

2010

# Guidebook for 2010 Legislative Candidates: Running for Office in Maine. Maine Clean Election Act Candidates

Maine Commission on Governmental Ethics and Election Practices

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# Guidebook for 2010 Legislative Candidates *Running for Office in Maine*

Maine Clean Election Act  
Candidates







**Note on Publication of Guidebook (November 30, 2009)**

*Information concerning the petitioning process and qualifications for office will be provided by the Secretary of State in a separate publication later in 2009. The Ethics Commission may publish an updated guidebook in 2010.*

*The Commission has taken care to make this guidebook concise and accurate. However, you should not substitute the information presented here for the applicable statutory provisions of Maine Election Law and the Commission's Rules. The statutes and rules are available on the Commission's website. The statutory requirements are controlling in the event of any omission in this publication. Its contents are subject to statutory changes enacted by the Legislature and rule changes adopted under the Administrative Procedure Act.*

*Please telephone the Commission staff at (207) 287-4179 if you have any questions.*



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## INTRODUCTION

### Overview of the Maine Clean Election Act

Enacted by Maine voters in 1996, the Maine Clean Election Act (MCEA) established a voluntary program of full public financing of political campaigns for candidates running for Governor, State Senator, and State Representative. Candidates who wish to qualify and run as an MCEA candidate must meet certain requirements, which are described in the next two chapters. This Guidebook also explains the campaign finance reporting and record-keeping requirements for MCEA candidates, which are mostly the same as for traditionally financed candidates.

When registering with the Commission, candidates who wish to run as an MCEA candidate may declare their intent to participate by signing a Declaration of Intent form. The Commission staff recommends that candidates file the Declaration of Intent at the time of registration.

In order to qualify to receive public funds, participating candidates must collect a required number of “qualifying contributions” from registered voters in the candidate’s legislative district (for candidates for the Legislature) or in the state (for gubernatorial candidates). Qualifying contributions are in the amount of \$5 or more

To participate in the MCEA, candidates *must* submit a Declaration of Intent within 5 business days after beginning to collect \$5 qualifying contributions.

and are made payable to the Maine Clean Election Fund, the state government account from which candidates receive public funds for their political campaigns. Candidates for State Representative must collect at least 60 qualifying contributions and candidates for State Senator must collect at least 175 qualifying contributions during the qualifying period of January 1, 2010 to April 21, 2010.

To finance their campaigns prior to qualifying to receive public funds, candidates may collect seed money contributions, which are donations of up to \$100 per individual. Candidates for State Representative may collect up to a total of \$500 in seed money contributions and candidates for State Senator may collect up to \$1,500.





After collecting the required qualifying contributions, candidates must submit their request for public financing no later than 5:00 p.m. on Wednesday, April 21, 2010. The Commission will determine whether the candidate has met the eligibility requirements, and if so, will “certify” the candidate. After certification, the candidate receives an initial payment of public funds and is prohibited from accepting any private contributions including funds from the candidate. All subsequent expenditures by the campaign must be made exclusively with public funds received under the MCEA.

MCEA candidates may be eligible to receive additional “matching funds” if the money raised or spent by an opponent – including amounts spent by third-parties (e.g., party committees and political action committees) to benefit the opponent – exceeds the amount of public funds initially received by the MCEA candidate for the election.

*MCEA funds may not be spent on personal expenses.* Candidates publicly disclose all expenditures in campaign finance reports submitted to the Commission. The Commission reviews all expenditures of MCEA funds and may request further information to verify that an expenditure is campaign-related. MCEA funds may not be spent on personal expenses. A random selection of candidates receiving MCEA funds will be audited, as described in Chapter 10 of this Guidebook.

Candidates may spend MCEA funds only on campaign-related expenses and in accordance with guidelines published by the Ethics Commission. See pages 45 - 46 for these guidelines.

After the election, candidates must return all unspent funds. If a candidate purchased any equipment with MCEA funds that could be converted to the candidate’s personal use (such as a computer, printer, or fax machine), the candidate must sell the equipment and send the proceeds to the Commission.



## CHAPTER 1

### Getting Started as a Maine Clean Election Act Candidate

#### Selecting a Campaign Treasurer

Every candidate is required to appoint a campaign treasurer before accepting any contributions or making any expenditures. A deputy treasurer may be appointed, but is not required.

The treasurer has specific duties under the Election Law:

- keeping detailed records of all campaign contributions and expenditures;
- completing campaign finance reports; and
- filing campaign finance reports on time.

#### **NEW**

MCEA candidates may not serve as their own treasurer or deputy treasurer.

Every candidate should select a capable and reliable treasurer. This is a particularly important choice for an MCEA candidate's campaign. An MCEA candidate uses public funds to run for office and has a high but reasonable standard of accountability for the use of those funds. It is important to appoint a reliable treasurer who will actively keep track of your campaign finances, save records of your campaign expenditures as required by law, and file complete and accurate reports.

Candidates sometimes wish to select someone who has name recognition to be the treasurer. While this may be politically helpful, it may not be the best way to manage a campaign's finances. One way to have a recognized name associated with your campaign is to appoint that person as the chair of your campaign committee and not as your treasurer. Your treasurer should be actively involved with your campaign since you and your treasurer are both legally responsible for accurate reporting and record-keeping.



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## Forming a Campaign Committee

As a candidate, you may choose to organize a campaign committee to promote your election, such as “Friends of John Smith” or “Committee to Elect John Smith.” If you choose to form a committee, it must be identified on the Candidate Registration form.

Candidate committees are not political action committees (PACs). You can form a PAC for purposes other than your own election (for example, helping to elect other candidates or raising funds for leadership campaigns), but you cannot use MCEA funds to make PAC expenditures.

## Registering as a Candidate with the Ethics Commission

Within ten days of appointing a treasurer, you must file the Candidate Registration form with the Commission. This form provides basic contact information about you, your treasurer, deputy treasurer (if you have one), and your campaign committee (if any). When registering as a candidate, please remember:

- The Registration and Declaration of Intent must be filed using the paper forms. You cannot file the Registration and Declaration of Intent electronically.
- If the information for you, your treasurer, deputy treasurer, or campaign committee changes during the campaign (including after the election), you must file an amended Registration form with the Commission or submit the changes in writing or by e-mail to the Commission. These updates are required by law and allow the Commission to contact you with reminders, notices, and telephone calls throughout the election year.

## Declaring Your Intent to Run as a Maine Clean Election Act Candidate

The Election Law requires that candidates file the Declaration of Intent (DOI) within five business days after beginning to collect qualifying contributions. Qualifying contributions received more than five business days before filing the DOI will not count toward the eligibility requirements. It is the date on which you file the DOI form with the Commission — not the date on which you sign the form — which determines whether the qualifying contributions will count. The DOI form, signed by the candidate, is the only acceptable form of the declaration. Candidates for the Legislature may begin collecting qualifying contributions as early as January 1, 2010.

The Commission recommends that you declare your intent to run as a Maine Clean Election Act candidate when you register with the Commission.



## Code of Fair Campaign Practices

Subscribing to the Code is voluntary. The Commission is not authorized to take action against candidates who violate the Code.

The Maine Code of Fair Campaign Practices was adopted by the Maine Legislature in 1989 and is a voluntary statement for candidates running for the offices of Governor, the Senate, and the House of Representatives.

The Code lists standards of conduct “consistent with the best Maine and American traditions, [of] discussing the issues and presenting [the] record

and policies with sincerity and candor.” If you wish to subscribe to the Code, please sign the “Maine Code of Fair Campaign Practices” form, which is part of the registration packet.

