



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

Commission Meeting: March 6, 2019
Agenda Item #3

To: Commissioners
From: Emma Burke, Candidate Registrar
Date: January 17, 2019
Re: Request by Cathleen Nichols for Waiver of Late-Filing Penalty Due to Late 24-Hour Report

Cathleen Nichols was a traditionally financed replacement candidate running for the Maine State Senate, District 25, in the 2018 general election.¹ She registered as a Senate candidate on July 24, 2018, and raised and spent around \$17,800 for her Senate race. 2018 was the first year that Ms. Nichols ran for legislative office.

Ms. Nichols' campaign made an expenditure for a direct mail piece on October 30, 2018 in the amount of \$3,900, triggering a 24-Hour Report due on October 31, 2018. The Nichols campaign filed the 24-Hour Report on December 18, 2018, forty-eight days late. The preliminary penalty for the late report is \$3,744. Ms. Nichols is requesting a waiver of the penalty.

LEGAL REQUIREMENTS

Candidates are required to file 24-Hour Reports with the Commission during the 13 days prior to an election if they receive a contribution or make an expenditure of \$1,000 or more. (21-A M.R.S.A. § 1017(3-A)(C)) If the candidate is late in filing a 24-Hour Report, the amount of the penalty is set by a formula which takes into consideration a percentage of the total contributions or expenditures, whichever is greater, the number of

¹Earlier in 2018, Cathleen Nichols was the Republican primary election candidate for House District 43. She withdrew after the primary election to participate in the general election for Senate District 25 as the Republican replacement candidate.

prior violations within a two-year period, and the number of days the report is late. (21-A M.R.S.A. § 1020-A(4-A))

DISCUSSION

On December 18, 2018, the Nichols campaign treasurer, Scott Kerr, filed the 24-Hour Report that was due October 31, 2018. Mr. Kerr is an experienced campaign treasurer who was assisting several 2018 candidates. Mr. Kerr had been working on Ms. Nichols’ 42-Day Post-General Report (which was also filed on December 18, 2018), for which he had just received the invoices and receipts from Ms. Nichols, and realized the campaign had missed filing a timely 24-Hour Report for the direct mailing expenditure.

In telephone conversations with Commission staff, both Mr. Kerr and Ms. Nichols confirmed that Ms. Nichols retained possession of the receipts and invoices until she gave them to Mr. Kerr in mid-December for his filing of her campaign’s 42-Day Post-General Report. While Mr. Kerr was well aware of the 24-hour reporting period, he was *not* aware of the Nichols’ campaign’s direct mailing purchase of \$3,900 on October 30, 2018 until he was working on filing the 42-Day Post-General Report.

Based on the statutory formula for calculating late-filing penalties, the preliminary penalty amount is \$3,744, calculated as follows:

Report	Deadline	Financial Activity	Penalty Rate	Days Late	Preliminary Penalty
24-Hour Report	10/31/2018	\$3,900	2%	48	\$3,744

In her January 10, 2018 email requesting a penalty waiver, Ms. Nichols acknowledges that she was aware of the 24-hour reporting period, but thought that it applied “to charges incurred in November, the week leading up to the [Nov. 6] election.” She mentions the high degree of stress in the two weeks before the election, which included family and campaign challenges which distracted her. She also cites that she was a first-time candidate who did not have a campaign manager, which is an issue Mr. Kerr brought up as well, as a reason the 24-hour reporting period was not kept track of. Ms. Nichols states that “other GOP staff” initiated the mailing, and that she was not as involved in this

mailing as she had been with earlier mailings. The campaign also draws notice to the fact the preliminary penalty is disproportionate to the violation and size of the campaign.

STAFF RECOMMENDATION

24-Hour Reports play a valuable role in informing the electorate about how money is being spent to influence voters in the critical days just before an election. In this case, a penalty is appropriate to reinforce that filing pre-election reports is a legal requirement. The 24-hour reporting requirement was the subject of an October 24, 2018 email (attached) Ms. Burke sent to the candidates assigned to her; was directly mentioned in the mailed reminder for the 11-Day Pre-General Report reminder (attached); is included on the filing schedule page in the Candidate Quick Guide (attached); and is written about extensively in the Candidate Guidebook (attached). It is also my understanding that Mr. Kerr sent his own reminder about the 24-hour reporting period to the multiple candidates he was treasurer for.

