

**Chapter 3: MAINE CLEAN ELECTION ACT AND RELATED PROVISIONS**

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**SECTION 1. APPLICABILITY**

This chapter applies to candidates running for Governor, State Senator and State Representative who choose the alternative campaign financing option established by the *Maine Clean Election Act* for elections to be held beginning in the year 2000. Candidates participating in the *Maine Clean Election Act* must comply with these rules and all other applicable election and campaign laws and regulations. Some sections in this chapter also apply to and impose obligations on privately financed candidates and political committees that raise contributions and make expenditures in races involving *Maine Clean Election Act* candidates.

**SECTION 2. PROCEDURES FOR PARTICIPATION**

1. **Declaration of Intent.** A participating candidate must file a Declaration of Intent within five days of collecting qualifying contributions. The Commission will provide a form for this purpose.
2. **Content.** The Declaration of Intent must include the following information:
  - A. an affirmation that the candidate is seeking certification as a *Maine Clean Election Act* candidate;
  - B. an affirmation that the candidate understands that any qualifying contributions collected more than five days before filing the Declaration of Intent will not be counted toward the eligibility requirement;
  - C. an affirmation that the candidate has not accepted any contributions, except for seed money contributions, after becoming a candidate;
  - D. an affirmation that the candidate has disposed of any campaign surplus before becoming a candidate for the new election, as required by paragraph 3 (D) [Campaign Surplus] of this section;
  - E. an affirmation that if the candidate has any campaign deficit, that the candidate will not accept contributions to repay that deficit as a participating candidate or certified candidate, except that the candidate may forgive any campaign loans to himself or herself made during any previous campaigns;
  - F. an affirmation that the candidate will continue to comply with applicable seed money restrictions and other requirements of the Act including, but not limited to, procedures for collecting qualifying contributions;
  - G. an affirmation that the candidate has read and will comply with the Commission's guidelines on permissible expenditures; and

- H. authorization by the candidate for the Commission, its agents or representatives to conduct financial audits of the candidate's campaign financial records and account(s).

3. **Seed Money Restrictions**

- A. **General.** After becoming a candidate and before certification, a participating candidate may collect and spend only seed money contributions. The restrictions on seed money contributions apply to both cash and in-kind contributions.

B. **Total Amount**

- (1) A participating candidate must limit the candidate's total seed money contributions to the following amounts:

- (a) two hundred thousand dollars for a gubernatorial candidate;
- (b) three thousand dollars for a candidate for the State Senate; or
- (c) one thousand dollars for a candidate for the State House of Representatives.

- (2) Notwithstanding any other provision of this chapter, a candidate may carry forward to a new candidacy of that candidate campaign equipment or property, subject to the reporting requirements of Title 21-A, chapter 13 [Campaign Reports and Finances].

- (3) The Commission periodically will review these limitations and, through rulemaking, revise these amounts to ensure effective implementation of the Act.

C. **Required seed money for gubernatorial candidates.** *[Repealed.]*

- D. **Campaign surplus.** A candidate who has carried forward campaign surplus according to Title 21-A, chapter 13, subchapter II [§1017(8) and §1017(9)], and who intends to become a participating candidate, must dispose of campaign surplus in accordance with the requirements of Title 21-A, chapter 13, subchapter II [§1017(8)]; provided, however, that a candidate may carry forward only those portions of campaign surplus that comply with the provisions of this Act regarding seed money contributions [§§ 1122(9) and 1125(2)]. Any campaign surplus (excluding campaign equipment or property) carried forward under this provision will be counted toward that candidate's total seed money limit.

INFORMATIONAL NOTE: The Commission will provide educational materials to all former candidates who have a campaign surplus describing the requirement that individuals must dispose of campaign surplus to remain eligible for participation as a *Maine Clean Election Act* candidate.

- E. **Return of Contributions Not in Compliance with Seed Money Restrictions.** A participating candidate who receives a contribution exceeding the seed money per donor restriction or the total amount restriction must immediately return the contribution and may not cash, deposit, or otherwise use the contribution.