## Getting Established in the State’s Accounting System

**Becoming a Vendor.** In order for you to receive public funds, the state government must establish you as a vendor in its accounting system. The Commission recommends that you file a Vendor form at the same time that you file your registration. This avoids any delays in the first payment of MCEA funds. The state’s accounting office takes two weeks to set up a new vendor. If you were established as a vendor for the 2008 elections and there has been no change in your information (e.g., candidate name and address, payee, treasurer name), there is no need for you to resubmit this form. Otherwise, please submit a Vendor form for the 2010 elections.

**Electronic Funds Transfer.** You may choose to receive payments by check or by electronic funds transfer (EFT) into your campaign bank account. To select EFT, you will need to fill out the EFT form. The Commission recommends EFT because it is a more timely way to receive MCEA funds, which is important in the last week before the election if you should qualify for matching funds. If you signed up for EFT as a candidate in the 2008 elections and your bank account has remained the same, there is no need for you to resubmit the EFT form. If you received MCEA payments by EFT in 2008 and your bank account has changed, you need to submit a 2010 EFT form or deactivate your 2008 EFT to avoid your 2010 MCEA payments being routed to your 2008 account.

## Open a Separate Campaign Bank Account

All candidates must have a separate bank account for their campaign funds. Maine Clean Election Act candidates must deposit all seed money contributions and all MCEA funds into a separate bank account that is used only for their campaign. A candidate may never commingle seed money or MCEA

The Election Law prohibits commingling campaign funds with any personal or business funds that belong to any person, including the candidate, spouse, domestic partner, or campaign treasurer.



funds with any other funds. If you have kept a bank account from a previous election open by maintaining personal funds in that account, please remove those personal funds as soon as you have first deposited seed money or MCEA funds into the account. You are allowed to spend any interest earned on your campaign account, but you must remember to report any interest earned as a receipt.

The Commission staff recommends using the campaign account's checks or debit card as much as possible when making campaign expenditures with MCEA funds. Using the campaign account's checks or debit card (instead of cash) will create a record that the vendor received payment, which will be required if you are selected for a post-election audit of your campaign. It will also help you to keep track of the dates, amounts, and payees of your expenditures when it is time to file your campaign finance reports.

### Seed Money Contributions

TOTAL AMOUNT OF SEED MONEY THAT MAY BE COLLECTED:	
(Cash plus in-kind seed money contributions cannot exceed the amounts below)	
House	Senate
\$500	\$1,500

After registering with the Commission and signing the Declaration of Intent, a candidate becomes a "participating candidate." Before completing the process to qualify for MCEA funding, participating candidates finance their campaigns through limited contributions of up to \$100 from individuals ("seed money contributions"). Candidates for State Representative in the 2010 elections may collect up to \$500 in seed money contributions and candidates for State Senator may collect up to \$1,500 prior to submitting their qualifying papers for public funding. These contributions may be from individuals who live in Maine or out-of-state.

**Seed Money Restrictions.** Seed money restrictions must strictly comply with the following restrictions:

- Only individuals may make seed money contributions, up to \$100 per contributor.
- All seed money contributions must be from the personal funds of the individual.
- You and members of your family may each give up to \$100 in seed money, provided the money comes from the personal funds of the contributor and not from another member of the family.
- No contribution may be accepted from businesses, groups, or associations, such as political action committees, party committees, labor unions, or trade associations.
- During a legislative session, lobbyists, lobbyist associates, and their clients may not make

During the qualifying period, the campaign may accept no cash receipts other than seed money contributions. Loans may not be accepted.



seed money contributions to the Governor, Legislators, constitutional officers, or their staff and agents (even with their personal funds).

- All expenditures during the qualifying period must be made with seed money contributions, and not from any other source of funds.

If you have any questions about whether a contribution or expenditure will comply with the seed money restrictions, you are encouraged to ask the Commission staff before accepting the contribution or making the expenditure.

### Waivers of Seed Money Violations

Prior to qualifying for MCEA funding, all cash and in-kind contributions received by a participating candidate must strictly comply with the seed money restrictions. The Maine Clean Election Act does not permit a candidate who has violated the seed money restrictions to participate in the MCEA, except if granted a waiver by the Commission. If the candidate has unintentionally violated the seed money restrictions, a waiver may be granted in limited circum-

When soliciting any seed money contribution over \$50, ask the contributor for their occupation and employer. This information must be included on the Seed Money Report if the contributor has given more than \$50.

stances. Candidates are advised that not all requests for waivers will be granted, and that only those requests that strictly meet the standards in the Commission's Rule will be granted. If you believe you may have violated the seed money restrictions, telephone the Commission right away.

### Collecting the Occupation and Employer of Contributors

Campaigns are required to disclose in their campaign finance reports the occupation and employer of contributors who have given seed money contributions over \$50. The Commission's Rules require the campaign to make a reasonable effort to obtain this information from the contributor. The Commission staff recommends asking the contributor for his or her occupation and employer at the time your campaign solicits the contribution. If your campaign staff has requested the information and is unable to receive it from the contributor, please enter "information requested" on the reporting form.

### Required Records of Seed Money Contributions

All candidates are required to keep a "detailed and exact account" of all contributions received. If the contributor has given more than \$10, the account must include the name and address of the contributor, and the date and amount of the contribution. If the contributor has given more than \$50 in the aggre-



gate, the campaign must also keep a record of the contributor's occupation and employer. The Commission may request these records to verify that all contributions comply with the seed money restrictions.

### **In-Kind Contributions**

Goods and services that are provided to the campaign at no cost or at a discounted cost are in-kind contributions. These contributions must be reported on Schedule A-1 of the campaign finance report and must comply with the seed money restrictions. If goods or services are provided at a cost that is less than fair market value, the amount of the discount is a seed money contribution.

Certain types of goods and services are excluded from the legal definition of “contribution.” (Please see Appendix.) The donation of these “exempt” goods and services to a campaign is not considered a contribution. So, candidates are not required to report these exempt goods and services, and they are not subject to the seed money restrictions.

### **Depositing Seed Money**

All seed money contributions received by the campaign must be deposited in the campaign bank account. Do not cash seed money contributions received by check to create cash reserves for the campaign. If the campaign receives any seed money contributions in the form of cash, these contributions must be deposited in the campaign bank account.

By depositing all seed money contributions into the campaign bank account and by paying vendors from that account, the campaigns create an audit trail that satisfies the documentation requirements in the MCEA and assures the Commission that the campaign has complied with the seed money restrictions. Also, no campaign funds received by an MCEA candidate can be commingled in a bank account with any other funds.

### **Spending Seed Money**

Candidates should remember that prior to certification they can spend only seed money contributions. They are prohibited from accepting and spending any other funds, including loans. Expenditures of the candidate's personal funds for campaign goods and services which are not reimbursed by the campaign are in-kind contributions. The candidate can contribute up to \$100 in the aggregate (cash contributions and in-kind contributions) during the qualifying period.

Goods and services received during the qualifying period must be paid for with seed money. Candidates may never use MCEA funds to pay for goods and services received during the qualifying period. It is a



serious violation to do so and could potentially result in the revocation of the candidate's certification. You must raise a sufficient amount of seed money to cover your campaign expenses during the qualifying period.

Sometimes a candidate wishes to place an order with a vendor during the qualifying period, but the order costs more than the amount of the seed money the candidate has raised. It is permissible to place the order, to partially pay the vendor with seed money, and to have an outstanding obligation to the vendor — as long as the value of the goods or services that the candidate has received during the qualifying period does not exceed the amount of the actual payment to the vendor.

You cannot receive goods or services in the qualifying period and pay for them after receiving your first MCEA payment. If you receive goods and services in the qualifying period, they must be paid for with seed money.