In light of the higher penalty rates resulting from the 2015 citizen initiative, the Commission staff is recommending penalties in the range of \$300 - \$400 for the late filing of 24-Hour Reports for legislative and county candidates in the 2018 elections. This year, the Commission has reached the following decisions on waiver requests for late 24-Hour Reports:

Candidate	Preliminary Penalty	Final Penalty	Commission Decision Date
Costain, Danny (contested primary election)	\$2,991.36	\$300.00	08/29/18
Schwartz, Ian (contested primary election)	\$384.87	\$300.00	08/29/18
Dow, Dana	\$115.93	\$115.93	11/28/18
Collins, Jan	\$2,565.38	\$300.00	12/19/18

In this case, the preliminary penalty of \$3,744 is disproportionately high. While the staff certainly understands the pressures put upon a candidate in peak election season, it is their responsibility to abide by all campaign finance reporting requirements, and in this case Ms. Nichols does not provide a significant mitigating circumstance other than the disproportionate amount of the penalty. The expenditure was not reported until after the election, which means that members of the public were denied information that the Election Law intended to be disclosed prior to the election. Because Ms. Nichols was a candidate for State Senate with an experienced campaign treasurer and because of the large amount of the expenditure and number of days late, the Commission staff recommends a penalty of \$400.

Thank you for your consideration of this memo.

Burke, Emma

From: cmsnichols@gmail.com
Sent: Thursday, January 10, 2019 11:10
To: Burke, Emma
Subject: [EXTERNAL SENDER] Notice of Violation Waiver Request

Dear Ms. Burke,

I respectfully request a waiver for the penalty I received for not filing a 24-hour report in a timely manner.

I failed to report a \$3,900.00 charge for a mailer that was created and mailed by Spectrum. I received the invoice 10/29/18, and filed it in my section for the final report.

I was notified that charges >\$1000 must be filed within 24 hours, but did not remember that that would apply to charges in October, and mistakingly thought it would apply to charges incurred in November, the week leading up to the election.

Your staff is fully aware of the stress put on a candidate who is worker his/her hardest to succeed. The days surrounding the day I received the invoice were one of the most stressful periods I have ever experienced. I was dealing with my son who was and still suffers from chronic migraines and communicating with his teachers. I had a very upsetting circumstance with a newspaper who printed my \$680 article on the Police Beat page instead of the 3rd page. Being new to politics and the public eye this was a very upsetting situation and my concentration was affected.

The mailer project was started by other GOP staff, I did approve the final product, but I did not directly handle any other aspect of the process or mailing like I have with other mailings. Regretfully, I did not connect the date with the unusually large charge and did not remember it was an urgent report.

Not having a campaign manager, never running for any office before were also contributing factors. I was also trying my best to not be a burden to my Treasurer and I found that the way he needed separate and individually titled copies of checks, invoices, etc. to be above my expertise in finance at such a busy time.

I believe that the \$3,900 charge was the highest amount ever charged for my campaign at one time. It was an unfortunate mistake but for someone who raised less than \$20,000 for both a House campaign and then transferred to a Senate campaign 100 days before the general election, I am absolutely distressed that I would have to suffer such a frightening penalty.

Please take the above mitigating circumstances into your sincerest considerations.

Sincerely,

Cathy Nichols
(207)749-7609

December 27, 2018

Cathleen Nichols
41 Stapleford Drive
Falmouth, Maine 04105

Re: Notice of Violation and Penalty for Late-Filed 24-Hour Report

Dear Ms. Nichols:

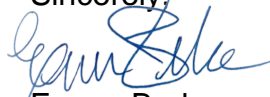
You were required to file a 24-Hour Report on October 31, 2018 by 11:59 p.m., but the report was not filed until December 18, 2018. Under the Commission's statutes (21-A M.R.S.A. § 1020-A(4-A)), the late filing of a report triggers an enforcement process. The Commission staff has made a preliminary finding of violation and determined that the preliminary penalty for filing the report late is \$3,744.00. Please see the next page for the penalty calculation.

