



# VOTE

## Political Action 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 Political Action Committees. As always, the Commission staff is available to assist you with any questions regarding campaign finance laws and reporting requirements for candidates, party committees, political action committees and ballot question committees. The Commission may be reached by calling (207) 287-4179.

Michael J. Dunn, Esq.  
Political Committee and Lobbyist Registrar  
Michael.Dunn@Maine.Gov

*The information in this Guide reflects changes to the Election Law pertaining to political action committees enacted through the First Regular Session of the 130th Legislature. The Commission has taken care to make this Guide concise and accurate. However, the Guide 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

Organizations and groups that raise or spend money to influence candidate elections in Maine may be required to register as a political action committee (PAC) and file campaign finance reports with the Commission. There are four different types of PACs that each have their own specific restrictions and requirements. Different reporting requirements apply to the committees of Maine’s political parties and organizations formed to influence initiatives and referenda, referred to as ballot question committees (BQCs). (Please see the BQC and Local Party Committee Guidebooks for more information.)

## What is a Political Action Committee?

Maine Election Law defines a PAC as:

1. “SSF PAC.” Any separate or segregated fund established by any corporation, membership organization, cooperative or labor or other organization that receives contributions or makes expenditures aggregating more than \$2,500 in a calendar year for the purpose of influencing the nomination or election of a candidate to political office.

*Example:* A corporation, labor union, or membership organization solicits funds from its members for the purpose of influencing campaigns and those funds are kept in a separate or segregated account.

2. “Traditional PAC.” Any person, including any corporation or association, other than an individual, that receives contributions or makes expenditures aggregating more than \$2,500 in a calendar year for the purpose of influencing the nomination or election of any candidate to political office.

*Example 1:* A new voluntary association of individuals raises money to make contributions to like-minded candidates.

*Example 2:* A business raises funds to purchase campaign signs to support the election of a candidate.

3. “Caucus PAC.” Each Senate caucus leader and each House caucus leader (e.g. House Republican Caucus or Senate Democratic Caucus) may designate one caucus PAC to promote the election of their party’s nominees to the body of the Legislature of which the caucus leader is a member. The designation must be made in a letter to the Commission and remains effective until a new designation is made in a letter to the Commission from the leader of that caucus.
4. “Leadership PAC.” A Traditional PAC that is directly or indirectly established, maintained or controlled by a current member of the Legislature.

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*Example:* The Speaker of the House designates a PAC to raise money to donate to other candidates and make independent expenditures.

## Important Definitions

**CAMPAIGN.** “Campaign” means any course of activities to influence the nomination or election of a state or county candidate.

**CONTRIBUTION.** “Contribution” includes:

- A. A gift, subscription, loan, advance or deposit of money or anything of value made to or received by a committee for the purpose of initiating or influencing a campaign, including but not limited to:
  - 1. Funds that the contributor specified were given, in whole or in part, in connection with a campaign;
  - 2. Funds provided in response to a solicitation that would lead the contributor to believe that the funds would be used specifically, in whole or in part, for the purpose of initiating or influencing a campaign; and
  - 3. Funds that can reasonably be determined to have been provided by the contributor for the purpose of initiating or influencing a campaign when viewed in the context of the contribution and the recipient committee’s activities regarding a campaign;
- B. Any funds deposited or transferred into the campaign bank account described in section 1054;
- C. A contract, promise or agreement, expressed or implied, whether or not legally enforceable, to make a contribution to a committee;
- D. Any funds received by a committee that are to be transferred to any candidate, committee, campaign or organization for the purpose of initiating or influencing a campaign; or
- E. The payment, by any person or organization, of compensation for the personal services of other persons provided to a committee that is used by the committee to initiate or influence a campaign.

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

**EXPENDITURE.** The term “expenditure” includes:

- A. A purchase, payment, distribution, loan, advance, deposit or gift of money or anything of value, made for the purpose of initiating or influencing a campaign;
- B. Any purchase, payment, distribution, loan, advance, deposit or gift of money made from the campaign bank account described in section 1054;
- C. A contract, promise or agreement, expressed or implied, whether or not legally enforceable, to make

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any expenditure for the purposes set forth in this paragraph; and

D. The transfer of funds by a political action committee to another candidate or committee.

**Legal References**

Separate Segregated Fund PAC	21-A M.R.S. § 1052(5)(A)(1)
Traditional PAC	21-A M.R.S. § 1052(5)(A)(2)
Caucus PAC	21-A M.R.S. § 1053-C
Leadership PAC	21-A M.R.S. § 1053-D
Important Definitions	21-A M.R.S. § 1052

## Chapter 2 – Registration

### Selecting a PAC Type

Most PACs will fall into either the SSF or Traditional PAC categories. The Caucus PACs are set up exclusively by the political party caucuses of the legislative chambers (e.g. House Republicans & Senate Democrats). If a PAC is not a Caucus PAC but a current member of the Legislature is directly or indirectly involved in decision making for the PAC, then the PAC must be registered as a Leadership PAC.

The person(s) founding the PAC must select the PAC type at the time of registration. The most important difference between an SSF and Traditional PAC is that a Traditional PAC may accept funds from businesses, nonprofits, and labor organizations, but an SSF PAC may not. An SSF PAC may accept contributions from individuals up to \$5,000 per year. These restrictions are covered in more detail in Chapter 3.