### Reporting Seed Money Contributions and Expenditures

Candidates' receipts and expenditures of seed money must be reported to the Commission. Most candidates file a Seed Money Report when they submit their final \$5 qualifying contributions to the Commission, but the Seed Money Report may be submitted after the qualifying period as long as the candidate has requested an extension of time.

Any unspent seed money shown on the Seed Money Report will be deducted from the first payment of MCEA funds. Your Seed Money Report must accurately disclose amounts that were spent (reported on Schedule B) and amounts that were obligated but not paid (reported on Schedule D). So, if you report an unpaid obligation as an expenditure on Schedule B, the Commission staff may view the inaccurate reporting as a violation of the MCEA because it had the effect of increasing the amount of the first MCEA payment you received. Expenditures of seed money are reviewed as part of the Commission's audits of MCEA candidates.

The Commission verifies compliance with seed money restrictions. Misrepresentations of the identity of seed money contributors or the actual source of funds for a contribution will be viewed as a serious violation of the Election Law.

### Using Seed Money to Purchase Personal Equipment or to Pay Family or Household Members

The restrictions on using MCEA funds to pay for personal equipment or to compensate family or household members do not apply to expenditures of seed money.

*Equipment Purchased with Seed Money.* Campaigns may wish to consider purchasing personal equipment (phones, printers, computers, cameras, *etc.*) with seed money. Personal property or equipment





purchased with seed money – unlike equipment purchased with MCEA funds – does not have to be sold at fair market value at the end of the campaign. Please report any personal equipment purchased with seed money only on Schedule B (for expenditures) and not on Schedule E (equipment inventory).

*Payments to Family or Household Members.* Candidates may use seed money to pay members of the candidate's family or household, but the campaign must report the family or other relationship (e.g., "brother" or "roommate") in the remarks section of Schedule B.

#### LEGAL REFERENCES

Selecting a Treasurer	21-A M.R.S.A. § 1013-A(1)
Removal of Treasurer	21-A M.R.S.A. § 1013-B
Duties of Treasurer	21-A M.R.S.A. §§ 1013-A(1)(A) and (4); 1016; 1017(2), (3-A) and (10); 1020-A(6), 1125(12-A)
Authorizing One Campaign Committee	21-A M.R.S.A. § 1013-A(1)(B)
Registration	21-A M.R.S.A. § 1013-A(1)
Reporting Changes in Registration Information	21-A M.R.S.A. § 1013-A(5)
Commingling of Campaign and Personal Funds	21-A M.R.S.A. §§ 1016(1), 1125(7-A); Rules, Chapter 3, Section 7(1)(A)
Code of Fair Campaign Practices	21-A M.R.S.A. § 1101 <i>et seq.</i>
Declaring Intent as a MCEA Candidate	21-A M.R.S.A. § 1125(1); Rules, Chapter 3, Section 2(1) and (2)
Filing Declaration of Intent Before	21-A M.R.S.A. § 1125(1); Rules, Chapter 3, Section 2(4)(A)
Collecting Qualifying Contributions	
Seed Money Contributions and Expenditures	21-A M.R.S.A. §§ 1122(9); 1125(2) and (2-A); Rules, Chapter 3, Section 2(3)
Restrictions on Lobbyist Contributions	1 M.R.S.A. § 1015(3)
Waiver of Seed Money Requirements	21-A M.R.S.A. § 1125(2-A)(B); Rules, Chapter 3, Section 2(3)(E)
Occupation and Employer of Seed Money Contributors	21-A M.R.S.A. §§ 1016(3)(B); 1017(5)

## CHAPTER 2

### Qualifying for Public Financing

#### Qualifying Contributions

In order to receive public funds, a participating candidate must receive a minimum number of “qualifying contributions.” Candidates for State Representative must collect 60 qualifying contri-

QUALIFYING PERIOD FOR LEGISLATIVE CANDIDATES	January 1 to April 21
REQUIRED NUMBER OF QUALIFYING CONTRIBUTIONS	House Candidates – 60
	Senate Candidates – 175

butions from voters registered to vote in the legislative district the candidate is seeking to represent.

Candidates for State Senator must collect 175 qualifying contributions from the district. A qualifying contribution is a way for registered voters to show support for a candidate’s participation in the Clean Election program by making a relatively small financial contribution.

Only contributions made by individuals who are registered to vote in the candidate’s legislative district will count as qualifying contributions. The contributors do not need to be enrolled in the same political party as the candidate.

Qualifying contributions must be made with the personal funds of the registered voter. The contributions must be in the amount of \$5 or more and be made in the form of:

- a personal check payable to the Maine Clean Election Fund;
- a payment to the Maine Clean Election Fund on the Commission’s website made by debit or credit card;
- cash, but only if the contributor signs a money order provided by the campaign in the same amount as the cash contribution; or
- a business check payable to the Maine Clean Election Fund, as long as the contributor uses the business account for personal expenses. The business check must have the contributor’s name imprinted on the check, or the campaign must submit a written note by the contributor stating that the contributor uses the account for personal purposes. The note may be in the memo section of the check or on a separate paper.



Family members, domestic partners, and live-in caregivers who reside in the same household may combine qualifying contributions in the form of a single check, provided that each individual uses his or her own personal funds, each signs the Receipt and Acknowledgement form, and is registered to vote at the address of the household.

For various reasons, it is possible that not all of your qualifying contributions will be accepted. Therefore, you are encouraged to collect more than the minimum number of qualifying contributions.

You may serve food or beverages at an event at which you collect qualifying contributions, provided that the food or beverages are available to all persons attending the event regardless whether they make a qualifying contribution.

### Qualifying Period

Qualifying contributions may be made only during a specific period of time - the qualifying period - and no more than 5 business days before the candidate has submitted the Declaration of Intent.

For the 2010 elections, the “qualifying period” for all candidates for the Legislature will begin on January 1, 2010 and will end at 5:00 p.m. on April 21, 2010. The qualifying period is the same for independent candidates and for candidates who are enrolled in a political party. Qualifying contributions may only be collected during the qualifying period. Any qualifying contributions collected outside this period will not be counted toward the minimum number of required contributions.

In addition, qualifying contributions may not be collected more than five business days before you have filed a Declaration of Intent with the Commission. Any contributions collected more than five business days before you filed the Declaration will not be counted toward the minimum number of contributions.

### Receiving Online Qualifying Contributions

In 2008, the Commission launched a website to allow Maine voters to make qualifying contributions of \$5 or more online using a debit or credit card. The website will accept qualifying contributions for legislative candidates beginning on January 1, 2010. A link to the website is available at the Commission’s home-page, [www.maine.gov/ethics](http://www.maine.gov/ethics). You may place a link to the site on your campaign website, if you have one. You may also distribute the web address by e-mail or other means.

To make an online qualifying contribution, a Maine voter will be able to enter their address, choose the participating candidate(s), and enter their name and card information. The contributor will use an online form with an electronic signature to acknowledge that the contribution was made from their personal funds and that they did not receive anything in exchange for their contribution. The contribution will be



deposited into the Maine Clean Election Fund. Candidates can access the website to monitor qualifying contributions received on their behalf by entering their e-filing user code and password.

For the 2010 elections, the Commission has added a new feature to the online contribution website that attempts to verify the contributor's voter registration automatically. The application tries to match the contributor's name and address as entered by the contributor with voters' names and addresses derived from the Central Voter Registration system (CVR) of the Maine Secretary of State. If the system can verify that the contributor is registered to vote at the address provided by the contributor, the candidate will not be required to obtain verification by the municipal clerk for that contributor.

If the Commission's website is unable to find a match, it will be the candidate's responsibility to print out the list of unverified contributors from the website, to take those forms to the municipal clerks to verify the contributors' voter registration, and to submit the verified forms to the Commission before the end of the qualifying period. Unfortunately, some matching problems may occur because the contributor is misinformed about their current voter registration, or because of differences between how the contributor's name and address were entered on the Commission's website and how the name and address have been recorded in the CVR. Candidates are advised to plan ahead for these situations and to allow sufficient time to bring the forms to the municipal clerks during the qualifying period.