- F. **Case-by-Case Exception.** A participating candidate who has accepted contributions or made expenditures that do not comply with seed money restrictions may petition the Commission to remain eligible for certification as a *Maine Clean Election Act* candidate. The Commission may approve the petition and restore a candidate's eligibility for certification if the candidate successfully establishes all of the following criteria:
- (1) the failure to comply was the result of an unintentional error;
  - (2) the candidate immediately returned all contributions that did not comply with seed money restrictions or paid for goods or services contributed that did not comply with seed money restrictions;
  - (3) the candidate petitioned the Commission promptly upon becoming aware of the unintentional error; and
  - (4) the failure to comply did not involve expenditures by the participating candidate significantly in excess of seed money total amount restrictions or otherwise constitute systematic or significant infractions of seed money restrictions.
- G. **Loans during qualifying period.** After becoming a candidate and prior to certification, accepting a loan from any source including a financial institution and spending money received in the form of a loan, are violations of the seed money restrictions of the Act.
- H. **Seed money donors.** A seed money contributor may also make a qualifying contribution to the same candidate provided that the contributor otherwise meets the requirements for making a qualifying contribution.
- I. **Personal funds to open bank account.** A candidate may deposit personal funds of the candidate in a campaign account in order to meet the opening deposit requirements of the financial institution. If a financial institution requires a minimum balance to keep an account open or to avoid fees, the candidate may maintain personal funds in the account for that sole purpose at the minimum amount necessary to satisfy the terms of the financial institution. These funds will not be considered an in-kind contribution to the candidate's campaign or commingling of personal and campaign funds, provided that the candidate does not spend these funds for purposes of promoting the candidate's nomination or election.

#### 4. **Qualifying Contributions**

- A. **General.** A candidate may collect qualifying contributions only during the relevant qualifying period for certification and the relevant period for additional qualifying contributions [ §§ 1122(8) and 1125(8-E)]. Qualifying contributions collected more than five days before filing a Declaration of Intent with the Commission will not be counted for any purpose. Qualifying contributions must be acknowledged by the person making the contribution and reported on forms provided by the Commission.

The forms must include:

- (1) the name, residential address and signature of the contributor;
- (2) an affirmation by the contributor that the contribution was made with his or her personal funds, in support of the candidate and that the contributor did not receive anything of value in exchange for his or her signature and contribution;
- (3) a clear and conspicuous statement that the candidate is collecting signatures and qualifying contributions in order to obtain public funding to finance the candidate's campaign;
- (4) a confirmation that the contributor is a registered voter indicated by the signature of the municipal registrar or his or her designee or by the Commission's online qualifying contribution service; and
- (5) an affirmation by the person who circulated the form that the circulator collected the contribution, that to the best of the circulator's knowledge and belief the contribution came from the personal funds of the contributor, that nothing was provided to the contributor in exchange for the contribution, and any additional information required by the Commission in order to protect the reliability of the qualification process. Contributions made through the Commission's online qualifying contribution service do not require a circulator's affirmation.

**B. Required Number of Qualifying Contributions.** A participating candidate must obtain the number of qualifying contributions for certification during the qualifying period as required by the Act [§1122(7); §1122(8); & §1125(3)].

**C. Exchanges for Qualifying Contributions Prohibited**

- (1) A candidate or an agent of that candidate may not give or offer to give a payment, gift, or anything of value in exchange for a qualifying contribution.
- (2) This provision does not prohibit a candidate or that candidate's agent from collecting qualifying contributions at events where food or beverages are served, or where campaign promotional materials are distributed, provided that the food, beverage, and campaign materials are offered to all persons attending the event regardless of whether or not particular persons make a qualifying contribution to the candidate.
- (3) This provision does not prohibit a candidate from using seed money to pay the fee for a money order provided the qualifying contributor pays the \$5 amount reflected on the money order as permitted by 21-A M.R.S.A. §1125(3).

**D. Checks Drawn on Business Accounts.** Qualifying contributions must be made with the personal funds of the contributor. The Commission will not count a check drawn from an account with a business name toward the eligibility requirements, unless the name of the contributor is included in the name of the

account or the candidate submits a written statement from the contributor indicating that he or she uses the business account for personal expenses.

E. **Family Members.** Family members, domestic partners, and live-in caregivers who reside in a single household may make qualifying contributions in the form of a single check or money order of more than \$5 provided that:

- (1) all contributors sign the receipt and acknowledgement form;
- (2) all contributors are registered to vote at the address of the household; and
- (3) all contributions are made with the personal funds of the contributors.

For a qualifying contribution to be considered valid, the contributor must affirm that the contribution was made with his or her personal funds, in support of the candidate and that the contributor did not receive anything of value in exchange for his or her signature and contribution. The affirmation may not be made by a family member, domestic partner or live-in caregiver of the contributor, unless the contributor is unable to sign the form due to a physical impairment or disability.