### Registering with the Ethics Commission

Any organization that meets the criteria for being a PAC must register with the Commission no later than seven (7) calendar days after it meets the requirements (e.g. after raising or spending \$2,500.) It is important for an organization to keep track of its contributions and expenditures from the beginning of its campaign-related activities in order to know if and when it must register with the Commission. An organization does not have to wait until it reaches the \$2,500 threshold to register with the Commission. Many organizations register before they raise or spend any money because they know they will be politically active and will eventually qualify as a PAC. The organization must also file an initial campaign finance report within seven (7) days after registering as a PAC, or within 14 days of being required to register as a PAC, whichever comes first. There is no fee to register a PAC.

**REGISTRATION REQUIREMENTS.** To register, a PAC must complete the following steps:

- A. Select a treasurer and principal officer, who cannot be the same person.
- B. Identify all individuals who are primarily responsible for making decisions or raising funds for the committee.  

Note: A PAC is not required to have officers beyond the treasurer and principal officer but if it does, they must be disclosed.
- C. Identify the particular candidates or categories of candidates that the committee expects to support or oppose.  

Note: If the purpose of the PAC is more general, the statement should be as descriptive as possible, e.g., opposes candidates who want to raise taxes.
- D. Indicate whether an officer, decision-maker or fundraiser of the PAC is a Legislator or a candidate for elected office.



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Note: The PAC must also certify whether it is directly or indirectly maintained or controlled by a current member of the Legislature. (If a current member of the Legislature is an officer, then you must indicate that the PAC is maintained or controlled by a current Legislator.)

- E. If formed by one or more for-profit or non-profit corporations or other organizations, state the names and addresses of those corporations and organizations.
- F. Provide the name of the account that the committee will use to deposit contributions and make expenditures pursuant to section 1054 (Campaign Account), and the name and address of the financial institution at which the account is established.

**AMENDMENTS.** If at any time the information provided on the registration form changes, including contact information, treasurer information, statements of support and opposition, or principal officers, the committee must file an amended registration within 10 calendar days of the change.

**BIENNIAL RE-REGISTRATION FOR PACs.** All PACs registered with the Commission must file an updated registration every election (even-numbered) year, between January 1 and March 1. This biennial registration requirement applies even if there has been no change to the information provided on the previous registration. Unless the PAC's officers, decision-makers, and fundraisers have changed, new Acknowledgment of Responsibilities forms do not have to be filed.

## Penalties for Late Registration

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

## Responsibilities of PAC Officers

### TREASURER

- Responsible for filing complete and accurate reports and amendments (as necessary) with the Commission.
- Responsible for maintaining the PAC's records for four years following the election to which they pertain.
- Responsible for the PAC's performance of the above, regardless of whether the duty was delegated to another.

### TREASURER & PRINCIPAL OFFICER

- Jointly responsible for the PAC's compliance with election laws and rules.
- Jointly responsible for responding to notices and correspondence from the Commission on behalf of the PAC.
- Jointly responsible for ensuring all required records are kept.

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- Jointly and severally liable, along with the PAC, for all penalties assessed for violations of reporting or record-keeping requirements.

**TREASURER, PRINCIPAL OFFICER & DECISION-MAKER(S).** Deemed to have participated in all spending decisions.

**AGENTS AND FORMER OFFICERS.** Liable for all or part of a fine if the agent or former officer is directly responsible for the violation.

## Campaign Bank Account

A PAC must establish a separate account in a bank or other financial institution and must deposit and spend all money received and spent for the purpose of influencing an election from that account. Any other money that is deposited or spent from that account must be disclosed in campaign finance reports, regardless of its purpose. The funds in that account may not be commingled with the personal funds of individuals or the general treasury funds of a business or non-profit.

A PAC may request a waiver of this requirement if establishing a separate account would be administratively burdensome. Additionally, the founding organization of a PAC may pay its own employees out of its general treasury for campaign-related activities they perform.

## Exceptions to Registration

**OUT-OF-STATE PACS.** A PAC organized outside of the state may be subject to the same requirements as a PAC organized under Maine law if it becomes involved in Maine elections. If an out-of-state PAC meets the qualifications for being a PAC under Maine law, it is subject to the same registration and reporting requirements as PACs organized in-state.

An out-of-state PAC is not required to register and file reports with the Commission or municipality if the PAC's only financial activity in the state is making contributions to other PACs, party committees, ballot question committees, or candidates registered with the Commission or municipality and the PAC has not raised or accepted any contributions to influence an election or campaign in Maine.

An out-of-state PAC that has received contributions or made expenditures for the purpose of influencing an election in Maine must register as a PAC in Maine and file campaign finance reports in accordance with the Commission's procedures.

**DONOR EXCEPTION.** A person that has not received contributions for the purpose of influencing a campaign in the prior 2 years and whose only payments of money to influence a campaign in the prior two years are:

1. Cash contributions to candidates, party committees, PACs, or BQCs; or

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2. Payments of goods or services (in-kind contributions) with an aggregate value of no more than \$100,000 to candidates, party committees, PACs, or BQCs.

If a person has contributed more than \$100,000 in goods or services during the previous 2 years, then that person must register as a PAC within seven (7) days of exceeding that threshold. A PAC's Initial Campaign Finance Report must disclose all campaign related activity from January 1<sup>st</sup> of the year in which it registered through the date of registration.