The Commission staff will not verify the voter registration status of individuals making qualifying contributions. If the registration status of the contributor has not been verified by the Commission's website or by the municipal clerk, the Commission staff will not accept the contribution toward the minimum requirement.

### Receiving Qualifying Contributions in Cash

Under the Maine Clean Election Act, your campaign is allowed to receive a qualifying contribution in cash, provided that certain legal requirements are met. This will allow your campaign to collect qualifying contributions in person from Maine voters who do not have a checkbook with them at the time your campaign solicits the contribution.

The Commission will accept the qualifying contribution provided that your campaign complies with all legal requirements, including:

- The contributor must sign a money order provided by the campaign that is payable to the Maine Clean Election Fund and that is in the same amount as the cash contribution. The signature is required by statute, so it is not acceptable for the contributor or campaign staff to print the contributor's name on the money order.



- The campaign must use the cash collected from the contributor to reimburse the candidate, campaign volunteer, or other person who purchased the money order for the campaign.
- The contributor must sign the Receipt and Acknowledgement form (discussed below) attesting that the money for the contribution was made with their personal funds.
- The campaign must actually receive money from the personal funds of the contributor and not from any other source. Misrepresenting the source of cash for a qualifying contribution is a violation of the MCEA that could be cause for disqualification.

If these requirements are not met, the Commission will not accept a qualifying contribution made with cash.

### Receipt and Acknowledgement Forms

In order for a qualifying contribution to be valid, the Maine voter making the contribution must acknowledge that the contribution was made from their personal funds and in support of the candidate, and that the contributor did not receive anything of value in exchange for the contribution. All contributors making a qualifying contribution by check or cash must complete the name and address lines and personally sign the “Qualifying Contribution Receipt and Acknowledgement” form. It is not acceptable for a family member or friend to sign the form on behalf of a contributor.

All contributors making a \$5 qualifying contribution by check or by cash must personally sign the “Qualifying Contribution Receipt and Acknowledgement” form. It is not acceptable for a family member or friend to sign on behalf of a contributor.

All contributors signing the same page of the form should be registered to vote in the same municipality, so that the clerk can verify whether all contributors on that page are registered to vote. If the Maine voter makes the qualifying contribution on the Commission’s website (described on pages 12 and 13), the contributor may make the required acknowledgement using the online form on the website.

### Using Circulators

If anyone other than the candidate collects the qualifying contributions, that person must complete the statement in the “Circulators” section in the lower right corner of the Receipt and Acknowledgement form. If the section is not completed, the Commission will assume that the candidate circulated the form. Qualifying contributions collected by a person other than the candidate will not be accepted unless the circulator section is completed. If the campaign mails the Receipt and Acknowledgement forms to a contributor or if the contributor prints the form from the Commission’s website, the campaign is not required to complete the circulator’s statement.



## Verification of Registration Status of Contributors

In order for a qualifying contribution to be valid, the campaign must verify that the contributor is a registered Maine voter. The Commission will use the number of contributors whose voter registration has been verified to confirm whether you have submitted the required number of valid qualifying contributions.

For qualifying contributions made by check or by cash, the campaign must take the receipt and acknowledgement form signed by the contributor to the municipal clerks for each city and town. The municipal clerk will indicate on the form how many contributors listed on the form are registered to vote. All verifications by municipal clerks must be completed and submitted to the Commission before the end of the qualifying period.

For qualifying contributions received by check or cash, your campaign must take the completed Receipt and Acknowledgement forms to the municipal clerks to verify that the contributors are registered to vote and must submit the forms to the Commission before the end of the qualifying period.

Verification of voter registration of online qualifying contributions is discussed earlier in the chapter on pages 12 and 13. Please be aware that if the Commission's website cannot verify that the contributor is registered to vote at the address provided by the contributor, it will be the candidate's responsibility to print out the list of unverified contributors from the website, to take those forms to the municipal clerks to verify the contributors' voter registration, and to submit the verified forms to the Commission before the end of the qualifying period. Otherwise, the Commission staff will not accept the online qualifying contribution toward the minimum requirement.

## Reporting and Recordkeeping of Qualifying Contributions

Qualifying contributions are made payable to the Maine Clean Election Fund. They are not deposited into the campaign's bank account and are not spent by the campaign. The receipt of a qualifying contribution should not be included in the campaign's Seed Money Report.

**Purchasing Money Orders.** As explained earlier in this chapter, a campaign may accept a qualifying contribution by cash, provided that the contributor signs a money order provided by the campaign. If the candidate or someone associated with the campaign purchases money orders for this purpose, the institution issuing the money order (bank, U.S. Post Office, or store) typically charges a transaction fee for each money order.

The Commission staff recommends that the candidate or supporter who purchased the money orders (the purchaser) keep a record of every purchase, showing the date, number of money orders purchased,



and amount of the purchase (the face value of the money orders plus the transaction fees). Depending on whether the campaign uses seed money or other funds to purchase money orders, the campaign should follow the steps outlined in the table below. The Commission staff will review the campaign's use of money orders during the post-election audit.

IF YOU USE SEED MONEY TO PURCHASE MONEY ORDERS:	IF YOU, CAMPAIGN STAFF OR A SUPPORTER USES PERSONAL OR OTHER FUNDS TO PURCHASE MONEY ORDERS:
The campaign must obtain cash from the contributor in exchange for the money order.	Anyone who uses personal funds must obtain cash from the contributor in exchange for the money order.
Cash received from the contributor in exchange for the money orders must be deposited into the campaign account (do not use the money for "petty cash").	Regarding the transaction fees, the campaign must either: <ul style="list-style-type: none"><li>• use seed money to reimburse the purchaser for the fees and report the payment on Schedule B</li></ul> or <ul style="list-style-type: none"><li>• report the amount of the transaction fees as an in-kind contribution on Schedule A-1 if the purchaser is not reimbursed (subject to the \$100 limit).</li></ul>
The campaign bank statement should reflect deposits equal to the face amount of money orders purchased.	
Only the transaction fees for the money orders should be reported as an expenditure on Schedule B. The total face amount of the money orders should not be reported.	The campaign should obtain the receipt for the money order purchase.

### Requesting Certification as a Maine Clean Election Act Candidate

After you have collected the required qualifying contributions, the next step is to submit a request that the Commission certify your eligibility to receive MCEA funding if you have met all the requirements. To do this, you must submit to the Commission no later than 5:00 p.m. on April 21, 2010 the following documents relating to qualifying contributions you have received:

- the qualifying contributions (checks or money orders payable to the MCE Fund); and
- the receipt and acknowledgment forms.

Under the Commission's current rules, the Commission may not grant the candidate an extension of time to submit these documents. Qualifying contributions submitted late will not be considered.

To qualify for MCEA funding, you must also submit a Seed Money Report, an alphabetical list of the qualifying contributors, and a Request for Certification form. These submissions are also due by 5:00 p.m. on April 21, 2010, but the Commission's rules permit the Commission staff to grant an extension if requested by the candidate.