You may request that the Commission waive the penalty in whole or in part or find that there was no violation. The request must be made within 14 calendar days of your receipt of this notice. The request must be in writing and contain a full explanation of the reasons the report was filed late. Upon receiving your request, the Commission staff will schedule your request to be heard at an upcoming Commission meeting. You or your designee will have an opportunity to be heard at the meeting or you may submit a sworn statement to the Commission explaining the mitigating circumstances for its consideration.

The Commission may waive or reduce the penalty or find that there was no violation if it determines that the report was late due to mitigating circumstances, which are defined as (1) a valid emergency; (2) an error made by the Commission staff; or (3) relevant evidence that a bona fide effort was made to file the report on time. The Commission may also consider whether the penalty is disproportionate to the size of the candidate's campaign, the level of experience of the candidate, treasurer or campaign staff, or the harm to the public caused by the late disclosure.

The staff requests that you pay the preliminary penalty within 14 days of the date of your receipt of this notice if you do not intend to request a waiver. Please use the payment statement on the next page when paying by mail. You may also make a payment online at www.maine.gov/ethics by clicking the "Penalty Payment" link. Please contact me at (207) 287-4727 or emma.burke@maine.gov if you have any questions.

Sincerely,



Emma Burke
Candidate Registrar

cc: Scott Kerr

Penalty Calculation

The penalty for filing a campaign finance report late is based on a percentage of the total contributions or expenditures for the reporting period, whichever is greater, multiplied by the number of days late. The percentage is based on your history of past violations: 2% for the first violation, 4% for the second violation, and 6% for the third and each subsequent violation. Violations for late-filed reports accumulate in the two-year period beginning on January 1st of each even-numbered year. A penalty accrues daily beginning on the day following the filing due date. Any penalty of less than \$10 is automatically waived.

How Your Penalty Was Calculated

Filer: Cathleen Nichols			
Late-Filed Report: 24-Hour Report			
Contributions	\$0.00	Penalty Base Amount	\$3,900.00
Expenditures	\$3,900.00	Percentage	2%
Due Date	October 31, 2018	Daily Accrual Rate	\$78.00
Date Filed	December 18, 2018	Days Late	48
Previous Violations	0	Your Total Penalty	\$3,744.00

Payment Statement and Payment Options

From: Cathleen Nichols

Penalty Amount: \$3,744.00

Amount Enclosed: _____

Check/M.O. #: _____

BY MAIL: Enclose this payment statement with your payment.

Please make check or money order payable to: Treasurer, State of Maine

Mail to: Maine Ethics Commission
135 State House Station
Augusta, Maine 04333-0135

ONLINE: Go to www.maine.gov/online/ethics/penalties.



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

24-HOUR REPORT OF CONTRIBUTIONS AND EXPENDITURES

2018 CAMPAIGN YEAR

COMMITTEE		TREASURER
Mrs. Cathleen M Nichols 41 Stapleford Drive Falmouth, ME, 04105 PHONE:(207) 747-5653 EMAIL: cathynichols4me43@gmail.com		Mr. Scott Kerr 37 NEW GLOUCESTER RD NORTH YARMOUTH, ME, 04097 PHONE:(207) 329-5799 EMAIL: skerr@mba1976.hbs.edu
REPORT	DUE DATE	REPORTING PERIOD
24 Hour Report of Contributions and Expenditures	10/31/2018	10/30/2018-10/30/2018

FINANCIAL ACTIVITY SUMMARY

CONTRIBUTIONS AND EXPENDITURES	
1. TOTAL CONTRIBUTIONS / LOANS	\$0.00
2. TOTAL EXPENDITURES	\$3,900.00
3. TOTAL DEBTS	\$0.00

I, **Scott Kerr**, CERTIFY THAT THE INFORMATION CONTAINED IN THIS REPORT IS TRUE, ACCURATE, AND COMPLETE TO THE BEST OF MY KNOWLEDGE.

