any communication by any person that is not made for the purpose of influencing the nomination for election, or election, of any person to state, county or municipal office;
- The payment by a party's state, district, county or municipal committee of the costs of preparation, display or mailing or other distribution of a party candidate listing;
- Documents, in printed or electronic form, including party platforms, single copies of issue papers, required disclaimer statements, lists of registered voters and voter identification information, created or maintained by a political party for the general purpose of party building and provided to a candidate who is a member of that party;
- Costs paid for by a committee in connection with a campaign event at which 3 or more candidates are present (Party Candidate Listings);
- Campaign training sessions provided to 3 or more candidates;
- Documents, in printed or electronic form, including party platforms, single copies of issue papers, information pertaining to the requirements of this section, lists of registered voters, voter identification information, created, obtained or maintained by the party for the general purpose of party building and provided to a candidate who is a member of that party;
- Campaign training sessions provided to 3 or more candidates; or
- A purchase of apparel from a commercial vendor with a total cost of \$25 or less by an individual when the vendor has received a graphic or design from the candidate or the candidate's authorized committee.

**DATE CALCULATION.** When reporting a financial transaction, a party committee is required to disclose a date for the transaction. For a contribution, report the date when the contribution is "in hand." In the case of a mailed check, the date of the contribution is the date that it is delivered to the committee and not the date on the check or the date that it was deposited. For contributions that are completed via wire-transfer, the date of the contribution is the date that the transfer is completed and the funds are in the account. In-kind contributions are treated the same; once the contribution is "in the hands" of the committee that is the date of the contribution.

One notable exception to this rule is paid staff time donated to the party committee by a business or other organization. In those cases, the contribution is made when the staff are paid for the time that they spent working for the committee, and not when they actually worked for the committee. Depending on their individual pay cycles, this could mean that the contribution is made several weeks after their donated work.

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For the date of expenditures, the date is when the “obligation to pay is incurred.” This can be when a contract is entered into, work has been agreed to, or when payment is made. If, however, the obligation to pay occurs in the same report period as the payment then the expenditure date becomes the payment date. If the obligation to pay is incurred in one report period and payment occurs in a subsequent report period then the committee will report a debt for when the obligation to pay is incurred and will report a payment of the date when the payment is made.

## Sections of Reports

Each report has sections based on the category of transactions, which this section will describe.

### **SCHEDULE A: CASH CONTRIBUTIONS RECEIVED BY THE COMMITTEE**

- Names, mailing addresses, occupations, and places of business of all individual contributors who donate more than \$200. You must make a good-faith effort to obtain their employment information, but if you are unable to, please enter “information requested” on the report.
- Total of cash contributions from individuals giving \$200 or less do not have to be itemized and can be reported as a lump sum line item on Schedule A.

### **SCHEDULE A-1: IN-KIND CONTRIBUTIONS RECEIVED BY THE COMMITTEE**

- In-kind contributions are goods and services (including facilities) that a committee received at no cost or at a cost less than their fair market value. They include all goods and services purchased for the committee by others if the committee does not expect to reimburse those who made the purchase.
- For contributors giving more than \$200, the committee must report the contributor’s name, address, occupation, and employer. You must make a good-faith effort obtain their employment information, but if you are unable to, please put “information requested” on the report.
- For contributions totaling \$200 or less, please enter “unitemized contributions” as the contributor.
- Once a contributor has given more than \$200 in a report period, you must list them separately.

### **SCHEDULE B: EXPENDITURES TO SUPPORT/OPPOSE CANDIDATES**

- All contributions to candidates, whether monetary or in-kind.

- Expenditures made for communications to voters to influence the election of a clearly identified candidate. The communication does not have to expressly advocate for or against a candidate to be reported on this schedule if the communication is disseminated close in time to an election. The name of the candidate supported or opposed must also be reported for every expenditure on a communication.
  - If a single expenditure identifies multiple candidates, the committee must itemize the amount spent per candidate. To calculate this, the committee must pro rate the total expenditure based on how each candidate was featured.

**Example:** A Committee spends \$1,000 on a two-page mailer featuring three candidates. Page one is dedicated to candidate A, page two is divided equally between candidates B & C. Since half of the mailer is dedicated to candidate A, the committee would report \$500 to candidate A and \$250 to each candidate B & C.