2010 REQUEST FOR CERTIFICATION: REQUIRED INFORMATION TO BE CERTIFIED AS AN MCEA CANDIDATE		
REQUIRED INFORMATION		MUST BE SUBMITTED BY:
<b>Qualifying Contributions (QCs):</b>		<b>April 21 by 5:00 p.m.</b>  <b>No extensions permitted.</b>  <b>Late requests for certification will not be granted.</b>
For QCs received <u>by check or cash</u> , submit:	For QCs collected <u>online</u> , submit:	
Checks/money orders attached to original corresponding Receipt and Acknowledgement forms	No documentation is necessary for those qualifying contributions for which the Commission's website has verified that the contributor is registered to vote in the candidate's district	
Receipt and Acknowledgement forms verified by the municipal clerks	Computer generated forms for contributors whom the Commission's website could not verify and who were subsequently verified by the municipal clerks	
<b>Request for Certification form (completed and signed)</b>		<b>April 21 by 5:00 p.m.</b> <b>UNLESS</b> an extension of time was requested.
<b>Seed Money Report</b>		
<b>Alphabetical list of \$5 contributors by town in an electronic format</b>		

**Qualifying Contributions and Receipt and Acknowledgement (R&A) Forms.** By the end of the qualifying period, you must submit at least the minimum number of valid qualifying contributions and the Receipt and Acknowledgement forms that have been verified by the municipal registrars, including the forms for online contributions. Qualifying contributions must be attached to the verified R&A form which lists the names of the individuals who made the contributions. For the \$5 qualifying contributions made by a credit or debit card on the Commission's website, the transaction number printed on the form is the documentation that the contribution was made. The Commission recommends submitting more than the required number of qualifying contributions in case some are not accepted.

**Seed Money Report.** The Seed Money Report shows all seed money contributions received and expenditures made by the campaign. You should carefully review your seed money contributions and expenditures to make sure that you report them accurately and that you have not spent more than you have raised. The Seed Money Report, like all other campaign finance reports, is filed electronically on the Commission's website. For more information on the required contents of the report, please read page 9.

**Alphabetical List of Contributors.** You must provide the Commission with an alphabetical list of individuals who made qualifying contributions by check or by cash. For each contributor, you must list his or her town and city next to the name. The list must include all qualifying contributions you wish to count to-





ward the eligibility requirements, including individuals who made the contributions on-line using the Commission's website.

*Request for Certification Form.* This form is your signed agreement to comply with the requirements of the Maine Clean Election Act and the Commission's Rules. It is also a checklist for the materials you will need to submit for certification. You may use this form to request an extension of time to file your Seed Money Report and the alphabetical list of \$5 contributors.

### **Commission Staff's Review of Request for Public Funds**

The Commission staff is required to determine whether the candidate has met the requirements for certification within five business days of the candidate's final submission of qualifying contributions and other required documents, unless additional time is necessary for further investigation to verify compliance with the MCEA. If further investigation is necessary, the Commission staff is required to provide the candidate with an anticipated schedule for the investigation.

The Commission staff notifies candidates and their opponents in writing of the staff determination on the candidate's request for certification. The state's accounting office mails the check or makes the electronic funds payment in two business days after the Commission authorizes the payment.

### **Appealing the Commission Staff's Certification Determination**

If a candidate, his or her opponent, or other interested person believes that the Commission staff has erred in granting or denying a request for certification, they may submit an appeal to the Commission within seven days of the certification decision. (All candidates running in your race will receive a copy of the staff's determination letter sent to you.)

The members of the Commission will then hold a hearing within five days of the appeal. The Commission will issue its decision within five business days after the hearing is completed. The Commission's decision may be appealed by commencing an action in the Superior Court. Frivolous appeals or those intended to cause delay or hardship may result in the party who appealed the determination being required to pay the costs of the Commission, court, or opposing parties, if any.

### **Revocation of Certification**

If the Commission determines that a certified candidate has engaged in serious misconduct, the candidate's certification may be revoked by a vote of the Commission after the candidate has had an opportunity to be heard. If a certification is revoked, the candidate is required to return all unspent MCEA funds

to the Commission within three business days of the Commission's decision.

Grounds for revocation involve serious violations of the Maine Clean Election Act, such as, submitting fraudulent qualifying contributions, making false statements or material misrepresentations in reports to the Commission, and misrepresenting to a Maine voter the purpose of the voter's signature on the R&A form. Depending on the circumstances, the candidate may be required to return all MCEA funds paid to the candidate and be assessed a civil penalty. The candidate may appeal the Commission's decision to the Superior Court.

## Violations

It is a serious violation of the Maine Clean Election Act to misreport or falsify the actual source of funds for a qualifying contribution. If the Commission determines that a candidate or an agent of the candidate submitted fraudulent qualifying contributions, the Commission could deny the candidate's certification request and seek substantial penalties. The candidate may also be barred from being certified as an MCEA candidate in future elections.

When you or your campaign workers solicit individuals for qualifying contributions, you and your campaign workers must clearly state the purpose for asking a Maine voter to sign the R&A form. Misrepresenting the reason for the signature (e.g., "to get the candidate on the ballot") is a serious violation of the MCEA. It could result in the denial of certification, the revocation of certification, and being barred from participating in the program in future elections.

It is also a violation of the Act for you or your agent to assist another person to become your opponent so that you would receive the higher amount of MCEA funds for a contested election.

LEGAL REFERENCES	
Qualifying Contributions	21-A M.R.S.A. §§ 1122(7) and 1125(3); Rules, Chapter 3, Section 2(4)
Qualifying Period	21-A M.R.S.A. § 1122(8)
Required Number of Qualifying Contributions	21-A M.R.S.A. § 1125(3)
Receipt and Acknowledgement Form	21-A M.R.S.A. § 1122(7)(D); Rules, Chapter 3, Section 2(4)
Verification by Municipal Clerks	21-A M.R.S.A. § 1122(7)(B); Rules, Chapter 3, Sections 2(4)(F), (G)
Misrepresentation of Purpose	21-A M.R.S.A. § 1125(3)
Prohibition against Assisting an Opponent	21-A M.R.S.A. § 1125(6-A)
Requesting Certification	21-A M.R.S.A. § 1125(4) and (5); Rules, Chapter 3, Sections 3(1) - (3)
Certification by Commission	21-A M.R.S.A. § 1125(5); Rules, Chapter 3, Section 3(4)
Revocation of Certification	21-A M.R.S.A. § 1125(5-A)
Appeals	21-A M.R.S.A. § 1125(14); Rules, Chapter 3, Section 3(5)



## CHAPTER 3

### Public Funds Payments for MCEA Candidates

#### Initial Payments of MCEA Funds

Candidates may request certification at any time during the qualifying period (see page 12). In past elections, many candidates have requested certification just before the end of their qualifying period. For the 2010 election, this deadline is 5:00 p.m. on Wednesday, April 21, 2010. The deadline now applies to both party and non-party (independent) candidates.

The Election Law requires the Commission to make a determination on the candidate's request for certification within three business days of receiving all of the required records: the qualifying contributions, Receipt and Acknowledgement forms, alphabetical list of contributors, Seed Money Report, and Request for Certification form. The Commission gives priority to those candidates in contested primary elections, and will make every effort to certify all candidates within three business days.

AMOUNTS OF INITIAL PAYMENTS FOR 2010 ELECTIONS		
CANDIDATE	PRIMARY ELECTION	GENERAL ELECTION
State Representative: Contested candidates	\$1,504	\$4,144
Uncontested candidates	\$512	\$1,368
State Senate: Contested candidates	\$7,746	\$19,078
Uncontested candidates	\$1,927	\$6,296

#### Deduction of Unspent Campaign Funds from Initial Payments

*Unspent Seed Money.* MCEA candidates are not required to spend all of the seed money that they have collected by the end of the qualifying period. However, if a candidate has not spent all of his or her seed money at the time of requesting certification, the Commission must deduct the amount of unspent seed



money from the first payment of MCEA funds made to the candidate. This unspent seed money will be displayed as a positive cash balance on the summary page of the candidate's Seed Money Report.