REPORT FILED BY: Scott Kerr
REPORT FILED ON: 12/18/2018 10:57:03 AM
LAST MODIFIED:
COMMITTEE ID: 292866

24-HOUR EXPENDITURE AND PAYEE INFORMATION

EXPENDITURE TYPES				
<p>CNS Campaign consultants</p> <p>CON Contribution to other candidate, party, committee</p> <p>EQP Equipment (office machines, furniture, cell phones, etc.)</p> <p>FND Fundraising events</p> <p>FOD Food for campaign events, volunteers</p> <p>LIT Print and graphics (flyers, signs, palmcards, t-shirts, etc.)</p> <p>MHS Mail house (all services purchased)</p> <p>OFF Office rent, utilities, phone and internet services, supplies</p> <p>OTH Other</p> <p>PHO Phone banks, automated telephone calls</p>	<p>POL Polling and survey research</p> <p>POS Postage for U.S. Mail and mail box fees</p> <p>PRO Other professional services</p> <p>PRT Print media ads only (newspapers, magazines, etc.)</p> <p>RAD Radio ads, production costs</p> <p>SAL Campaign workers' salaries and personnel costs</p> <p>TRV Travel (fuel, mileage, lodging, etc.)</p> <p>TVN TV or cable ads, production costs</p> <p>WEB Website design, registration, hosting, maintenance, etc.</p>			
DATE OF EXPENDITURE	PAYEE	REMARK	TYPE	AMOUNT
10/30/2018	Spectrum Marketing Companies 95 EDDY ROAD, SUITE 101 MANCHESTER, NH, 03102	Mailing	MHS	\$3,900.00
TOTAL EXPENDITURES FOR CANDIDATE:				\$3,900.00

Burke, Emma

From: Burke, Emma
Sent: Wednesday, October 24, 2018 09:49
To: Burke, Emma
Cc: Gordon, Erin; Goodhue, Timothy A
Subject: 24-Hour Reporting Period Begins TODAY!

Hello there!

The election is less than two weeks away which can only mean one thing – we've now entered the

24-hour reporting period! 

The **DETAILS:**



- The 24-hour reporting period runs from October 24th (today!) through November 5th (the day before the election).
- You must report any **single contribution or loan of \$1,000 or more**, or any **single debt or expenditure of \$1,000 or more** within **twenty-four hours** of the transaction. This includes weekends and holidays!

The **HOW-TO:**

- To file a 24-Hour Report, go to www.mainecampaignfinance.com and sign in. Add the transaction(s) that need to go in a 24-Hour Report, and then file the 24-Hour Report the efilings system just created for you. Remember – you *must file* the 24-Hour Report, not just add the transaction into the system.

The **FINE PRINT:**

- Debts and debt payments need to be reported in 24-Hour Reports, too! You have incurred a debt if you have placed an order, or made an agreement for an order, but have not paid for the order yet. If you have a debt that's \$1,000 or more during the 24-hour reporting period, you must file a 24-Hour Report.
- Transactions of \$1,000 or more that occur on November 5th must be filed on the 5th, or on November 6th, Election Day.

Need HELP? Call me at 287-4727 or email me!



11-DAY PRE-GENERAL FILING REMINDER TRADITIONALLY FINANCED CANDIDATES

Campaign Finance Report Due October 26, 2018

REPORT	DEADLINE	REPORT PERIOD
11-Day Pre-General	Friday, October 26 by 11:59 p.m.	Sept. 19 through Oct. 23
24-Hour Report	Within 24 hours of: (1) receiving a contribution of \$1,000 or more or; (2) making a single expenditure of \$1,000 or more. If the deadline falls on a weekend, the report must still be filed by the deadline.	Oct. 24 through Nov. 5

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To log into the e-filing system:

- Go to the Commission’s e-filing website: www.mainecampaignfinance.com
- Click the blue “Register/Sign In” button
- Click “Sign In”
- Enter your user name and password. If you have any problems logging in, please contact the Commission as soon as possible. Staff will be available until 5:00 p.m. on the deadline.

Filing Tip: Get Started Early

You do not have to wait until the filing deadline to enter expenditures into the e-filing system. You can enter them on a weekly or daily basis and avoid a last minute rush. The system will store the information as you enter and save it. Nothing will be available to the public until you actually file the report by clicking the “File Report” button.

You don’t have to wait until October 26th to file the report. If you have finished entering all your contributions and expenditures, you can file the report anytime before 11:59 p.m. on October 26th.

Filing Tip: Reporting Reimbursements Correctly

When a candidate, campaign worker or volunteer uses their own personal funds (e.g., uses a personal credit card) to pay for goods or services for the campaign, the campaign has to reimburse that person.