For federal candidate or non-statewide candidates, do not click the “Support/Oppose Candidate” button. Instead, in the description section, enter the name of the candidate and the office sought. **SCHEDULE B-1: OPERATING EXPENDITURES**

- All operational expenses and other cash expenditures not made on behalf of a candidate, committee, or campaign, no matter how small, including staff salaries, office rent, postage (for non-candidate communications), website design and maintenance, etc.
- Expenditures for bank fees and vehicle travel may be aggregated and listed as a lump sum with the time period identified in the remarks section.

#### **SCHEDULE C: LOANS AND REPAYMENTS**

- A committee must list all new and continuing loans that were unpaid at any time during this reporting period. If a loan amount is forgiven, the amount forgiven must also be entered as a contribution on Schedule A. Any loan payments must be reported on Schedule C. Note -- the Commission’s e-filing system will carry existing loans forward automatically, do not reenter a loan once it has been reported.

#### **SCHEDULE D: UNPAID DEBTS AND OBLIGATIONS**

- A debt or obligation is incurred if a committee places an order for a good or service without making a payment; makes a promise or agreement to pay for a good or service;

signs a contract for a good or service; or receives delivery of a good or service for which the committee has not paid.

- This schedule lists all unpaid debts and obligations of the committee as of the end of the reporting period. When the obligation has been paid, the expenditure (i.e., the actual payment) must be reported on Schedule B or B-1.
- If the committee has not received a bill for goods or services, contact the vendor to obtain the amount owed. If it is impossible to verify the amount of the debt, enter an estimated amount and indicate that the amount is estimated in the purpose section.
- If obligations from a previous report remain unpaid, you must continue to report them on this schedule until they have been paid in full. Note -- the Commission's e-filing system will carry existing debts forward automatically, do not reenter a debt once it has been reported.

### **Legal References**

What to Report vs. What Not to Report	21-A M.R.S. § 1012(2) & (3); 94-270 CMR Ch. 1, §§ 6(1), 7(3)
Sections of Reports	21-A M.R.S. § 1017-A

## Chapter 3 – Other Disclosure Reports

### 24-Hour Reports of Expenditures

If a party committee makes a single expenditure or obligation of \$1,000 or more during the last thirteen days before an election, it must file a 24-Hour report with the Commission. Your party committee must disclose any single expenditure (including an obligation) of \$1,000 or more within 24 hours of that expenditure. If the deadline for filing a 24-Hour report falls on Saturday or Sunday, it must be filed on that day. It can be filed electronically on the Commission’s e-filing website.

If the expenditure results from a routine overhead expense, then a report is not required even if it exceeds \$1,000. To qualify for this exception, the expense must have been reported at regular intervals. Types of overhead expenses include rent, utility payments, taxes, insurance premiums, or similar administrative expenses.

### 24-Hour Reports of Contributions

If a party committee receives a single contribution of \$5,000 or more during the last 13 days before an election, it must file a 24-Hour report with the Commission. If the deadline for filing a 24-Hour report falls on Saturday or Sunday, it must be filed on that day. It can be filed electronically on the Commission’s e-filing website.

### Independent Expenditures

#### WHAT IS AN INDEPENDENT EXPENDITURE (IE)?

The term “independent expenditure” applies to expenditures for communications to the public expressly advocating for or against a candidate that are made independently of the candidate, the candidate’s campaign committee, and their agents. Communications include but are not limited to: print media and online

advertisements, radio and television ads, live calls and robocalls, direct mail and e-mail communications, campaign signs, palm cards, and other campaign literature. Slate cards or similar advertisements by party committees that promote multiple party nominees are exempt from IE reporting (this exception is discussed later in this chapter). If a party committee makes an IE of more than \$250 to promote a candidate, the committee must file an IE report. An

#### What is an expenditure?

- any obligation to pay for a good or service;
- the placement of an order for goods and services;
- a promise or agreement (even an implied one) that payment will be made;
- the signing of a contract for a good or service;
- the delivery of a good or service even if payment has not been made;
- the payment for a good or service.

expenditure is considered made at the earliest of the following events:

- the placement of an order for a good or service;
- the signing of a contract for a good or service;
- the delivery of a good or service;
- a promise or an agreement to pay; or
- the making of a payment for a good or service

Additionally, a communication that only names or depicts a “clearly identified” candidate — without any expressed advocacy — is presumed to be an “independent expenditure” if it is made within a certain period before an election (the “presumption period”). The presumption period for an election is:

**“Clearly identified” means:**

- The name of the candidate appears;
- A photograph or drawing of the candidate appears; or
- The candidate’s identity is apparent by unambiguous reference.