F. **Verification of Registered Voters**

- (1) A candidate must obtain verification that contributors who made qualifying contributions to that candidate are registered voters, in accordance with written procedures established by the Commission.
- (2) For qualifying contributions made by check or by money order, a candidate must obtain written verification from the Registrar(s) of Voters, or verify the contributor's voter registration using the Commission's online qualifying contribution service, as specified in the Commission's written procedures.
- (3) For qualifying contributions made by credit or debit card using the Commission's online service, if the service is unable to verify the voter registration of the contributor, the candidate must obtain written verification from the Registrar.
- (4) Upon request of a candidate, and within 10 business days after the date of the request, the Registrar must verify the names of contributors of qualifying contributions who are registered voters within the electoral division for the office the candidate is seeking.

G. **Timing of Verification.** For purposes of this chapter, the Commission will deem verification of registered voters by the Registrar at any time during the qualifying period for certification or the relevant period for additional qualifying contributions [ §§ 1122(8) and 1125(8-E)] to be an accurate verification of voter registration even if the registration status of a particular voter may have changed at the time the Commission determines certification of the participating candidate or before the additional qualifying contribution is submitted to the Commission. Proof of voter verification submitted after the qualifying period for certification will not be accepted by the Commission and those qualifying contributions will not be counted toward the number required for certification.

- H. **Online Qualifying Contribution Service.** The Commission may establish an online service for members of the public to make qualifying contributions in support of candidates seeking *Maine Clean Election Act* funding and for candidates to use to verify voter registration and submit contributor lists.
- (1) To make an online qualifying contribution, the contributor must use the Commission's procedures to affirm that the contributor made a contribution from their personal funds in support of the candidate and that the contributor did not receive anything of value in exchange for his or her contribution. The affirmation and the payment must be made and submitted by the contributor and not by any other person. Assistance may be provided to a contributor in using the online service, as long as the assistance is provided in person and the contributor personally makes the affirmation and submits the online payment. A candidate and any person collecting qualifying contributions on behalf of a candidate may not collect the required information from the contributor by phone or any means other than in-person contact, and enter it into the online service on behalf of the contributor.
  - (2) In order to facilitate efficient administration of the Act and the prompt payment of public campaign funding to eligible candidates, the Commission may develop an alternative method for candidates to verify the voter registration of contributors by using the Commission's online qualifying contribution service. The Commission may establish procedures for candidates to use the Commission's online service to verify voter registration and to submit lists of individuals making qualifying contributions as required in Section (3)(1)(B).
- I. **Fraudulent qualifying contributions.** If the Commission staff reasonably believes that fraudulent qualifying contributions have been submitted to the Commission, the staff shall undertake an investigation to determine whether the qualifying contributions are fraudulent. The Commission staff may request investigative assistance from the Office of the Maine Attorney General or refer the matter for possible criminal prosecution. For purposes of this chapter, "fraudulent qualifying contributions" includes, but is not limited to, asking an individual to sign a Receipt and Acknowledgement form as a contributor when the individual did not make a qualifying contribution, giving money or something of value to someone in exchange for making a qualifying contribution, making false statements in the circulator section of a Receipt and Acknowledgement form, or signing the name of another person in the contributor section of the Receipt and Acknowledgement form unless the person signing the form does so on behalf of a family member who authorizes the signature but is unable to sign due to a physical impairment or disability. Fraudulent qualifying contributions must be rejected.
- J. **Compliance by gubernatorial candidates.** Within three weeks of declaring an intention to qualify for *Maine Clean Election Act* funding, candidates for Governor must appoint one or more compliance officers who will oversee the collection of qualifying contributions and must submit a compliance plan for training and oversight of persons collecting qualifying contributions. The compliance plan must describe the procedures for