To report a reimbursement to a candidate, campaign worker or volunteer, the name of the payee is the **name of the vendor** from which the goods/services were obtained, **not the person who was reimbursed**.

For example, a candidate uses her own credit card to pay Staples for printing flyers. To report the reimbursement correctly, enter Staples as the payee, the amount of the purchase and the date the purchase was made (not the date of the reimbursement). In the explanation for the expenditure, enter “Reimbursed candidate on October 21 for cost of printing flyers.”

COMMISSION PHONE NUMBERS

Emma Burke	287-4727
Tim Goodhue	287-4709
Erin Gordon	287-3651
Main Line	287-4179

Questions?
Call us!

24-Hour Reports: What, When and How?

What is a 24-Hour Report:

- If a candidate receives a contribution or loan of \$1,000 or more, or makes a single expenditure or obligation of \$1,000 or more from October 24 through November 5, the candidate must file a 24-Hour Report (see calendar below).
- Overhead costs, such as rent, taxes, utilities and some salary payments are not required to be reported in a 24-Hour Report.

When to file 24-Hour Reports:

- Within 24 hours of receiving the contribution or making the expenditure or incurring the obligation (see explanation of expenditure in the side bar).
- A report must be filed on a weekend if that is when it is due – you cannot wait until the next business day.
- Contributions received and expenditures made on the day before an election must be reported on election day.

How to file 24-Hour Reports:

- In the e-filing system:
 1. Enter the contribution or expenditure into the system as you would for any contribution or expenditure.
 2. The system will alert you that you will have to file a 24-Hour Report and add the report to your filing schedule.
 3. Click the [link to file the report from the notification on your efilg homepage](#)

2018 GENERAL ELECTION 24-HOUR REPORT PERIOD

OCTOBER 24, 2018 – NOVEMBER 5, 2018

Sun	Mon	Tue	Wed	Thu	Fri	Sat
Oct 21	22	23	Starts on 24	25	26	27
28	29	30	31	Nov 1	2	3
4	5	6 Election Day	7	8	9	10



2018 FILING SCHEDULE FOR LEGISLATIVE AND COUNTY CANDIDATES

TYPE OF REPORT	DEADLINE	REPORT PERIOD
2018 January Semiannual <i>If > \$500 raised or spent in 2017</i>	January 16, 2018	Beginning of campaign - December 31, 2017
11-Day Pre-Primary <i>All candidates</i>	June 1, 2018	Beginning of campaign - May 29, 2018 <i>If 2018 January Semiannual filed: January 1 - May 29, 2018</i>
42-Day Post-Primary <i>All candidates</i>	July 24, 2018	May 30 - July 17, 2018
42-Day Pre-General <i>Candidates participating in the general election</i>	September 25, 2018	July 18 - September 18, 2018
11-Day Pre-General <i>Candidates participating in the general election</i>	October 26, 2018	September 19 - October 23, 2018
42-Day Post-General <i>Candidates participating in the general election</i>	December 18, 2018	October 24 - December 11, 2018
2019 January Semiannual <i>Candidates unsuccessful in the primary and have > \$100 in cash or unpaid loans/debts</i>	January 15, 2019	July 18 - December 31, 2018
2019 July Semiannual <i>Candidates with > \$100 in cash or unpaid loans/debts</i>	July 15, 2019	January 1 - June 30, 2019

submit a report by the filing deadline may be assessed a civil penalty.

REPORTING PERIODS

Each campaign finance report covers a specific period of time. Campaigns must report all contributions received and expenditures made during the period, as well as all debts and obligations that remain unpaid at the end of a period.

If any transactions were not included in a report that has already been filed, the candidate must amend the previously filed report. When completing or amending reports, candidates and their treasurers are encouraged to call the Commission staff with any questions.



REQUIRED REPORTS

Semiannual Reports for Candidates with Financial Activity in 2017. If a candidate raises or spends more than \$500 before December 31, 2017, the campaign must file a 2018 January Semiannual Report no later than January 16, 2018, covering all financial activity since registration.

Required Pre- and Post-Election Reports for All Candidates. Candidates are required to file campaign finance reports according to the schedule found in the table on this page. Each report covers a specific time period and must include all activity within that period.