- 28 days, including election day, before a primary election;
- from Labor Day to the day of the general election; and
- 35 days, including election day, before a special election.

Some communications are exempt from the presumption, such as party candidate listings and those not made for the purpose of influencing a candidate election.

If a communication is presumed to be an IE, the spender may submit a signed written statement rebutting the presumption with the Commission within seven (7) days of disseminating the communication. The Commission considers each rebuttal statement on a case-by-case basis.

IEs must be independent of the candidate. The term “candidate” includes the candidate, their authorized committee, and agents of the candidate or authorized committee. If an expenditure is made to promote or support the nomination or election of a candidate, or 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 to the candidate. For example, if a party committee runs an ad supporting a candidate in the newspaper and obtained the candidate’s photograph from the candidate for the ad, that is enough to make the entire cost of the ad a contribution to the candidate. An IE must be done completely without cooperation from, consultation, or acting in concert with the candidate, the candidate’s committee or agents.

**WHAT DOES “COOPERATION, CONSULTATION OR IN CONCERT WITH MEAN?”** The Commission’s Rules state that that “in cooperation, consultation or in concert with” includes, but is not limited to:

- Discussion between the candidate and the creator, producer or distributor of a communication, or the person paying for that communication regarding the content, timing, location, mode, intended audience, volume of distribution, or frequency of placement of that communication; and
- 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 communication.
- An expenditure is presumed to be made in cooperation, consultation, or concert with, or at the request or suggestion of a candidate, when:
  - 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;
  - 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 communication to voters to promote or support the candidate; or
  - The communication replicates, reproduces, republishes, or disseminates, in whole or in substantial part, a communication designed, produced, paid for, or distributed by the candidate.

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

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

- The spender has obtained a photograph, biography, position paper, press release, logo, or similar material about the candidate from a publicly available source;
- 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;

- 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;
- 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;
- 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, families, etc.; or
- The expenditure is made by an individual spending \$100 or less for costs associated with a sign lettered or printed individually by hand and that reproduces or replicates a candidate's campaign-related design or graphic.

**COMMUNICATIONS THAT CONTAIN EXPRESS ADVOCACY.** "Expressly advocate" means that a communication 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 2022," "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 candidates, "reject the incumbent," or communications of campaign slogans or individual words, which in context can have no other reasonable meaning than to urge the election or defeat of one or more clearly identified candidates, such as posters, bumper stickers, advertisements, etc. such as "Pick Berry!"

**REBUTTING THE PRESUMPTION.** The presumption that a communication is an IE may be rebutted. The person making the expenditure must submit a signed written statement to the Commission, within seven (7) calendar days of making the expenditure, stating the reasons why the communication was not intended to influence the election of a candidate. The Commission must determine by a preponderance of the evidence whether the communication was made to influence an election.

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Prior to disseminating a communication, a committee may submit a rebuttal statement to the Commission and request an early determination. The request must include the complete communication and be specific as to when and to whom the communication will be disseminated.

While there is no penalty for failing to file a rebuttal statement within seven (7) calendar days, if the Commission determines that the communication was not covered by the presumption and an IE report was not filed on time, the person making the expenditure could be assessed a penalty for the late-filed report.

**EXCLUSIONS.** An IE does not include:

- An expenditure made by a person in cooperation, consultation, or concert with, or at the request or suggestion of, a candidate, a candidate's political committee, or their agents;
- 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;
- 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;
- A voter guide that consists primarily of candidates' responses to surveys and questionnaires and that contains no advocacy for or against any candidate; and
- A party candidate listing.