The Initial Finance Report should disclose contributions of a General Treasury Transfer from the founding organization that equals the amount of the expenditures contained in the report. This will result in a \$0 cash balance in the Initial Finance Report.

**CROSS PURPOSE EXPENDITURES.** A PAC or BQC may spend up to \$10,000 to influence its non-primary campaign type (e.g. a PAC influencing a referenda election and a BQC influencing a candidate election). A PAC or BQC that solicits contributions for that non-primary campaign type is unable to claim this exception. If the PAC or BQC exceeds the \$10,000 threshold in a calendar year, then it must register a second committee (A BQC must register a PAC and a PAC must register a BQC).

### **Legal References**

Selecting a PAC	21-A M.R.S. § 1052(5)
Registering with the Ethics Commission	21-A M.R.S. § 1052-A(1)
Registration Requirements	21-A M.R.S. § 1052-A(2) & (3)
Amendments	21-A M.R.S. § 1052-A(1)(B)
Biennial Reregistration of PACs	21-A M.R.S. § 1052-A(1)(C)
Responsibilities of Officers	21-A M.R.S. § 1054-A
Campaign Bank Account	21-A M.R.S. § 1054
Penalties for Late Registration	21-A M.R.S. § 1062-A(1)
Out-of-State PACs	21-A M.R.S. § 1053-B
Donor Exception	21-A M.R.S. § 1052(3-A)
Cross Purpose Expenditures	21-A M.R.S. § 1052-A (1-A)

## Chapter 3 – Restrictions and Prohibitions

Maine Campaign Finance Law prohibits certain activity, either universally, or based on the PAC's registration status.

### Prohibited Activity for All Committees

**RESTRICTIONS ON CONSTITUTIONAL OFFICERS.** Constitutional officers (the Secretary of State, State Treasurer, State Auditor, and Attorney General), and any individual running for these offices, may not form a PAC or be involved in the decision-making or fundraising for a PAC. All constitutional officers, their staff and/or agents, are also prohibited from directly or indirectly soliciting or accepting contributions from lobbyists or their clients on behalf of a PAC or a BQC while the Legislature is in session.

**CANDIDATES PARTICIPATING IN THE MAINE CLEAN ELECTION ACT (MCEA).** An MCEA candidate may not establish a PAC for which the candidate is a treasurer, principal officer, fundraiser, or decision-maker. This prohibition begins April 1st of a general election year and lasts through:

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

This prohibition does not prohibit a candidate from engaging in fundraising or decision-making for a Caucus PAC or BQC.

**CONTRIBUTIONS FROM FOREIGN NATIONALS.** Under federal law, foreign nationals are prohibited from making any contributions or expenditures in connection with any election in the U.S. for a federal, state, or local political office. In general, this prohibition does not apply to contributions and expenditures by foreign nationals to initiate or influence a ballot question. However, under certain circumstances, such contributions and expenditures may be prohibited. More information is available at [www.fec.gov](http://www.fec.gov).

**BUSINESS ENTITY FUNDS.** Starting on January 1, 2023, PACs cannot make contributions to candidates, Leadership PACs, or SSF 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.

A Traditional or Caucus PAC may accept funds from business entities and use those funds for any purpose other than making contributions to a candidate, SSF PAC, or Leadership PAC. For example, the PAC may use

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the business entity funds to make independent expenditures or to pay for operational expenses or fundraising efforts. The Commission recommends that a Traditional or Caucus PAC keep separate bookkeeping records for non-business entity funds and business entity funds.

**EXPENDITURE LIMITATIONS.** A PAC may not make a contribution to a candidate for an election that exceeds the limitation for the office sought by that candidate. (See Chapter 5 for the applicable limits.) PACs may not contribute to MCEA candidates.

**PURCHASE OF ALCOHOL.** A PAC may not make any expenditure for liquor to be distributed to or consumed by voters while the polls are open on election day.

### Prohibited Activity for SSF PACs

SSF PACs are prohibited from the following activities in addition to those contained in the Prohibited Activity for All Committees section.

**CONTRIBUTIONS FROM INDIVIDUALS.** Starting on January 1, 2023, an individual may not make contributions to an SSF PAC aggregating more than \$5,000 in a calendar year.

**CONTRIBUTIONS FROM BUSINESS ENTITIES.** Starting on January 1, 2023, an SSF PAC may not accept contributions from a business entity, except that the parent entity (the corporation, membership organization, cooperative, labor, or other organization that founded the SSF) may provide the SSF PAC with use of offices, telephones, computers and similar equipment when that use does not result in an additional cost.

### Prohibited Activity for Leadership PACs and Caucus PACs

Leadership PACs and Caucus PACs are prohibited from the following activities in addition to those contained in the Prohibited Activity for All Committees section.

**COMPENSATION AND REIMBURSEMENTS.** If a Legislator is a principal officer, treasurer, fundraiser, or decision maker for a PAC, the committee may not compensate the Legislator for services provided to the committee, except that the PAC may reimburse the Legislator for travel expenses incurred in the proper performance of their duties and for volunteering for the PAC. The committee may pay mileage as part of the travel reimbursement at a rate established by the Commission by rule, but not for the costs of repairing or maintaining the Legislator's vehicle. The committee may also reimburse the Legislator for other expenses incurred in the proper performance of the Legislator's official duties and for purchases made on behalf of the committee. The PAC may not reimburse the Legislator for expenses that have been reimbursed by any other source. The PAC may not pay or reimburse the Legislator for any expenses that are determined to be for the purpose of their personal financial enrichment.