- (1) training the circulators who will be collecting qualifying contributions,
  - (2) minimizing the risk of error or fraud by communicating with circulators during the collection process to verify that each contributor listed in qualifying papers provided personal funds, nothing of value was provided to the contributor, and every contributor personally made the required acknowledgment by signing a paper form or completing the online procedure for making a qualifying contribution,
  - (3) the compliance officer's personal verification with each circulator that he or she complied with required procedures before the campaign's acceptance of qualifying contributions from that circulator, and
  - (4) responding appropriately when receipt and acknowledgement forms have been completed erroneously or fraudulent qualifying contributions have been collected through investigating the extent of the error or fraud and taking remedial action to avoid risk of future error or fraud.
- K. **Collection of qualifying contributions by paid staff.** No person other than the candidate may compensate others for collecting qualifying contributions, except that paid staff of a party committee may provide limited assistance to a candidate pursuant to the exemption under Title 21-A M.R.S.A. §1012(2)(B)(7)(A).
- L. **Compensating others to collect qualifying contributions.** If a candidate compensates any person for collecting qualifying contributions, the compensation must be from funds currently available to the candidate's campaign. A candidate may not agree to make payment for collection of qualifying contributions from funds not currently available but anticipated to become available upon submission of the qualifying contributions collected. A candidate may not compensate any person for collecting qualifying contributions based on the number of contributions collected by that person.
- M. **Volunteer assistance with collecting qualifying contributions.** A candidate may receive volunteer assistance from an individual with the collection of qualifying contributions. Expenses incurred by the individual for vehicle travel or other purposes may be reimbursed only by the candidate.

### SECTION 3. CERTIFICATION OF PARTICIPATING CANDIDATES

1. **Request for Certification.** A participating candidate may submit a completed request for certification to the Commission at any time during the qualifying period but not later than 5:00 p.m. on the last day of the relevant qualifying period. The Commission may develop written procedures consistent with this section for candidates to submit qualifying contributions and related materials to facilitate the efficient payment of initial public campaign funding. The request will be deemed complete and considered for certification only when the candidate has submitted to the Commission:
  - A. the qualifying contributions attached to the corresponding original receipt and acknowledgement forms with confirmation of the contributors' voter registration

and the receipt and acknowledgement forms for any qualifying contributions collected on the Commission's online qualifying contribution service;

- B. a list of all individuals making qualifying contributions and their town or city of residence, in a format specified by the Commission sorted alphabetically by the contributor's last name;
  - C. *[Repealed.]*
  - D. a seed money report of contributions, expenditures, and obligations made or incurred after becoming a candidate, including a report of any unspent seed money; and
  - E. a signed request for certification on a form provided by the Commission which contains an affirmation by the candidate that he or she has complied with all seed money and qualifying contribution requirements, has established a separate federally-insured bank account for campaign purposes and, if applicable, that any person who circulated receipt and acknowledgement forms and collected qualifying contributions acted with the candidate's knowledge and consent, and any other information relevant to the certification process.
  - F. A candidate may request an extension of time to comply with paragraph D. The Commission staff shall grant all reasonable requests or state in writing the reasons for denying the request. The Commission and the Commission staff may not grant an extension of time to comply with paragraphs A, B and E.
2. **Order of Review.** The Commission will review candidate requests for certification in the order in which they are received, except that it will give priority to those candidates who are in a contested primary election.
  3. **Unspent Seed Money.** In order to distribute funds expeditiously, the Commission will deduct from the initial distribution from the Fund to a certified candidate an amount equal to the amount of unspent seed money reported by that candidate.
  4. **Certification.** The Commission will certify a candidate as a *Maine Clean Election Act* candidate upon the participating candidate's satisfaction of the requirements of the Act and this chapter.
  5. **Appeals.** Any appeals challenging a certification decision by the Commission must be in accordance with the Act [§1125(14)].

#### SECTION 4. FUND ADMINISTRATION

1. **Coordination with State Agencies.** The Commission will coordinate with the Office of the Controller and other relevant State agencies to ensure the use of timely and accurate information regarding the status of the Fund.
2. **Publication of Fund Revenue Estimates.** The Commission will provide the Legislature and Governor with financial projections required under the Act [§1124(4)] and may submit legislation to request additional revenues to the Fund if the Commission determines that projected revenue will not be sufficient to meet demands.