**WHEN TO FILE AN INDEPENDENT EXPENDITURE REPORT.** Whether an expenditure on a communication requires an IE report depends on two factors (1) the amount spent on the communication per candidate; and (2) when the expenditure was made.

The reporting periods, applicable thresholds and deadlines for reporting IEs are:

<b>Reporting Period</b>	<b>Threshold for Reporting Expenditure</b>	<b>Report and Due Date</b>
Anytime on or before the 61st day before an election	Any expenditures over \$250 per candidate	60-Day Pre-Election Report due by 5:00 p.m. on the 60th day before an election
From the 60th day to the 14th day before an election	Any expenditures over \$250 per candidate	Within 2 calendar days of making the expenditure
From the 13th day before the election to and including election day	Any expenditures over \$250 per candidate	Within 1 calendar day of making the expenditure

**FILING INDEPENDENT EXPENDITURE REPORTS.** If the deadline for an IE report falls on a weekend or holiday, the report must be filed on that day. The report may be filed online, faxed, or scanned, provided that the Commission receives a copy of the report with the original, notarized statement that the it was made independently of the candidate. Any expenditure reported in an IE report must also be reported in the committee’s regular report for the period in which it was made.

**LATE INDEPENDENT EXPENDITURE REPORTS.** If a committee files an IE report late, the maximum penalty that may be imposed is \$5,000 except if the financial activity reported exceeds \$50,000, the maximum penalty is 100% of the amount reported late.

### Party Candidate Listings

A party candidate listing (sometimes referred to as slate advertising) is expressly removed from the definition of expenditure. That means if a communication meets this definition then a committee is not required to file an IE report, or even include it in its regular campaign finance reports.

A party candidate listing:

- Lists the names of at least 3 candidates for election to public office;
- Is disseminated through public advertising;
- Treats all candidates in the communication similarly, except for any requirements applicable to candidates under federal law; and

## *Local Party Guidebook*

- Limits the content of the communication to only:
  - The identification of the candidates (including pictures);
  - The offices sought;
  - Any currently held offices;
  - Party affiliation of the candidates and a brief statement such as campaign slogans;
  - Encouragement to vote for the candidates;
  - Information about voting; and
  - Campaign or party logos.

### **Legal References**

24-Hour Reports of Expenditures	21-A M.R.S. § 1017-A(4-B)(C)
24-Hour Reports of Contributions	21-A M.R.S. § 1017-A(4-B)(C)
Independent Expenditures Reports	21-A M.R.S. § 1019-B; 94-270 C.M.R. Ch. 1 § 10
Party Candidate Listings	21-A M.R.S. § 1012(5)

## Chapter 4 – Supporting Candidates

### Direct Contributions

**CONTRIBUTION LIMITS.** Generally, there are no restrictions on the types of entities to which a local party committee may contribute. However, they may only contribute to traditionally financed candidates, not to candidates participating in the Maine Clean Election Act (MCEA) program. Committees may make cash or in-kind contributions to political action committees (PACs), ballot question committees (BQCs), state and other local party committees, and other organizations and groups. There is, however, a limit on the amount a committee, or anyone else, may contribute to traditionally funded candidates. Pursuant to 21-A M.R.S.A § 1015(2), the contribution limits per election (the primary and general elections are separate elections) are as follows:

Contributions to:	Limits per election
Privately Financed Candidates for the Legislature	\$425
Privately Financed Candidates for Governor	\$1,725
Candidates for County and Municipal Offices	\$500
Party Committees	Unlimited
Political Action Committees	Unlimited
Ballot Question Committees	Unlimited

All contributions made to candidates who are not enrolled in a political party are attributable to the general election.

**IN-KIND CONTRIBUTIONS.** A committee can provide goods and services (anything of value) to a candidate but if the candidate has not reimbursed the committee for the full value of the goods and services, the committee has made an in-kind contribution to the candidate. The amount of the contribution is the value of the goods and services minus any payment the candidate has made to the committees. In-kind contributions are subject to the contribution limits for privately financed candidates. MCEA candidates cannot accept any cash or in-kind contributions.

Please note that some in-kind contributions from party committees to candidates are expressly removed from the definitions of contribution and expenditure. (See Chapter 2). Any activity that is expressly removed from these definitions do not count towards the contribution limits.