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The PAC may not compensate immediate family members of the Legislator for services provided to the committee or reimburse immediate family members for any expenses that are for the purpose of personal financial enrichment make payments to closely affiliated persons, such as immediate family members or a business owned or operated by the Legislator or their immediate family. The PAC cannot make any payments to a business owned or operated by the Legislator or an immediate family member of the Legislator.

The funds of the PAC may not be commingled with the personal funds of the Legislator or the funds of a closely affiliated person.

A person who violates these prohibitions may be assessed a penalty of not more than \$500 or the amount of the impermissible payment or reimbursement, whichever is greater.

**CONTRIBUTIONS FROM LOBBYISTS AND LOBBYIST CLIENTS AND FIRMS.** When the legislature is in session, a Lobbyist, Associate, lobbying client, or lobbying firm, may not make a contribution to a Leadership PAC or a Caucus PAC. When the Legislature is not in session, a lobbying client and lobbying firm may contribute to a Leadership PAC or a Caucus PAC. Lobbyists and Lobbyist Associates may make contributions to Caucus PACs but may only make contributions to Leadership PACs if the Legislator who is an officer in the PAC would appear on the ballot where the Lobbyist or Associate would vote. (e.g. A Lobbyist living in House District 50 may contribute to the Leadership PAC of the Legislator from House District 50.)

### **Prohibition from Business Entities**

Despite the allowance of contributions from lobbying firms and clients when the Legislature is not in session, the prohibition on contributions from Business Entities still applies. This means that a contribution may be allowed under the Ethics Laws but not under Campaign Finance Laws.

**CONTRIBUTIONS FROM INDIVIDUALS.** Starting on January 1, 2023, a Leadership PAC may not accept contributions from an individual in a calendar year that aggregate more than the legislative contribution limit.

**CONTRIBUTIONS FROM BUSINESS ENTITIES.** Starting on January 1, 2023, a Leadership PAC may not accept contributions from a business entity. Leadership PACs may not accept contributions from other committees if those funds derive in whole or in part from a business entity. A Leadership PAC may accept contributions from an SSF PAC.

### **Legal References**

Restrictions on Constitutional Officers	21-A M.R.S. § 1063
Candidates Participating in the MCEA	21-A M.R.S. § 1125(6-F)
Contributions from Foreign Nationals	52 U.S.C. § 30121
Business Entity Funds	21-A M.R.S. §§ 1015(2), 1056-C(2), 1056-D(2)
Expenditure Limitations	21-A M.R.S. § 1056(1)
Purchase of Alcohol	21-A M.R.S. § 1056(2).
Prohibited Activity for SSF	21-A M.R.S. § 1056-D
Prohibited Activity for Leadership PACs – Compensation and Reimbursement	21-A M.R.S. § 1054-B
Prohibited Activity for Leadership PACs – Contributions from Lobbyists and Lobbyist Clients and Firms	1 M.R.S. § 1015-A
Prohibited Activity for Leadership PACs – Contributions from Individuals	21-A M.R.S. § 1056-C(1)
Prohibited Activity for Leadership PACs – Contributions from Business Entities	21-A M.R.S. § 1056-C(2)

# Chapter 4 – Campaign Finance Reports

## Initial Finance Reports

Each PAC must file an initial campaign finance report within seven (7) days after registration, or within 14 days after the PAC exceeded \$2,500 in contributions or expenditures, whichever comes first. PACs must report all contributions and expenditures made since January 1st of the reporting year.

## Regular Finance Reports

PACs must file periodic campaign finance reports until the committee is terminated, even if the committee had no financial or campaign-related activity during the reporting period. The annual filing schedule, with exact deadlines, is available at: [www.maine.gov/ethics](http://www.maine.gov/ethics). Committees are encouraged to keep track of these deadlines in a calendar or diary, because late reports are subject to a civil penalty.

PACs file between four (4) and eight (8) scheduled campaign finance reports each year depending on the year and election related activity. All regularly scheduled campaign finance reports must be received by the Commission by 11:59 p.m. on the day of the deadline.

**QUARTERLY REPORTS.** Every year, each PAC must file four (4) quarterly reports — even if the PAC had no financial activity for the reporting period.

TYPICAL QUARTERLY REPORT FILING SCHEDULE FOR POLITICAL ACTION COMMITTEES		
Type of Report	Deadline	Reporting Period
April Quarterly	April 10	January 1 - March 31
July Quarterly	July 15	April 1 - June 30
October Quarterly	October 5	July 1 - September 30
January Quarterly	January 15	October 1 - December 31

**PRE- AND POST-ELECTION REPORTS IN A CANDIDATE ELECTION YEAR.** In even-numbered years, all PACs must file campaign finance reports 11 days before and 42 days after the primary and general elections.


**PRE- AND POST-ELECTION REPORTS IN OTHER YEARS.** In odd-numbered years, if a committee is making expenditures to influence a ballot question election or a special candidate election, in addition to regular quarterly reports, the committee is required to file 11-day pre-election and 42-day post-election reports.