24-Hour Reports. The 24-hour reporting requirement applies during the 13-day period prior to an election



**2018 PRIMARY ELECTION 24-HOUR REPORTING PERIOD
MAY 30, 2018 – JUNE 11, 2018**

Sun	Mon	Tue	Wed	Thu	Fri	Sat
May 27	May 28	May 29	May 30 BEGINS	May 31	June 1	June 2
June 3	June 4	June 5	June 6	June 7	June 8	June 9
June 10	June 11 ENDS	June 12 Primary Election	15	16	17	18

**2018 GENERAL ELECTION 24-HOUR REPORTING PERIOD
OCTOBER 24, 2018 – NOVEMBER 5, 2018**

Sun	Mon	Tue	Wed	Thu	Fri	Sat
October 21	October 22	October 23	October 24 BEGINS	October 25	October 26	October 27
October 28	October 29	October 30	October 31	November 1	November 2	November 3
November 4	November 5 ENDS	November 6 General Election	9	10	11	12

HOW TO FILE 24-HOUR REPORTS:

- File reports electronically. E-Filing will create a 24-Hour Report to file after the transaction is added.
- Paper filers can file in person or by fax.

WHEN TO FILE 24-HOUR REPORTS:

- Within twenty-four hours of the contribution, expenditure, or debt or obligation.
- A report must be filed on a weekend or holiday if that is when it is due.
- Qualifying transactions taking place on the day before an election must be reported on election day.

(calendar above). A 24-Hour Report must be filed within twenty-four hours when a candidate:

- receives a single contribution or loan of \$1,000 or more; or
- makes a single expenditure or incurs an unpaid debt or obligation of \$1,000 or more.

If a candidate incurs a debt or obligation with a vendor during the 24-hour reporting period, he or she must report the debt or obligation within twenty-four hours, regardless of when the vendor is paid. The table below lists actions which constitute incurring a debt or obligation. Overhead costs, such as rent, taxes,

utilities, and some salary payments, are exempt from 24-hour reporting.

Any transactions disclosed in a 24-Hour Report will be

UNPAID DEBTS AND OBLIGATIONS WHICH ARE REPORTABLE IN 24-HOUR REPORTS
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



automatically entered into the next campaign finance report in the E-Filing system.

Post-Election Required Reports. Candidates who are defeated in the primary election must file the primary election reports, but are not required to file the three general election reports. The 42-Day Post-Primary Report, due July 24, 2018, for those candidates, is the last campaign finance report in the election cycle. Candidates in the general election must file the 42-Day Post-General Report, due December 18, 2018. A candidate who has a cash, loan, or debt balance of more than \$100 after filing the 42-Day Post-Election Report must file semiannual reports every January 15th and July 15th until the cash balance, outstanding loans, and/or debts are \$100 or less. (See Chapter 7.)

Candidates have four years after the election to dispose of a cash balance greater than \$100. Cash surpluses may only be disposed of in certain ways, which are listed in the Appendix.

REPORTING CASH AND IN-KIND CONTRIBUTIONS

Reporting Contributions of \$50 or Less. If a contributor has given a candidate contributions that total \$50 or less during a reporting period, the candidate is not required to itemize these contributions in his or her campaign finance report. The contributions of \$50 or less may be entered as a lump sum. When reporting lump sum (“unitemized”) contributions in the E-Filing system, candidates should use the source type of “Monetary (Unitemized)” and the contributor type of “Contributors Giving \$50 or Less” and enter the total for the reporting period. The candidate may use the date he or she deems most appropriate — typically the last date an unitemized contribution was received. (While

the candidate may aggregate small contributions for the report, he or she must still keep a record of each contribution — see Chapter 5.)

Reporting Contributions Greater than \$50. After a contributor donates more than \$50 in a reporting period, the candidate must itemize the contribution(s) in the report. For example, a contributor donates \$20 at the beginning of a reporting period, and a month later - and within the same reporting period — the same contributor donates an additional \$40. Both contributions must be itemized by reporting the name, address, occupation, and employer of the contributor.