## Business Entity Funds

Starting on January 1, 2023, local party committees cannot make contributions to candidates, leadership PACs, or separate segregated fund PACs using funds that derive in whole or in part from a business entity. A business entity is defined as a “firm, partnership, corporation, incorporated association, labor organization, or other organization, whether organized as a for-profit or a nonprofit entity.”

The Commission interprets this provision to mean that an unregistered sole proprietorship is not a business entity and contributions from sole proprietorships are treated as contributions from the individual owner. If a local party committee wishes to contribute money to a candidate or leadership PAC, the committee should be prepared to demonstrate (if asked by the Commission) that the funds are derived from contributions from individuals or other sources that are not business entities.

### Legal References

Direct Contributions	21-A M.R.S. §§ 1015, 1056; 94-270 C.M.R. Ch. 1 § 6(9)
Business Entity Funds	21-A M.R.S. §§ 1015(2), 1056-C(2), 1056-D(2)

# Chapter 5 – Disclosure Statements on Campaign Communications

## Campaign Communications Regarding Candidate Elections

**AUTHORIZED BY A CANDIDATE.** Whenever a person makes an expenditure to finance a communication expressly advocating the election or defeat of a clearly identified candidate, it must clearly and conspicuously state that the communication has been so authorized and must clearly state the name and address of the person who made or financed the expenditure for the communication. A communication financed by a candidate or the candidate's committee is not required to state the address of the candidate or committee that financed it. If a communication is financed by someone other than the candidate or the candidate's authorized committee is broadcast by radio, only the city and state of the address of the person who financed the communication must be stated.

**Communication includes:**  
Broadcasting stations,  
cable television systems,  
newspapers,  
magazines,  
outdoor advertising facilities (including yard signs),  
websites,  
direct mails,  
flyers,  
handbills,  
bumper stickers,  
and other non-periodical publications.

**Clearly identified means:**  
The name of the candidate appears;  
The photograph or drawing of the candidate appears; or  
The identity of the candidate is apparent by unambiguous reference.

**NOT AUTHORIZED BY A CANDIDATE.** If the communication has not been authorized by a candidate, a candidate's authorized political committee, or the candidate's agents, that expressly advocates for the election or defeat of a clearly identified candidate, it must clearly and conspicuously state that it is not authorized

by any candidate and include the name and address of the person who made or financed the communication. If the communication is in written form, it must contain at the bottom in 12-point bold print, Times New Roman Font the words "**NOT PAID FOR OR AUTHORIZED BY ANY CANDIDATE.**" If a committee has made an IE for a communication regarding a candidate, it must have this disclosure statement.

**OTHER COMMUNICATIONS.** If the communication clearly identifies a candidate but does not expressly advocate for their election or defeat, it must clearly and conspicuously state the name and address of the committee that paid for or financed the communication if it is distributed to voters during 28 days before the primary election, 35 days before the general election, 35 days

before a special election, or from Labor Day to the general election day. If the communication has been authorized by the candidate, the disclosure statement must also state that the candidate authorized the communication.

### **Top-3 Funders Disclosure on Independent Expenditures**

When the committee makes an IE to support or oppose a candidate, it is required to name its three largest funders in the communication. This disclosure statement is in addition to the “paid for” disclosure requirements discussed in the previous section.

#### **WHAT COMMUNICATIONS REQUIRE A TOP 3 FUNDERS DISCLOSURE STATEMENT?**

Communication required to include the disclosure statement include:

- An independent expenditure;
- If it is more than \$250 per candidate; and
- Made over broadcast or cable television, broadcast radio, or Internet audio programming, or through direct mail, newspaper or other periodical publications.

The following are examples of communications not requiring the top 3 funders disclosure statement:

- Telephone calls;
- Websites and internet ads;
- Videos on the internet; and
- Outdoor advertising (campaign signs, banners, etc.).

**WHAT IS REQUIRED FOR A TOP 3 FUNDERS DISCLOSURE STATEMENT?** The communication must conspicuously include the following statement: “The top 3 funders of (Name of the organization making the independent expenditure) are: (Names of the top 3 funders).”