3. **Computation of Disbursement Amounts.** Every two years, the Commission shall adjust the amounts of distributions made to candidates in accordance with the Act [ §§ 1125(8-B) - (8-F)].
4. **Authorizing Contributions due to Shortfall in the Fund.**
  - A. **Authorization by Commission to accept contributions.** If the Commission determines that the revenues in the Fund may be insufficient to make payments under section 1125 of the Act, the Commission may reduce payments of public campaign funds to certified candidates and permit them to accept and spend contributions in accordance with the Act [§1125(13-A)].
  - B. **Limitations on permitted contributions.** If permitted to accept contributions, a certified candidate may not accept a contribution in cash or in-kind from any contributor, including the candidate and the candidate's spouse or domestic partner, that exceeds the applicable statutory contribution limit as adjusted for inflation. [ §§ 1015(1) & (2)]. A candidate may not solicit or receive any funds in the form of a loan with a promise or expectation that the funds will be repaid to the contributor. If a contributor made a seed money contribution to a candidate, the amount of the seed money contribution shall count toward the contribution limit for the primary election. For an unenrolled candidate, a replacement candidate, or candidate in a special election, a seed money contribution shall count toward the contribution limit for the election in which the candidate is running.
  - C. **Apportioning reductions in public funds payments.** Upon determining the amount of the projected shortfall, the Commission shall then determine the amount and apportionment of the reductions in payments to certified candidates.
  - D. **Campaign contributions to replace matching funds.** *[Repealed]*
  - E. **Written notice to candidates.** The Commission shall notify participating and certified candidates in writing of any projected shortfall in the Fund and specify timelines and procedures for compliance with this subsection in the event of a shortfall.
  - F. **Procedures for candidates.** The candidate shall deposit any authorized contributions into the campaign account into which *Maine Clean Election Act* funds have been deposited. The candidate shall disclose all contributions received in regular campaign finance reports. The Commission's expenditure guidelines for *Maine Clean Election Act* funds apply to the spending of the contributions authorized under this subsection.
  - G. **Disposing of surplus campaign funds.** After the election, the candidate must return any surplus campaign funds which the candidate was authorized to spend to the Commission upon the filing of the 42-day post-election report except for any money retained for purposes of an audit by the Commission pursuant to section 7, subsection 2(B). If the candidate has collected campaign contributions which the candidate was not authorized to spend, the candidate may dispose of those funds within 60 days after the election by returning them to the contributors, donating them to the Maine Clean Election Fund, or by making an

unrestricted gift to the State. All expenditures of surplus campaign funds must be disclosed in campaign finance reports in accordance with 21-A M.R.S.A. § 1017.

H. **Effect of fundraising on matching funds calculation.** *[Repealed]*

## SECTION 5. DISTRIBUTION OF FUNDS TO CERTIFIED CANDIDATES

### 1. Fund Distribution

- A. **Establishment of Account.** Upon the certification of a participating candidate, the Commission will establish an account with the Office of the Controller, or such other State agency as appropriate, for that certified candidate. The account will contain sufficient information to enable the distribution of revenues from the Fund to certified candidates by the most expeditious means practicable that ensures accountability and safeguards the integrity of the Fund.
- B. **Manner of Distribution of Fund.** The Commission will authorize distribution of revenues from the Fund to certified candidates in accordance with the time schedule specified in the Act [§1125(7) & (7-B)] by the most expeditious means practicable that ensures accountability and safeguards the integrity of the Fund. Such means may include, but are not limited to:
- (1) checks payable to the certified candidate or the certified candidate's political committee; or
  - (2) electronic fund transfers to the certified candidate's or the certified candidate's political committee's campaign finance account.
- C. **Coordination with Other State Agencies.** The Commission will coordinate with the Office of the Controller and other relevant State agencies to implement a mechanism for the distribution of Fund revenues to certified candidates that is expeditious, ensures public accountability, and safeguards the integrity of the Fund.

## SECTION 6. DISTRIBUTION OF SUPPLEMENTAL FUNDS

A certified candidate may be eligible to receive payments of supplemental funds in the amounts established in 21-A M.R.S.A. §§ 1125(8-B) – (8-D) and at the times established in 21-A M.R.S.A. §§ 1125(7-B) & (8-E). To receive a distribution of supplemental funds, a certified candidate must submit to the Commission additional qualifying contributions in compliance with the requirements of 21-A M.R.S.A. § 1125(8-E) and this section. The Commission shall develop written procedures for candidates to submit additional qualifying contributions, lists of contributors, and related materials to facilitate efficient and orderly payments of supplemental funds.

### 1. Additional Qualifying Contributions.

Each submission of additional qualifying contributions must include the following documents:

- A. The additional qualifying contributions attached to the corresponding original receipt and acknowledgement forms with confirmation of the contributors' voter registration according to procedures established by the Commission and the

receipt and acknowledgement forms for any additional qualifying contributions collected on the Commission's online qualifying contribution service.