*Unspent Primary Election Funds.* If an MCEA candidate does not spend all of his or her primary election funding, the Commission does not deduct the unspent primary campaign funds from the initial payment the candidate will receive for the general election. Nevertheless, for all candidates (whether MCEA or traditionally financed), if the candidate has a positive cash balance on the date of the primary election, that cash balance may be considered to be a general election receipt for purposes of calculating matching funds for the general election race. An explanation of the matching funds calculation appears later in this chapter.

### Timing of Initial Payment for the Primary Election

After a candidate has submitted qualifying contributions and other required records, the Commission will review whether the candidate is eligible to receive MCEA funding. The Commission staff is required to determine whether the candidate has met the requirements for certification within three business days of the candidate's final submission of qualifying contributions, unless additional time is necessary to verify the candidate's compliance with the eligibility requirements. In that case, the Commission staff must provide the candidate with the anticipated schedule for completing the review.

If the candidate's request for certification is filed prior to March 15, 2010 (the deadline for filing nominating petitions with the Secretary of State), the Commission may be uncertain as to whether the candidate is in a contested or an uncontested primary election. In this case, the Commission will distribute the funds to the candidate as if the candidate is in an uncontested primary election. An additional amount will be distributed within three days after March 15, 2010 if the candidate is determined to be in a contested primary election.

### Timing of Initial Payment for the General Election

The MCEA requires the Commission to make initial payments for the general election within three days after the Secretary of State certifies the results of the primary election. In practice, the Commission staff will make initial Payments for the general election as soon as the results of the primary elections are certain – which in most races is likely to be before certification by the Secretary of State.

### Matching Funds

In addition to the initial payment, an MCEA candidate who is opposed in a primary or general election may also qualify to receive matching funds. Matching funds are designed to allow an MCEA candidate to

stay competitive financially with the candidate's opponent by "matching" the campaign funding available to the opponent (including any independent expenditures made to support the opponent).

The Commission compares the amounts received or spent by each candidate in the race (whichever is greater) and factors in the amounts of independent expenditures in the race. If the total for an MCEA candidate is less than the to-

tal for the candidate's opponent in the race, the MCEA candidate receives matching funds to keep the candidate on the same level as the opponent. The primary and general elections are considered separately for purposes of calculating matching funds.

2010 MCEA PAYMENTS AND MATCHING FUNDS			
PRIMARY ELECTION	Initial Payment	Maximum Matching Funds	Maximum Public Funds for the Election
State Representative	\$1,504	\$3,008	\$4,512
State Senate	\$7,746	\$15,492	\$23,238
GENERAL ELECTION	Initial Payment	Maximum Matching Funds	Maximum Public Funds for the Election
State Representative	\$4,144	\$8,288	\$12,432
State Senate	\$19,078	\$38,156	\$57,234

Independent expenditures are payments by individuals or third-party organizations such as political action committees (PACs) and political parties on communications to voters to support or to oppose a candidate (e.g., paid advertising or mailed campaign literature). Independent expenditures by PACs or political parties could affect the amount of matching funds paid to you or to your opponent. Candidates should be aware that some third-party communications to voters do not qualify as independent expenditures depending on the timing and content of the communications. For more information on independent expenditures, please refer to the Commission's website.

### Calculation of Matching Funds

The information in this Guidebook, including the chart on page 25, is intended as an overview of the calculation of matching funds. The full formula for calculating matching funds is in Chapter 3, Section 5(3) of the Commission's Rules. For more information on the exact calculation, please refer to the Commission's Rule or contact the Commission staff. The Appendix includes examples of matching funds calculations in various scenarios.

*Races with an MCEA Candidate and a Traditionally Financed Opponent.* Matching funds are calculated by comparing the total money received or spent (whichever is greater) by each candidate in a race. Independent expenditures in support of a candidate increase the candidate's total, and independent expenditures against a candidate are subtracted from that candidate's total. If the total funding for an



Third-party expenditures, known as “independent expenditures,” can be made by PACs, party committees, associations, businesses, or individuals.

MCEA candidate is less than the total for the candidate’s opponent, the MCEA candidate receives matching funds to keep his or her funding on the same level as the opponent.

If there is a traditionally financed candidate in the race, all money raised and spent by each candidate for that election is taken into consideration. So, for a primary election, the amount of seed money raised by an MCEA candidate is counted toward that candidate’s total. For the general election, the cash balance of each candidate as of the day of the primary election is counted as a receipt for the general election. Please see the formulas and calculations on the next page and in the Appendix.

*Races with Only MCEA Candidates.* Matching funds are also available to an MCEA candidate who is opposed only by other MCEA candidates. In those races, the primary factor considered in the formula is the amount of independent expenditures made by third-parties in support of or in opposition to each candidate in the race. In calculating matching funds in MCEA vs. MCEA races, the Commission does not consider seed money raised or the candidate’s campaign balance on the day of the primary election. Please see the formulas and calculations on the next page and in the Appendix.

### **Additional Reporting Requirements for Traditionally Financed Candidates**

Traditionally financed candidates with MCEA opponents have additional reporting requirements to allow the Commission to determine whether the MCEA opponent is entitled to receive matching funds. Traditionally financed candidates whose receipts or expenditures (including unpaid obligations) exceed the amount of the initial MCEA payment for that election must file a “trigger report” within 48 hours of that event.

Once the trigger report is filed, the traditionally financed candidate is required to file “accelerated reports.” Depending on when the trigger report is filed, a maximum of three accelerated reports may be required on the 42<sup>nd</sup>, 18<sup>th</sup>, and 6<sup>th</sup> days before an election. If the trigger report is filed after the 6<sup>th</sup> day before an election, no accelerated reports are required to be filed.

Accelerated and trigger reports show the candidate’s total receipts and total expenditures for the election (including unpaid obligations). When those reports are filed, the Commission will review the total receipts and expenditures by the traditionally financed candidate and any independent expenditures in the race to determine whether the MCEA opponent is eligible to receive matching funds. In the last 13 days before the election, traditionally financed candidates with MCEA opponents have special 24-hour reporting requirements if they have exceeded the trigger amount. These 24-hour reports are also used to calculate whether the MCEA opponent is eligible to receive matching funds.



**FORMULA FOR CALCULATING MATCHING FUNDS IN A PRIMARY ELECTION  
(TWO WAY RACE: ONE MCEA CANDIDATE AND ONE TRADITIONALLY FINANCED CANDIDATE)**

<b>Your total (MCEA Candidate)</b>	<b>compared to</b>	<b>Your opponent's total (Traditionally Financed Candidate)</b>
Seed money raised		Receipts or expenditures (whichever is greater) for the primary election
plus		
MCEA payments received for the election		plus
plus		
Independent expenditures made to support you in the primary election minus Independent expenditures made to oppose you in the primary election		Independent expenditures made to support your opponent in the primary election minus Independent expenditures made to oppose your opponent in the primary election

**FORMULA FOR CALCULATING MATCHING FUNDS IN A GENERAL ELECTION  
(TWO WAY RACE: ONE MCEA CANDIDATE AND ONE TRADITIONALLY FINANCED CANDIDATE)**

<b>Your total (MCEA Candidate)</b>	<b>compared to</b>	<b>Your opponent's total (Traditionally Financed Candidate)</b>
Campaign balance on the day of the primary election		Campaign balance on the day of the primary election
plus		plus
MCEA payments received for the election		Receipts or expenditures (whichever is greater) for the general election
plus		plus
Independent expenditures made to support you in the general election minus Independent expenditures made to oppose you in the general election		Independent expenditures made to support your opponent in the general election minus Independent expenditures made to oppose your opponent in the general election

**EXAMPLE OF CALCULATION OF MATCHING FUNDS IN A GENERAL ELECTION:  
(TWO WAY RACE: BOTH CANDIDATES ARE MCEA FINANCED)  
Please see formula on page A9 in Appendix.**