- Audio and visual communications (e.g., broadcast or cable television ads) require both an audio and visual statement.
- The visual portion of a top 3 funders disclosure statement in a cable television or broadcast television communication must conform to federal regulations which regulate text size and duration of sponsorship information, specifically:
  - be equal to or greater than four percent of the vertical picture height, and
  - appear for not less than four seconds.



- For communications with a visual aspect other than television or video communications (e.g., mailers, palmcards), the top 3 funders disclosure statement must appear in a font size that is 12-point or larger.

The following is an example of a top 3 funders disclosure statement, coupled with the “paid for” disclosure statement:

Paid for by the Committee for a Better Maine, 2 Oak Street, Bangor, Maine. The top 3 funders of Committee for a Better Maine are Americans for a Fair Workplace, the National Business-Labor Council, and Get America Moving. **Not paid for or authorized by any candidate.**

The law contains some exceptions for small or short-duration communications:

- If it is made by broadcast or cable television and is 30 seconds or less in duration, the audible portion of the disclosure statement is only required to include the organization’s top funder. The visual portion must still include the top three funders.
- If it is made by print and is 20 square inches or less, the disclosure statement is only required to include the organization’s top funder.
- If it is made in an audio-only format and is 30 seconds or less in duration, the disclosure statement is only required to include the organization’s top funder.

#### **WHO ARE AN ORGANIZATION’S TOP FUNDERS?**

- A funder is any entity (a business, political committee, individual, etc.) that has given a cash or in-kind contribution to the organization since the day after the last general election.
- If two or more funders are tied, the tie is broken by naming the funders in chronological order (oldest first). If the tie cannot be broken, the organization can choose which of the tied funders to include in the disclosure statement.
- If an organization’s top funders change, the disclosure statement for any communication paid for after the change must be updated appropriately.
- **An organization does not have to name funders giving less than \$1,000 or whose funds can be shown to have been used for purposes other than the communication because the funds were already spent in the order received**

- **or were strictly segregated in other accounts.**
- If there is only one or two top funders, the disclosure statement should be “The top funder of (the organization) ...” or “The top 2 funders of (the organization) ...”
- If none of an organization’s funders meets the criteria for the disclosure statement, the disclosure statement is not required.

### Federal Disclosure Statement Requirements

In addition to state requirements, the Federal Communications Commission (FCC) requires sponsorship identification to be on political advertisements on broadcast stations or cable television systems, and to be included in pre-recorded automated voice messages and auto-dialed calls (“robocalls”). For more information on these regulations, contact the FCC directly.

#### **Legal References**

Campaign Communications Regarding  
Candidate Elections

21-A M.R.S. § 1014

Top-3 Funders Disclosure on Independent  
Expenditures

21-A M.R.S. § 1014(2-B); 94-270 C.M.R. Ch.  
1, § 7(12)

## Chapter 6 – Enforcement Actions by the Commission

### Reminders by the Commission

Committees are responsible for knowing their reporting obligations and the report deadlines. The Commission staff publishes the filing schedule on its website and the required reports are listed on the committee's e-filing homepage. Although the Commission staff send courtesy reminders before each filing, failure to receive such a reminder is no excuse for a late filing.

### Commission's Review of Reports

The Commission staff reviews reports for completeness, compliance and may contact the committee if it believes that a report is incomplete or requires additional information. If necessary, the staff will request that the committee amend the report.

### Penalties for Late-Filed Campaign Finance Reports & Failure to File Reports

Penalties are assessed for late reports using a formula established by statute. The formula considers the number of days the report was late, any previous violations by the committee during a two-year period, and the amount of financial activity during the reporting period. The two-year period begins on January 1<sup>st</sup> of each even-numbered year.

*Example:* The treasurer files the report two (2) calendar days late. The committee has not had any previous late filings in the past two years. The committee reports a total of \$2,500 in contributions and \$1,500 in expenditures for the filing period. The penalty is calculated as follows:

\$2,500	Greater of the amount of total contributions received or expenditures made during the filing period
X	
<u>.02</u>	Percent prescribed for first violation
\$50.00	Two percent of total contributions
X	
<u>2</u>	Number of calendar days late
<b>\$100.00</b>	Total penalty Commission may assess

The maximum penalty that can be assessed against a committee for a late-filed, or substantially non-conforming, semi-annual, 11-Day Pre-General, or a late-filed 24-hour report is \$500.