Pre- and Post-Election Campaign Finance Reports: Deadlines and Reporting Periods		
Report Name	Deadline	Reporting Period
11-Day Pre-Election Report	The 11 <sup>th</sup> day before the date of the election	End of the last reporting period through the 14 <sup>th</sup> day before the election
42-Day Post-Election Report	The 42 <sup>nd</sup> day after the date of the election	End of the last reporting period through the 35 <sup>th</sup> day after the election

### 24-Hour Reports

The purpose of 24-hour reports is to provide disclosure of campaign activity in the period before an election when there are no other reports due. If a committee is required to file an 11-day pre-election report, the committee must file a 24-hour report of any single contribution of \$5,000 or more received during the last 13 days before the election, and any single expenditure of \$1,000 or more made during that 13-day period. The report must be filed within 24 hours of receiving the contribution or making the expenditure, even if the filing deadline falls on a weekend or a holiday. Contributions received and expenditures made on the day before an election must be reported on election day. Orders placed with or obligations made to vendors for goods or services are considered expenditures at the time the obligation is made, even if the payment has not been made.

24-HOUR REPORTS:	24-HOUR REPORT PERIOD						
	Sun	Mon	Tue	Wed	Thu	Fri	Sat
<ul style="list-style-type: none"> <li>File within 24 hours of receiving the contribution or making the expenditure or obligation.</li> <li>Must be filed on a weekend or holiday if that is when it is due – you cannot wait until the next business day.</li> <li>File by online, fax, or in person.</li> <li>Contributions and expenditures received or made on the day before an election must be reported on election day.</li> </ul>							
	 Indicates 24-Hour Report period						

These reports may be filed online, through the Commission’s e-filing system. The e-filing system will automatically add the transactions reported in a 24-hour report to the next regularly scheduled campaign finance report.

### Amendments

If the committee unintentionally makes an omission in a campaign finance report or includes incomplete or inaccurate information, it must promptly file an amendment to that report. All amended reports are reviewed by the Commission staff. If a report does not substantially conform to the disclosure requirements, the Commission may consider the report late, even if it was filed on time.

## Electronic Filing

All PACs registered with the Commission are required to file their campaign finance reports electronically using the Commission's e-filing system. Usernames and passwords are assigned to the Principal Officer, Treasurer, and any Authorized Agents upon registration. All required reports for the year are listed on the committee's e-filing system homepage.

If a committee lacks access to the technology or the technological ability to file the reports electronically, the committee may submit a request for a waiver from the requirement to file reports electronically within 30 days of registering. The Commission will grant all reasonable requests; however, it is strongly recommended that PACs file reports through the e-filing system. If a waiver is granted, the Commission must still receive paper reports by 11:59 p.m. on the filing deadline. Reports may be faxed to the Commission (207-287-6775), as long as the signed original report is received within five (5) days. A report that is sent by certified or registered mail and that is postmarked at least two (2) days before the filing deadline will not be considered late, even if it is received after the deadline.

## Contents of Reports

Each campaign finance report covers a specific period of time. This overview will give you a summary of the information required to be included in the reports. The e-filing system also has instructions for entering each type of transaction.

**Contributions.** For cash contributions exceeding \$50 in the aggregate during a report period, the committee must report the date and amount of the contribution, the name and mailing address of the contributor, and their occupation and employer for individuals. If the PAC is unable to obtain the occupation and employer information, they should enter "information requested" on the campaign finance report. The Commission staff may ask the committee to make additional efforts to obtain the occupation and employer information.

Cash contributions of \$50 or less do not have to be itemized and may be reported as a lump sum for the reporting period.

All in-kind contributions of goods or services valued more than \$50 must include the contributor's name and address, occupation and employer for individuals, the date and description of the goods or services, and the fair market value. If another organization, such as another PAC, party committee, or other type of organization or business, makes an in-kind contribution in the form of paid staff time, the recipient PAC should include a description of those activities and the number of hours contributed. Contributed staff time and coordinated expenditures should not be

### Staff Time

Unlike most contributions that are made when the donation is received, staff time is reportable when the person is paid for their work on the campaign. Depending on their pay cycle, this means that the contribution may be received weeks after they worked on the campaign.

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lumped together as a single contribution for the reporting period but should be itemized as separate contributions.

In-kind contributions of \$50 or less do not have to be itemized and may be reported as a lump sum for the reporting period.

### **Prohibition from Business Entities**

Despite the allowance of contributions from lobbying firms and clients when the Legislature is not in session, the prohibition on contributions from business entities still applies. This means that a contribution may be allowed under the Ethics Laws but not under Campaign Finance Laws.

## **COMMONLY OVERLOOKED TRANSACTIONS.**

Commonly overlooked contributions include:

- Contributions from the general treasury of the organization which founded the PAC.
- Contributions of paid staff time received by the PAC from the founding organization or others.
- Other in-kind contributions of goods and services.

Expenditures that are most commonly overlooked by committees include:

- Paid staff time or paid consultants and pollsters or other personal services costs.
- Travel reimbursements.
- Fundraising expenses.
- Website set-up, design, and maintenance costs.

## **REPORTING INTEREST EARNED ON BANK ACCOUNTS**

Interest earned on bank accounts during the reporting period is reported using the “Other Receipts” contribution type in the Commission’s e-filing system.