Duty to Report Contributor’s Occupation and Employer. If a contributor who is an individual has given contributions totaling more than \$50 during a reporting period, the candidate is required to request and report the contributor’s occupation and employer. Under the Commission’s Rules, a campaign must make a reasonable effort to obtain the information from contributors. If a contributor is unwilling to provide the information in response to a request, the candidate should report “information requested” when entering the contribution.

Reporting a Return of a Contribution. If a campaign returns a contribution to a contributor, the candidate must disclose the returned funds in a campaign finance report. A return of a contribution is required in certain circumstances:

- when an over-the-limit contribution is received and deposited in the campaign bank account; or
- when a general election contribution was collected before the primary by a candidate who was defeated in the primary election.

2018 Candidate Quick Guide



Traditionally Financed Legislative Candidates

Maine Commission on Governmental Ethics and Election Practices

135 State House Station, Augusta, ME 04333

(207) 287-4179 | ethics@maine.gov



2018 GENERAL INFORMATION - TRADITIONALLY FINANCED CANDIDATES

Introduction

Dear Candidate:

Thank you for registering as a legislative candidate in Maine's 2018 elections. This Quick Guide introduces you to the key elements of running as a traditionally financed candidate. You will find more detailed information in the 2018 Candidate Guidebook for Traditionally Financed Candidates. Neither this Quick Guide nor the Candidate Guidebook, however, is a substitute for the Commission's statutes and rules. Please do not hesitate to email or call your Candidate Registrar if you have any questions. We are here to help in any way that we can.

- Ethics Commission Staff

Filing Financial Reports

Candidates must file financial reports according to the schedule below. If reports are late, the Commission assesses late-filing penalties automatically, and penalties increase every day. Therefore, it is critical that candidates file the report by 11:59 p.m. on each deadline. Please get an early start. The Commission staff is available to help until 5:00 p.m. on each filing deadline.

Filing Schedule

Report	Due Date	Period Begin Date	Period End Date
2018 January Semiannual	January 16, 2018	Date of Registration	December 31, 2017
11-Day Pre-Primary Report	June 1, 2018	January 1, 2018	May 29, 2018
42-Day Post-Primary Report	July 24, 2018	May 30, 2018	July 17, 2018
42-Day Pre-General Report	September 25, 2018	July 18, 2018	September 18, 2018
11-Day Pre-General Report	October 26, 2018	September 19, 2018	October 23, 2018
42-Day Post-General Report	December 18, 2018	October 24, 2018	December 11, 2018

24-Hour Reporting Periods*

May 30 - June 11, 2018 (before the Primary Election)

October 24 - November 5, 2018 (before the General Election)

** In the thirteen days prior to an election, campaigns are responsible for filing 24-Hour Reports if they **accept a single contribution of \$1,000 or more, or make a single expenditure of \$1,000 or more.** Within one day of the contribution or expenditure that triggers a 24-Hour Report, campaigns must log in to the E-Filing website, add the transaction, and then file the automatically created 24-Hour Report.*

year. These reports must include all contributions made to and all expenditures made or authorized by or on behalf of the candidate or the treasurer of the candidate as of the end of the preceding month, except those covered by a previous report.

B. Reports must be filed no later than 11:59 p.m. on the 11th day before the date on which an election is held and must be complete as of the 14th day before that date. If a report was not filed under paragraph A, the report required under this paragraph must cover all contributions and expenditures through the 14th day before the election.

→ C. Any single contribution of \$1,000 or more received or any single expenditure of \$1,000 or more made after the 14th day before any election and more than 24 hours before 11:59 p.m. on the day of any election must be reported within 24 hours of that contribution or expenditure. The candidate or treasurer is not required to include in this report expenditures for overhead expenses or compensation paid to an employee or other member of the campaign staff who has received payments at regular intervals that have been disclosed in previously filed campaign finance reports. As used in this paragraph, "overhead expenses" includes, but is not limited to, rent, utility payments, taxes, insurance premiums or similar administrative expenses.

D. Reports must be filed no later than 11:59 p.m. on the 42nd day after the date on which an election is held and must be complete for the filing period as of the 35th day after that date.

D-1. Reports must be filed no later than 11:59 p.m. on the 42nd day before the date on which a general election is held and must be complete as of the 49th day before that date, except that this report is not required for candidates for municipal office.