## Requesting a Waiver of a Late-Filing Penalty

If a committee files a report late, the Commission will send a letter informing the treasurer of the preliminary amount of the penalty and request that the committee pay the penalty or seek a waiver. If the committee does not request a waiver within 14 days, the staff will send a final notice of the penalty to the treasurer.

Generally, the committee treasurer or other representative may request a waiver by submitting a letter within 14 days of receiving the penalty notice. Requests for waivers are considered by members of the Commission at a public meeting — not by the staff. Although not required, the committee's treasurer or representative is encouraged to attend the meeting. After the Commission meets, notice of its final determination and the penalty imposed, if any, is sent by U.S. mail to the treasurer or other committee representative.

The Commission may waive a penalty in whole or in part if there are mitigating circumstances such as a valid emergency, an error by Commission or municipal staff, or any other circumstances that they determine warrant mitigation of a penalty. Other factors they may consider include the level or experience of the committee officers and treasurer, or the harm suffered by the public from the late disclosure. A penalty of less than \$10 is automatically waived. However, the late-filed report will still be considered a violation and will count toward the calculation of future penalties.

The penalty must be paid in full within 30 days unless other payment arrangements are made. If the penalty is not paid within 30 days, the Commission may refer the matter to the Attorney General's office for collection in a civil action.

## Appealing a Penalty Determination

A committee may appeal the Commission's final determination by filing a petition for review with the Superior Court within 30 days of receiving the notice of the final determination. The Maine Administrative Procedures Act (5 M.R.S. § 11001 *et seq.*) and Rule 80C of the Maine Rules of Civil Procedure govern the process for an appeal to the Superior Court.

## Investigations & Audits

The Commission is authorized to undertake investigations or audits of the financial reporting of committees. The Commission may initiate an investigation on its own or in response to a request submitted to the Commission, which any person may make. The request must be in writing and must set forth facts in sufficient detail to specify the alleged violation, and statements

must be based on the personal knowledge of the person making it. If not, the identity of the source of the information must be explained. The Commission will review the request to determine whether the allegations set forth sufficient grounds for believing that a violation may have occurred.

### **Legal References**

Commission's Review of Reports	94-270 C.M.R. Ch. 1. § 5(1)
Penalties for Late-Filed Campaign Finance Reports & Failure to File Reports	21-A M.R.S. § 1020-A(5-A)(D)
Requesting a Waiver of a Late-Filing Penalty	21-A M.R.S. § 1020-A(6)
Appealing a Penalty Determination	21-A M.R.S. § 1062-A(5)
Investigations & Audits	21-A M.R.S. § 1003

## Directory

### Commission on Governmental Ethics and Election Practices

Office: 45 Memorial Circle, Augusta  
Mail: 135 State House Station  
Augusta, Maine 04333-0135  
Phone: (207) 287-4179  
Fax: (207) 287-6775  
Hours: 8:00 a.m. – 5:00 p.m.  
Website: [www.maine.gov/ethics](http://www.maine.gov/ethics)  
E-Filing: <https://secure.mainecampaignfinance.com/CampaignFinance/UserLogin.aspx>

### Department of the Secretary of State, Division of Elections

Office: 111 Sewall St., Cross Office Building, 4<sup>th</sup> Floor, Augusta  
Mail: 101 State House Station  
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Phone: (207) 624-7650  
Fax: (207) 287-6545  
Website: <http://www.maine.gov/sos/cec/elec/index.html>

### Department of Transportation, Right of Way Control Section

Mail: 16 State House Station  
Augusta, Maine 04333-0016  
Phone: (207) 624-3611

### Federal Elections Commission

Mail : 999 E Street, NW  
Washington, DC 20463  
Phone: (800) 424-9530  
Phone: (202) 694-1000  
Website: [www.fec.gov](http://www.fec.gov)

### Federal Communications Commission, Office of Political Programming

Mail: 445 12<sup>th</sup> Street, S.W.  
Washington, DC 20554  
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Website: <https://www.fcc.gov/media/policy/political-programming>  
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