**Expenditures.** All expenditures to influence a candidate election or ballot question, contributions to other candidates or committees, and any expenditures that are made from the campaign account, regardless of their purpose must be reported. The date, amount, payee, and purpose of the expenditure must be reported. The “payee” refers to the vendor that provided the goods and services. The committee should not report “cash” or “disbursement” as the payee. If someone is reimbursed for an expenditure, the committee must report the name of the vendor as the payee and report to whom the reimbursement is made, including, a description of the expenditure.

If an expenditure was made to support or oppose a candidate or ballot question, the name of the candidate, committee, or ballot question supported or opposed must be reported as well as whether the expenditure was

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made to support or oppose the candidate or ballot question.

To report the purpose of the expenditure, the committee must select an expenditure type for each expenditure (see chart below). The committee must enter as much information as possible to describe the expenditure.

For instance, if the expenditure is for professional services, the committee should identify the specific type of service performed.

<b>EXPENDITURE TYPES</b>			
<b>CON</b>	Contribution to candidate or committee	<b>PHO</b>	Phone banks, automated telephone calls
<b>CNS</b>	Campaign consultants	<b>POL</b>	Polling and survey research
<b>EQP</b>	Equipment (office machines, furniture)	<b>POS</b>	Postage for U.S. Mail and mailbox fees
<b>FND</b>	Fundraising events	<b>PRO</b>	Professional services
<b>FOD</b>	Food for campaign events, volunteers	<b>PRT</b>	Print media ads only (newspapers, magazines, etc.)
<b>LIT</b>	Printing and graphics (flyers, signs, palmcards, t-shirts, etc.)	<b>RAD</b>	Radio ads, production costs
<b>MHS</b>	Mail house (all services purchased)	<b>SAL</b>	Campaign workers' salaries and personnel costs
<b>OFF</b>	Office rent, utilities, phone, internet & website services, supplies	<b>TRV</b>	Travel (fuel, mileage, lodging, etc.)
<b>OTH</b>	Other	<b>TVN</b>	TV or cable ads, production costs
<b>PET</b>	Petitioning Costs for Referenda Campaign	<b>WEB</b>	Internet and social media advertising, production costs

### **EXPENDITURES MADE BY A CONSULTANT**

If a PAC hires a consultant or consulting firm to assist the committee, and the consultant makes expenditures on behalf of the committee, those expenditures must be reported as though the committee made them directly. The report must include the name of the third-party vendor or payee to whom the expenditure was made, the date, the purpose, and amount of the expenditure. It is not sufficient to report only the total retainer or fee paid to the consultant if the consultant used the fee to pay others for campaign-related goods or services. If the committee reported a lump sum payment to a consultant in a previously filed report, the committee may need to amend that report to deduct from that amount any expenditures made by the consultant, so that the expenditures are not double-reported. The Commission also recommends that the committee note in the remarks section for the expenditure that the payment was made by the consultant.

However, if the 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 committee does not have to report the individual stations the consultant purchased advertising on. Instead, the committee should simply report the advertising time and production costs separately.

The committee's treasurer should obtain receipts or paid invoices from the consultant for the goods and services purchased from sub-vendors by the consultant on behalf of the committee.

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**Loans.** The committee must report all loans from commercial or noncommercial sources, loan repayments and forgiven amounts. For a transaction to be reported as a loan it must have been made by a financial institution in accordance with applicable banking laws and regulations. A non-financial institution may make a loan to a PAC; however, it should be reported as a contribution from the non-financial institution and the PAC can report the repayments as a return of contribution.

**Debts.** The committee must report all unpaid debts and obligations for goods and services and all existing unpaid bills. Debts must be disclosed in each report until payment is made to the vendor. If an order has been placed for goods and services but the exact amount is not known, the committee should obtain an estimate from the vendor for reporting purposes.

## Record Retention

The treasurer is required to retain all relevant records for a minimum of four (4) years. Records that must be retained are:

- A detailed account (*i.e.*, payee, date, amount, and purpose) of all expenditures made to support or oppose a candidate or committee, or ballot question, including:
  - The name and address of each candidate or committee supported or opposed;
  - The office sought by the candidate and district the candidate seeks to represent; and
  - The title or question number of each ballot question, initiated petition, or referendum supported or opposed.
- Vendor invoices or receipts in excess of \$50, which must identify the particular good or service purchased.
- A record of all contributions from contributors who gave in excess of \$50. When any donor's contributions exceed the \$50 threshold, the record must include the aggregate amount of all contributions from that donor:
  - The name and mailing address of that contributor;
  - The amount given; and
  - The date of the contribution.

The committee is not required to submit bills or invoices to the Commission unless requested. For example, the Commission may request bills or invoices to verify the accuracy of reports.

## Terminating a PAC

Whenever a PAC determines that it will no longer accept any contributions or make any expenditures, the PAC can file a final campaign finance report and a termination statement. The final report must cover the period from the close of the last reporting period to the date of termination. Prior to terminating, the PAC must dispose of any surplus and report how the funds were disposed of in the final report. The PAC can do this by

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making contributions to other PACs, BQCs, party committees, candidates, non-profits, or by making a transfer back to the general treasury, if appropriate. The PAC must also dispose of any loans, debts, or other obligations that are unpaid and outstanding at the time of the committee's termination in the manner prescribed by the Commission. Until the termination statement is filed, the PAC must continue to file campaign finance reports.