E. Unless further reports will be filed in relation to a later election in the same calendar year, the disposition of any surplus or deficit in excess of \$100 shown in the reports described in paragraph D must be reported as provided by this paragraph. The treasurer of a candidate with a surplus or deficit in excess of \$100 shall file reports semiannually with the commission within 15 days following the end of the 2nd and 4th quarters of the State's fiscal year, complete as of the last day of the quarter, until the surplus is disposed of or the deficit is liquidated. The first report under this paragraph is not required until the 15th day of the period beginning at least 90 days from the date of the election. The reports will be considered timely if filed electronically or in person with the commission on that date or postmarked on that date. The reports must set forth any contributions for the purpose of liquidating the deficit, in the same manner as contributions are set forth in other reports required in this section.

F. Reports with respect to a candidate who seeks nomination by petition must be filed on the same dates that reports must be filed by a candidate for the same office who seeks that nomination by primary election.

3-B. Accelerated reporting schedule. (REPEALED)

4. New candidate or nominee. A candidate for nomination or a nominee chosen to fill a vacancy under Chapter 5, subchapter 3 is subject to section 1013-A, subsection 1, except that the candidate shall register the name of a treasurer or political committee and all other information required in section 1013-A, subsection 1, paragraphs A and B within 7 days after the candidate's appointment or at least 6 days before the election, whichever is earlier. The commission shall send notification of this registration requirement and report forms and schedules to the candidate

of perjury, as provided in Title 17 A, section 451, a statement under oath or affirmation whether the expenditure is made in cooperation, consultation or concert with, or at the request or suggestion of, the candidate or an authorized committee or agent of the candidate.

C. A report required by this subsection must be on a form prescribed and prepared by the commission. A person filing this report may use additional pages if necessary, but the pages must be the same size as the pages of the form. The commission may adopt procedures requiring the electronic filing of an independent expenditure report, as long as the commission receives the statement made under oath or affirmation set out in paragraph B by the filing deadline and the commission adopts an exception for persons who lack access to the required technology or the technological ability to file reports electronically. The commission may adopt procedures allowing for the signed statement to be provisionally filed by facsimile or electronic mail, as long as the report is not considered complete without the filing of the original signed statement.

5. Exclusions. An independent expenditure does not include:

- A. 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;
- B. A telephone survey that meets generally accepted standards for polling research and that is not conducted for the purpose of changing the voting position of the call recipients or discouraging them from voting;
- C. A telephone call naming a clearly identified candidate that identifies an individual's position on a candidate, ballot question or political party for the purpose of encouraging the individual to vote, as long as the call contains no advocacy for or against any candidate; and
- D. A voter guide that consists primarily of candidates' responses to surveys and questionnaires and that contains no advocacy for or against any candidate.

21-A § 1020. Failure to file on time (REPEALED)

21-A § 1020-A. Failure to file on time

1. Registration. A candidate that fails to register the name of a candidate, treasurer or political committee with the commission within the time allowed by section 1013-A, subsection 1 may be assessed a forfeiture of \$10. The commission shall determine whether a registration satisfies the requirements for timely filing under section 1013-A, subsection 1.

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

- A. A valid emergency determined by the commission, in the interest of the sound administration of justice, to warrant the waiver of the penalty in whole or in part;

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

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

4. Basis for penalties. (REPEALED)

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

- A. For the first violation, 2%;
- B. For the 2nd violation, 4%; and
- C. For the 3rd and subsequent violations, 6%.

Any penalty of less than \$10 is waived.

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

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

A registration or report may be provisionally filed by transmission of a facsimile copy of the duly executed report to the commission, as long as the facsimile copy is filed by the applicable deadline and an original of the same report is received by the commission within 5 calendar days thereafter.

5. Maximum penalties. (REPEALED)

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

A. Five thousand dollars for reports required under section 1017, subsection 2, paragraph B, C, D, E or H; section 1017, subsection 3-A, paragraph B, C, D, D-1 or F; and section 1017, subsection 4, except that if the financial activity reported late exceeds \$50,000, the maximum penalty is 100% of the amount reported late;

A-1. Five thousand dollars for reports required under section 1019 B, subsection 4, except that if the financial activity reported late exceeds \$50,000, the maximum penalty is 100% of the amount reported late;