<b>MCEA Candidate A</b>		<b>compared to</b>	<b>MCEA Candidate B</b>	
FIRST Independent Expenditure in Race (in support of A)	\$1,000		\$0	
<b>Matching Funds Awarded</b>	<b>\$0</b>		<b>\$1,000</b>	<b>Matching Funds Awarded</b>
SECOND Independent Expenditure in Race (in opposition to B)	\$0		\$-800	
<b>Matching Funds Awarded</b>	<b>\$0</b>		<b>\$800</b>	<b>Matching Funds Awarded</b>
<b>Total Matching Funds Awarded</b>	<b>\$0</b>		<b>\$1,800</b>	<b>Total Matching Funds Awarded</b>





## Advancing Matching Funds

When a candidate becomes entitled to receive matching funds for the first time, the Commission typically pays the candidate not just the amount which the candidate is authorized to spend, but also an additional amount which the candidate is not authorized to spend. The purpose of paying more than the authorized amount is that the candidate will then have additional funds in his or her campaign account if and when the candidate becomes eligible to spend more matching funds. Candidates may not spend unauthorized MCEA funds for any purpose, even if temporarily and with the intention of repaying the funds.

## Matching Funds for a Contested Primary Election

If a candidate has received matching funds for the primary election and has won the primary election, the candidate is required to repay any unspent matching funds by the 42nd day after the primary election. The candidate cannot use those unspent primary matching funds for the general election.

## Return of Unspent and Unauthorized Matching Funds

All MCEA candidates are required to return unspent public funding after their final election for the year (primary or general). Please refer to pages 60-61 of this Guidebook for the deadlines.

## Prepare for Last-Minute Matching Funds

Most matching funds authorizations are made relatively close to the general election, particularly in legislative races. During this period, the Commission will notify you of the matching funds authorization by telephone and by letter. The Commission recommends that you consider, in advance, ways to spend these last-minute funds effectively. Please keep in mind the public nature of MCEA funds and spend wisely.

### LEGAL REFERENCES

Timing of Initial Payments	21-A M.R.S.A. § 1125(7)
Unenrolled Candidates	21-A M.R.S.A. § 1125(10)
Amounts of Initial Payments	21-A M.R.S.A. § 1125(8)
Forms of Payment	Rules, Chapter 3, Section 5(1)
Matching Funds	21-A M.R.S.A. § 1125(9)
Matching Funds - Calculation of Amount	Rules, Chapter 3, Section 5(3)
Matching Funds - Advances	Rules, Chapter 3, Section 5(2)(C)
Trigger Report and Accelerated Reports	21-A M.R.S.A. § 1017(3-B)
Returning Unspent MCEA Funds	21-A M.R.S.A. § 1125(12); Rules, Chapter 3, Section 7(2)

## CHAPTER 4

### Filing Campaign Finance Reports and Record-Keeping

#### Campaign Finance Reports

All candidates for Governor, the Legislature and for county office must file campaign finance reports with the Commission. Filing complete and accurate reports is a joint responsibility of the candidate and treasurer. This is a requirement of the Election Law that applies to anyone who is a candidate, and it is especially important for Maine Clean Election Act candidates.

Campaign treasurers have two primary responsibilities: filing campaign finance reports with the Commission and keeping required financial records for the campaign.

*The reports must be filed by 11:59 p.m. on the filing deadline.* While the Commission mails written reminders to candidates, it is the candidate and treasurer's responsibility to remember and to comply with filing deadlines. Candidates who do not submit a report by the filing deadline will be assessed a civil penalty, unless the candidate requests and the Commission grants a waiver of the penalty.

#### How to File Campaign Finance Reports

**Electronic Filing Requirement.** Candidates in the 2010 elections who have (or expect to have) receipts of more than \$1,500 are required to file all campaign finance reports electronically on the Commission's website. Candidates who expect to have receipts of \$1,500 or less may file reports using the Commission's paper forms.

**Electronic Filing Waiver.** Candidates who do not have access to the technology or the technological ability to file reports electronically may file their reports using the paper forms after requesting a waiver of the electronic filing requirement. The Commission grants all reasonable requests for a waiver. If you would like a waiver of the requirement, you need to complete the Electronic Waiver request form and submit it to the Commission. The deadline for filing a waiver request is April 15, 2020, but the Commission will honor requests filed later.



***How to File Electronic Reports.*** After you register as a candidate, the Commission staff will mail you a username and password. The campaign may type the contribution and expenditure information in the online forms on the Commission's website at any time, but the campaign must click the "File Report" button by 11:59 p.m. on the filing deadline.

Candidates have another e-filing option, if they keep records of their contributions and expenditures in Microsoft Excel or another software program (e.g., Access or Quickbooks) which provides an output of data in a CSV (comma-separated value) format. Using templates that are available from the Commission staff, these candidates may upload the information electronically without entering the data onto the online forms on the Commission's website. Please call the Commission staff if you would like more information about this option.

***How to File Paper Reports.*** For those candidates receiving permission to file reports on paper, the Ethics Commission must receive the original campaign finance report signed by both the candidate and the treasurer at its office by 5:00 p.m. on the filing deadline, except in two circumstances. A properly signed report may be faxed to the Commission office at (207) 287-6775 by 11:59 p.m. on the deadline, provided that the original report is received by the Commission within five days of the fax. The time stamp from the Commission's fax machine will be deemed the time that the report is filed. A report that is sent by certified or registered mail and that is postmarked at least 2 days before the filing deadline will not be considered late, even if it is received after the deadline.

## **Required Reports**

***January 19, 2010 Report for MCEA Senate Candidates with Financial Activity in 2009.*** This report is required only if a candidate raised or spent more than \$500 in seed money during 2009. Only Senate candidates would have to file this report because they may raise up to \$1,500 in seed money. House candidates may only raise up to \$500 and therefore would not exceed the threshold of \$500 required for this report. This report must be filed by January 19, 2010 and covers financial activity (seed money contributions and expenditures) from the beginning of the campaign through December 31, 2009.

The financial activity reported in the January 2010 report should not be reported again in the Seed Money Report that you file when you request certification.

***Seed Money Campaign Finance Report.*** The Seed Money Report is required for Maine Clean Election Act candidates. Candidates file the report when they request certification as an MCEA candidate, which may be at any time during the qualifying period. The report covers all activity for the campaign since the



end-date for the candidate's last report (if any). Please see page 9 for more information about what to include in the Seed Money Report.

All campaign finance reports filed before the candidate requests certification will be reviewed by the Commission to verify that all contributions and expenditures comply with the seed money restrictions. The Commission staff may also request audit documentation to verify the information in the reports.

**Reports Required for All Candidates.** In addition to the January 2010 Report and Seed Money Report, MCEA candidates are required to file campaign finance reports according to the following schedule. Each report covers a specific time period and should include all activity within that period.

2010 REPORTS FOR LEGISLATIVE CANDIDATES		
TYPE OF REPORT	DEADLINE	REPORTING PERIOD
11-Day Pre-Primary	May 28, 2010	End of Seed Money Report – May 25, 2010
42-Day Post-Primary	July 20, 2010	May 26 – July 13, 2010
42-Day Pre-General	September 21, 2010	July 14 – September 14, 2010
11-Day Pre-General	October 22, 2010	September 15 – October 19, 2010
42-Day Post-General	December 14, 2010	October 20 – December 7, 2010

**Candidates Who Are Defeated in a Primary Election.** MCEA candidates who are defeated in a primary election must file the primary election reports, but are not required to file the three general election reports.

The 42-Day Post-Primary Election report due July 20, 2010 is the final campaign finance report for MCEA candidates who are defeated in a primary election.