### **Legal References**

Initial Finance Reports	21-A M.R.S. § 1059
Regular Finance Reports	21-A M.R.S. § 1059(2)
24-Hour Reports	21-A M.R.S. § 1059(2)(E)
Amendments	21-A M.R.S. § 1062-A(2)
Electronic Filing	21-A M.R.S. § 1059(5)
Contents of Reports	21-A M.R.S. § 1060
Expenditures made by a Consultant	94-270 C.M.R. Ch. 1. § 7(1)
Loans	21-A M.R.S. §§ 1052(3)(A), 1060
Debts	94-270 C.M.R. Ch. 1. § 7(3)
Record Retention	21-A M.R.S. § 1057
Terminating a PAC	21-A M.R.S. § 1061

# Chapter 5 – Supporting Candidates

## Direct Contributions

**CONTRIBUTION LIMITS.** In general, there are no restrictions on the types of entities to which a PAC may contribute. (See Chapter 3 for more details.) However, PACs and BQCs may only contribute to traditionally financed candidates, not to candidates using the MCEA. PACs and BQCs can contribute to other PACs, BQCs, and state and local party committees as well as other organizations and groups. These contributions can be in cash or in-kind. There is, however, a limit on the amount a PAC, or anyone else, may contribute to traditionally funded candidates. Pursuant to 21-A M.R.S. § 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

Candidates who are not enrolled in a political party are only eligible to receive contributions for the general election.

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

## Independent Expenditures

**WHAT IS AN INDEPENDENT EXPENDITURE (IE)?** The term “independent expenditure” applies only to expenditures for communications made to influence a candidate election. Independent expenditures are payments or obligations made by individuals and organizations, acting independently of candidate campaigns, for communications that expressly advocate the election or defeat of a candidate.

Communications include, but are not limited to: print media and online advertisements, radio and television ads, live calls, robocalls, direct mail, e-mail communications, campaign signs, palm cards, and other campaign literature. These expenditures are 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 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 the communication is made within a certain period before an election (the “presumption period”), which is:

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

Some communications are exempt from the presumption, such as membership communications (see “Membership Communications” in this chapter) and communications that are 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.

Independent expenditures must be independent of the candidate. The term “candidate” includes the candidate, the candidate’s authorized committee, and agents of the candidate or authorized committee. If 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

### “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.



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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 from the spender to the candidate. For example, if a PAC 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 or the candidate's committee or agents.

**WHAT DOES "COOPERATION, CONSULTATION OR IN CONCERT WITH MEAN?"** Per the Commission's Rules this includes, but is not limited to:

- Discussion or participation between the candidate and the creator, producer or distributor of a communication, or the person paying for that communication regarding any decisions on the content, timing, location, mode, intended audience, volume of distribution, or frequency of placement of that communication; and
- 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, 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;

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- 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 their 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, and families thereof; or
- 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.

**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, or "reject the incumbent." Express Advocacy also includes any communications that are susceptible of no reasonable interpretation other than as an appeal to vote for or against a clearly identified candidate.

**REBUTTING THE PRESUMPTION.** The financier of a communication may rebut the presumption that the communication is an IE by submitting 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.

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 calendar days, if the Commission determines that the communication was not covered by the presumption and an independent expenditure report was not filed on time, the person making the expenditure could be assessed a penalty for the late-filed

report.

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

**WHEN TO FILE AN INDEPENDENT EXPENDITURE REPORT.** Whether an expenditure on a communication has to be reported in an independent expenditure report depends on (1) the amount spent on the communication per candidate; and (2) when the expenditure was made.

<b>Independent Expenditure Reporting</b>		
<b>Reporting Period</b>	<b>Reporting Required for</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, not the next business day. The report may be filed online, faxed, or scanned and emailed, provided that the Commission receives a copy of the report including the original, notarized statement that the expenditure was made independently of the candidate. Any expenditure reported in an IE report must also be reported in the committee's regular campaign finance report.

**LATE INDEPENDENT EXPENDITURE REPORTS.** If a committee files a late IE report , the maximum penalty that

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may be imposed is \$5,000 except if the financial activity reported exceeds \$50,000, then the maximum penalty is 100% of the expenditure.

## Membership Communications

The cost of communications by membership organizations and corporations expressly advocating for or against the nomination or election of a clearly identified candidate are not considered expenditures. Therefore, those costs do not count toward the threshold amount for registering a PAC with the Commission. However, the organization or corporation must file a report with the Commission if the cost of the communication in any one candidate's race exceeds \$100. The report form is available on the Commission's website.

An organization is a membership organization if its members currently satisfy the requirements for membership in the organization and have affirmatively accepted the organization's invitation to become a member, and either:

- Pay membership dues, at least annually, of a specific amount set by the organization;
- Have some other significant financial attachment to the organization; or
- Have a significant organizational attachment to the 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.

If a communication by a membership organization or corporation is disseminated to a larger audience than just members or shareholders, the communication may forfeit its status as a membership communication and may be considered an IE or an in-kind contribution to the candidate(s) mentioned in the communication.

Additionally, the cost may count toward the threshold amount for registering a PAC with the Commission.