- B. A list of the first and last names of all individuals making additional qualifying contributions, the individual's town or city of residence, the date of the submission of the additional qualifying contribution to the Commission, and a notation indicating all additional qualifying contributions collected on the Commission's online qualifying contribution service.
- (1) The list must include all additional qualifying contributions being submitted and must be sorted alphabetically by last name.
  - (2) The list must be provided to the Commission according to procedures established by the Commission.
- C. A completed submission form provided by the Commission.

A submission of additional qualifying contributions will not be considered complete and will not be reviewed by the Commission unless the submission includes all the required documents.

2. **Payment of Supplemental Funds.** Within three business days of certifying that a certified candidate has submitted the required number of valid additional qualifying contributions to be eligible to receive a payment of supplemental funds under the Act [§§ 1125(8-B) – (8-D)], the Commission will authorize a payment of supplemental funds in an amount based on number of valid additional qualifying contributions.

## SECTION 7. LIMITATIONS ON CAMPAIGN EXPENSES

A certified candidate shall:

1. limit the candidate's campaign expenditures and obligations to the applicable Clean Election Act Fund distribution amounts;
2. not accept any contributions unless specifically authorized in writing to do so by the Commission in accordance with the Act [§1125(2) and §1125(13)];
3. use revenues distributed from the Fund only for campaign-related purposes as outlined in guidelines published by the Commission, and not for personal or any other use;
4. not use revenues distributed from the Fund to purchase goods to sell for profit;
5. not spend more than the following amounts of Fund revenues on post-election parties, thank you notes, or advertising to thank supporters or voters:
  - A. \$250 for a candidate for the State House of Representatives;
  - B. \$750 for a candidate for the State Senate; and
  - C. \$2,500 by a gubernatorial candidate.

The candidate may also use his or her personal funds for these purposes;

6. not use revenues distributed from the Fund for the payment of fines, forfeitures, or civil penalties, or for the defense of any enforcement action of the Commission; and
7. not make any payment of more than \$50 in cash. Payments of more than \$50 in *Maine Clean Election Act* funds must be made by check, debit or credit card or wire transfer.

## SECTION 8. RECORD KEEPING AND REPORTING

1. **Record Keeping by Participating and Certified Candidates.** Participating and certified candidates and their treasurers must comply with applicable record keeping requirements set forth in Title 21-A, chapter 13, subchapter II [§1016], and chapter 14 [§1125(12-A)]. Failure to keep or produce the records required under Title 21-A and these rules is a violation of the Act for which the Commission may impose a penalty. The Commission may also require the return of funds for expenditures lacking supporting documentation if a candidate or treasurer is found in violation of the record keeping requirements. The candidate or the treasurer shall have an opportunity to be heard prior to any Commission decision imposing a penalty or requiring the return of funds under this section. In addition to these specific actions, the Commission may also take any other action authorized under Title 21-A.
  - A. **Fiduciary Responsibility for Funds.** All funds provided to a certified candidate or to a candidate's authorized political committee must be segregated from, and may not be commingled with, any other funds, other than unspent seed money.
  - B. **Meal Expenses.** A candidate or treasurer must obtain and keep a record for each meal expenditure of more than \$50. The record must include itemized bills for the meals, the names of all participants in the meals, the relationship of each participant to the campaign, and the specific, campaign-related purpose of each meal.
  - C. **Vehicle Travel Expenses.** If a campaign uses public campaign funds to reimburse the candidate or another individual for their vehicle travel, the candidate or treasurer must obtain and keep a record of vehicle travel expenses for which reimbursements are made.
    - (1) **Amount of reimbursement.** Reimbursement may not exceed the standard mileage rate prescribed for employees of the State of Maine for the year in which the election occurs. A candidate may be reimbursed for vehicle travel expenses at a rate less than the standard mileage rate. A candidate may also reimburse a volunteer for vehicle travel expenses at a rate less than the standard mileage rate as long as the difference does not exceed \$100 per volunteer per election.
    - (2) **Contents of record.** For each trip for which reimbursement is made, a record must be maintained showing the dates of travel, the number of miles traveled, the origination (if different than the residence of the person reimbursed), destination and purpose of the travel, and the total amount claimed for reimbursement. The record should contain an affirmation by the person being reimbursed that it is an accurate record

of the dates, purpose, and distance of the campaign travel. The person seeking the reimbursement must have recorded the details of the campaign travel contemporaneously with the travel or within two calendar days afterward.