### **Legal References**

Direct Contributions	21-A M.R.S. §§ 1015, 1056
What is an Independent Expenditure?	21-A M.R.S. § 1019-B
What does Cooperation, Consultation or in Concert with Mean?	94-270 C.M.R. Ch. 1 § 6(9)
Communications that contain Express Advocacy	94-270 C.M.R. Ch. 1 § 10(2)(B)
Rebutting the Presumption	21-A M.R.S. § 1019(2); 94-270 C.M.R. Ch. 1 § 10(5)
When to File an Independent Expenditure Reports	94-270 C.M.R. Ch. 1 § 10(3)
Late Independent Expenditure Reports	21-A M.R.S. § 1020-A(2)
Membership Communications	21-A M.R.S. § 1019-A; 94-270 C.M.R. Ch. 1 § 13

# Chapter 6 – 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, the communication 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 required to state the address of the candidate or committee that financed the communication. If a radio communication is financed by someone other than the candidate or the candidate's authorized committee, only the city and state of the address of the person who financed the communication must be stated.

**Communications includes:**  
broadcasting stations,  
cable television,  
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;  
A 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, and expressly advocates for the election or defeat of a clearly identified candidate, the communication must clearly and conspicuously state it is not authorized by any candidate and include the name and address of the person who made or financed the communication. Communications with a visual component must contain at the bottom in 12-point, bold print, Times New Roman font "**NOT PAID FOR OR AUTHORIZED BY ANY CANDIDATE.**" If a committee has made an IE communication, 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 the communication 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 include that the candidate authorized the communication.

## Top-3 Funders Disclosure on Independent Expenditures

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

**WHAT COMMUNICATIONS REQUIRE A TOP 3 FUNDERS DISCLOSURE STATEMENT?** A communication is required to include the disclosure statement if the communication is:

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

Examples of communications not requiring the top 3 funders disclosure statement are telephone calls, outdoor advertising (campaign signs, banners, etc.) and TV or internet advertisements of 30 seconds or less in duration.

**WHAT IS REQUIRED FOR A TOP 3 FUNDERS DISCLOSURE STATEMENT?** The communication must conspicuously include the 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 cable or broadcast television communications 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, palm cards), 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 04401. 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 a communication 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 a communication 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 a communication 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 the communication is paid for by a PAC that is a separate or segregated fund established by an organization to engage in political activity, the top 3 funders of the organization that established the PAC must be named in the disclosure statement.
- If the communication is paid for by a PAC fully funded or controlled by another PAC or other organization, the disclosure statement must contain the top 3 funders of the PAC or organization funding or controlling the PAC making the expenditure.
- 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) does require 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 federal sponsorship identification regulations, contact the FCC at the number listed at the end of this guidebook.

### **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 7 – Enforcement Actions by the Commission

## Reminders by the Commission

PACs are responsible for knowing their reporting obligations and the due dates for reports. The Commission staff publishes the filing schedule on its website and their due dates are listed on the committee's e-filing homepage. While the Commission staff sends courtesy reminders before each filing deadline, failure to receive a reminder is no excuse for a late filing, as PACs are ultimately responsible for timely filing their reports.

## Commission Review of Reports

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

## Penalties

Penalties are assessed for late campaign finance reports using a formula established by statute. The formula takes into account the number of days the report was filed late, any previous violations by the committee during a two-year period, and the amount of financial activity that took place during the reporting period. The two-year period begins on January 1 of each even-numbered year. The table below illustrates how late-filing penalties are calculated.

**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 PAC 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 PAC for a late, or substantially non-conforming, campaign finance report is \$10,000 or, if the amount of the financial activity reported late exceeds \$50,000, the maximum penalty is the dollar amount of that financial activity. A person who fails to file a required report within 30 days of the filing deadline may also be charged with Class E crime.

## Requesting a Penalty Waiver

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

Generally, the committee treasurer or other representative of the committee requests a waiver of the preliminary penalty 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 Commission staff. Although not required, the committee's treasurer or representative is encouraged to attend the Commission 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 the Commission may consider are 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 any future penalties.

The penalty must be paid within 30 days of the Commission's final determination notice 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 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 PACs. The Commission may initiate an investigation on its own or in response to a submitted request. Any person may make a request for an investigation. The request must be in writing and set forth facts in sufficient detail to specify the alleged violation. Statements made in the request must be based on the personal knowledge of the person making the request, if not, the identity of the source of the information must be explained in the request.

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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	21-A M.R.S. § 1062-A (2)
Requesting a Penalty Waiver	21-A M.R.S. § 1062-A(5)
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  
Augusta, Maine 04333-0101  
Phone: (207) 624-7650  
Fax: (207) 287-6545  
Hours: 8:00 a.m. – 5:00 p.m.  
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  
Phone: (888) 225-5322  
Phone: (202) 418-1440  
Website: <https://www.fcc.gov/media/policy/political-programming>  
E-Mail: [campaignlaw@fcc.gov](mailto:campaignlaw@fcc.gov)

### Maine Association of Broadcasters

Mail: 69 Sewall Street  
Augusta, Maine 04330  
Phone: (207) 623-3870  
Toll Free: (800) 664-6221 (Maine only)  
Website: [www.mab.org](http://www.mab.org)  
E-Mail: [info@mab.org](mailto:info@mab.org)