- (3) **Penalties for non-compliance.** The Commission may disallow any vehicle travel reimbursements for which the candidate or the treasurer cannot produce a record maintained in accordance with this Rule and may require the campaign to repay the amount of the reimbursement to the Maine Clean Election Fund. The Commission may also assess a penalty pursuant 21-A M.R.S.A. §1127(1) if a campaign reimburses travel expenses without having kept a record that is fully compliant with the requirements of this Rule.

## 2. **Reporting by Participating and Certified Candidates**

- A. **General.** Participating and certified candidates must comply with applicable reporting requirements set forth in Title 21-A, chapter 13, subchapter II [§1017].
- B. **Return of Unspent Fund Revenues.** Unspent Fund revenues shall be returned to the Fund as follows:
  - (1) **Unauthorized Matching Funds.** *[Repealed]*
  - (2) **Unspent Fund Revenues for Unsuccessful Primary Election Candidates.** Upon the filing of the 42-day post-primary election report for a primary election in which a certified candidate was defeated, that candidate must return all unspent Fund revenues to the Commission by check or money order payable to the Fund, except that a gubernatorial candidate may be allowed to reserve up to \$2,000 in order to defray expenses associated with an audit by the Commission.
  - (2-A) **Unspent Matching Funds for Successful Primary Election Candidates.** *[Repealed]*
  - (3) **Unspent Fund Revenues for All General and Special Election Candidates.** Upon the filing of the 42-day post-election report for a general or special election, all candidates must return all unspent Fund revenues to the Commission by check or money order payable to the Fund, except that a gubernatorial candidate may be allowed to reserve up to \$3,500 in order to defray expenses associated with an audit by the Commission.
- C. **Liquidation of Property and Equipment.** Property and equipment that is not exclusive to use in a campaign (e.g., computers and associated equipment, etc.) that has been purchased with *Maine Clean Election Act* funds loses its campaign-related purpose following the election. Such property and equipment purchased for \$50 or more must be liquidated at its fair market value and the proceeds thereof reimbursed to the Maine Clean Election Fund as unspent fund revenues in accordance with the schedule in paragraph B above. Candidates may not return unsold property or equipment to the Commission.

- (1) The liquidation of campaign property and equipment may be done by sale to another person or purchase by the candidate.
- (2) Liquidation must be at the fair market value of the property or equipment at the time of disposition. Fair market value is determined by what is fair, economic, just, equitable, and reasonable under normal market conditions based upon the value of items of similar description, age, and condition as determined by acceptable evidence of value. A campaign's sale of property or equipment through an on-line commercial auction shall be considered by the Commission as a factor in favor of determining that the campaign has recovered the fair market value of the property or equipment.
- (3) If the campaign sells the property or equipment to the candidate or a member of the candidate's immediate family or campaign staff, the campaign must receive at least 75% of the original purchase price.

## **SECTION 9. RECOUNTS, VACANCIES, WRITE-IN CANDIDATES, SPECIAL ELECTIONS**

1. **Recounts.** Certified candidates may not spend Fund revenues for purposes of a recount or a court challenge to the results of a recount, but they may receive donations for these purposes in accordance with 21-A M.R.S.A. §1018-B. The Commission will make the initial distribution for the general election no later than three days after the Secretary of State submits the tabulation of primary election results to the Governor in accordance with Title 21-A, section 722 [§1125(7)(C)]. If there is a recount governed by Title 21-A, chapter 9, subchapter III, article III [§737-A], the primary election winner may spend Fund revenues consistent with the following provisions:
  - A. If the margin between the leading candidate and the 2nd-place candidate is less than 1% of the total number of votes cast in that race and a recount is presumed necessary, the certified candidate immediately must halt the expenditure of revenues disbursed to the candidate from the Fund upon receiving notice of the recount until the recount is complete.
  - B. If the recount results in a changed winner, the certified candidate who originally received the disbursement must return any unspent distributions from the Fund to the Commission, payable to the Fund. If the new winner is a certified candidate, the Commission will distribute the applicable disbursement amount to the candidate.
  - C. If the margin between the leading candidate and 2nd-place candidate is 1% or greater of the total number of votes cast in that race and the 2nd-place candidate requests a recount, the leading candidate, if a certified candidate, is not required to freeze expenditures of the disbursement.
  - D. If the recount results in a changed winner, the certified candidate must return any unspent distributions from the Fund to the Commission, payable to the Fund. If the new winner is a certified candidate, the Commission will distribute the applicable disbursement amount to the candidate.

## 2. **Death, Withdrawal, or Disqualification of a Candidate During Campaign**

- A. **Death, Withdrawal, or Disqualification Before Primary Election.** If a candidate dies, withdraws, or is disqualified before the primary election, the Commission will establish a qualifying period during which any replacement candidate may become a participating candidate, collect qualifying contributions, and apply to become a certified candidate.
- B. **Death, Withdrawal, or Disqualification after the Primary Election and before 5:00 p.m. on the 2nd Monday in July Preceding the General Election.** If a candidate dies, withdraws, or is disqualified before 5:00 p.m. on the 2nd Monday in July preceding the general election, any replacement candidate will have a qualifying period from the time of the candidate's nomination until 30 days after the 4th Monday in July as a participating candidate to collect qualifying contributions and request certification.
- C. **Death, Withdrawal, or Disqualification after 5:00 p.m. on the 2nd Monday in July Preceding the General Election.** If a candidate dies, withdraws, or is disqualified after 5:00 p.m. on the 2nd Monday in July preceding the general election, the Commission will establish a qualifying period during which any replacement candidate may become a participating candidate, collect qualifying contributions, and apply to become a certified candidate.
- D. **Replacement Candidates Who Are Participating Candidates.** Any replacement candidate choosing to become a participating candidate must otherwise comply with the requirements of this chapter and the Act including, but not limited to, seed money limits and qualifying contribution requirements. The Commission will notify any replacement candidates of the opportunity to participate in the Act and the procedures for compliance with this chapter during a special election.

## 3. **Write-In Candidates**

- A. Write-in candidates are subject to the registration requirements of Title 21-A M.R.S.A. §1013-A and the campaign finance reporting requirements of §1017, as soon as they qualify as a nominee pursuant to 21-A M.R.S.A §723, file a declaration of write-in candidacy with the Secretary of State pursuant to 21-A M.R.S.A. §722-A, or receive contributions or make expenditures with the intent of qualifying as a candidate in the primary or general election, whichever first occurs.
- B. Write-in candidates may not participate in the *Maine Clean Election Act*, except as provided in paragraph C.
- C. A write-in candidate in a primary election who becomes a party's nominee may participate in the *Maine Clean Election Act* for the general election. The Commission will establish a qualifying period during which the candidate may become a participating candidate, collect qualifying contributions, and apply to become a certified candidate.
- D. A candidate who is participating in the *Maine Clean Election Act* and who has no opponent listed on the ballot will be presumed to be in an uncontested election even if there are one or more individuals running as write-in candidates. The

participating candidate may rebut this presumption by presenting evidence to the Commission that the write-in opponent(s) received or spent substantial campaign funds. Based upon the evidence presented, the Commission may make a determination that it is a “contested election” and make a distribution of public funds to the participating candidate on that basis.

4. **Special Election When One or More Candidates Desire to Become Certified Candidates.** If a vacancy occurs in the office of Governor, Senator, or Representative because an incumbent dies, resigns, becomes disqualified, or changes residence to another electoral division, and a special election will be held to fill the vacant office, the following provisions apply:
  - A. The Commission, in consultation with the Secretary of State, will establish a qualifying period during which any candidate in a special election may decide to become a participating candidate, collect qualifying contributions, and apply to become a certified candidate; and
  - B. Any candidate in a special election must otherwise comply with the requirements of this chapter and the Act including, but not limited to, seed money limits and qualifying contribution requirements. The Commission will notify any candidates of the opportunity to participate in the Act and the procedures for compliance with this chapter during a special election.
5. **Return of Unspent Fund Revenues.** Any time a certified candidate withdraws, is disqualified, or dies before an election, the candidate or the candidate’s agent must return to the Commission all unspent amounts distributed to the candidate by check or money order payable to the fund, within 2 weeks of the termination of the candidacy.
6. **Challenges to Election Results in Court.** If the results of an election are challenged in a court proceeding, a certified candidate may solicit and accept donations to finance attorneys’ fees or other litigation costs. The donations must be within the limitations of section 1015, except that no limitation applies to donations from party committees and caucus campaign committees and from attorneys, consultants and their firms that are donating their services without reimbursement. The Commission may adopt procedures for the financial disclosure of these activities.

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

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