For MCEA candidates in the general election, the 42-Day Post-General report due December 14, 2010 is the final report for their campaign.

**Replacement Candidates.** A candidate who fills a vacancy caused by the withdrawal or death of another candidate is required to file campaign finance reports. The filing schedule will be determined when the candidate registers with the Commission. The replacement candidate may choose to run as an MCEA candidate or as a traditionally financed candidate. All replacement candidates should notify the Commission as soon as possible of their intent to run as an MCEA candidate. The Commission will provide guidance about qualifying for public financing.



**24-Hour Reports.** The 24-hour reporting requirement applies during the 13-day period prior to an election (see table on the next page). This 13-day period includes two weekends. If an MCEA candidate makes a single expenditure of \$1,000 or more within the last 13 days before an election, the candidate must file a 24-Hour Report. It is important to remember that the term “expenditure” includes obligations made to vendors for goods or services ordered. If the deadline for a 24-Hour Report falls on a weekend or holiday, the candidate must file the report on that day. Any expenditure disclosed in a 24-Hour Report must also be included in the next campaign finance report.

2010 PRIMARY ELECTION 24-HOUR REPORTING PERIOD MAY 26, 2010 – JUNE 7, 2010						
Sun	Mon	Tue	Wed	Thu	Fri	Sat
May 23	24	25	26 Reporting Period Starts	27	28	29
30	31	June 1	2	3	4	5
6	7 Reporting Period Ends	8 Primary Election Day	9	10	11	12

2010 GENERAL ELECTION 24-HOUR REPORTING PERIOD OCTOBER 20, 2010 – NOVEMBER 1, 2010						
Sun	Mon	Tue	Wed	Thu	Fri	Sat
Oct 17	18	19	20 Reporting Period Starts	21	22	23
24	25	26	27	28	29	30
31	Nov 1 Reporting Period Ends	2 General Election Day	3	4	5	6

**How to file 24-Hour Reports:**

- File reports electronically.
- Paper filers can file in person or by fax.

**When to file 24-Hour Reports:**

- Within 24 hours of the expenditure or obligation.
- A report must be filed on a weekend or holiday if that is when it is due – you cannot wait until the next business day.
- Paper filers must file a report by fax or in person if it is due on the weekend or holiday.
- Expenditures made on the day before an election must be reported on election day.

## Reminders by the Commission

The Commission mails to all candidates a packet of information including the filing schedule for campaign finance reports. The filing schedule is clearly posted on the Commission’s website. In addition, at least two weeks before each filing deadline, the Commission mails a written reminder to all candidates and treasurers.



It is the responsibility of the candidate and treasurer to remember the filing deadlines.

If a candidate and treasurer miss a filing deadline, the Commission's policy is to make one telephone call to the candidate and/or treasurer. If the report is not filed within three days of the deadline, the Commission is required by law to send a notice to the candidate and treasurer telling them that a civil penalty may be assessed for the late filing.

## Amendments

Candidates and treasurers are required by the Election Law to certify the completeness and accuracy of the information included in the report, and are expected to take that certification seriously. In particular, the MCEA requires the reporting of every expenditure of Maine Clean Election Act funds – no matter how small.

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

## Commission's Review of Reports

The Commission staff reviews all campaign finance reports for completeness and compliance with the Election Law. If the staff believes a report is incomplete or requires additional information, it will contact the candidate or treasurer by telephone or in writing. More information about the Commission's compliance reviews is included in Chapter 10.

## Legal Requirement to Keep Certain Records

Maine Clean Election Act candidates and their treasurers are required by statute to obtain and to keep certain financial records that document their campaign's financial activity. The campaigns must keep these documents among their campaign records and provide them to the Commission if requested. These records include:

MCEA candidates in the 2010 general election are required to keep campaign records until December 14, 2013.

- (1) *Account statements.* Bank or other account statements for the campaign account covering the entire campaign;
- (2) *Vendor invoices.* An original invoice or receipt provided by the vendor for every expenditure of \$50 or more that states the particular goods or services purchased;



- 
- (3) *Proof of payment.* A written record verifying that the vendor received the payment. Most commonly, this is a canceled check or a receipt from the vendor showing that the vendor received payment. The Commission will accept other forms of proof of payment, such as a bank account or credit card statement showing a transaction that includes the name of the vendor as the payee.
- (4) *Detailed description of services.* For any services provided to an MCEA campaign by a vendor to which the campaign paid \$500 or more during the election cycle, the campaign must keep invoices, timesheets, or other documents specifying in detail the services which the vendor provided, the amount paid, and the basis for compensation paid by the campaign.

(21-A M.R.S.A. § 1125(12-A)) The campaign treasurer is required to keep these records for three years following the final campaign finance report for the election cycle.

In addition to these required documents, MCEA candidates must keep other records required of all gubernatorial, legislative, and county candidates, such as “a detailed and exact account” of all contributions received by the campaign and all expenditures made by the campaign.

### **Documenting Purchases by the Candidate or an Intermediary (Not From the Campaign Bank Account)**

The Commission staff encourages candidates to make all payments of MCEA funds directly from the campaign bank account to the vendor. Nevertheless, some candidates find it helpful or necessary for the candidate or an intermediary (such as a volunteer or member of campaign staff) to use personal funds to pay a vendor for goods and services, and then to be reimbursed by the campaign. In these situations, the same documentation requirements apply for expenditures of \$50 or more. The campaign must obtain from the candidate or intermediary an original invoice or receipt from the vendor, and a canceled check, account statement or other document proving that the vendor received the payment.

### **Documenting Purchases made by a Consultant**

If a consultant working on behalf of the campaign purchases goods or services worth \$50 or more, the campaign is required to obtain and keep an invoice or receipt from the ultimate vendor which provided the goods or services to the consultant, as well as an invoice from the consultant. The campaign is also required to obtain and keep proof that the ultimate vendor received payment from the consultant. For example, candidates who engage consultants to purchase air time on television and radio stations will be required to obtain an invoice or other statement from the broadcast stations documenting the air time sold to the campaign and proof that the stations received payment.



## Specific Records for Vehicle Travel, Campaign Staff, and Consultants

**Vehicle Travel.** If your campaign chooses to use MCEA funds to reimburse you, your campaign staff, or volunteers for vehicle travel, the person receiving the reimbursement must keep a travel log showing the dates of travel, the number of miles traveled, and the destination and campaign purpose of the travel. An example of a travel log is found in the Appendix.

If you choose to have your campaign reimburse you or your campaign workers for vehicle travel, the person reimbursed must keep a travel log.

The reimbursement to the traveler must be no more than the standard mileage reimbursement rate for Maine state employees (currently \$0.44 per mile) multiplied by the number of miles documented in the log. If a travel log is not maintained by a person who has been reimbursed with MCEA funds, the Commission may disallow the reimbursement and require the campaign to repay the reimbursement to the State. A travel log is not required for reimbursements paid for with seed money.

**Campaign Staff.** When a candidate compensates a member of campaign staff in the amount of \$50 or more, the campaign is required to obtain an invoice from the staff member stating the particular services provided.

If a candidate pays \$500 or more in MCEA funds to a member of campaign staff or a consultant during an election cycle, the campaign must keep a document specifying in detail the staff or consulting services provided to the campaign. The Commission recommends that the staff member keep a detailed record of all work performed, including:

- the period (weeks or month) during which the work was provided,
- a specific description of the services provided, and
- the number of hours worked for the week or month (even if approximate).

**Consulting Services.** When a campaign contracts with a consulting firm or hires an individual consultant, the campaign must obtain an invoice stating the goods or services purchased that is preferably signed by the individual or a principal of the firm which provided the services. An example of an acceptable invoice is on the next page.

## Requests for Documents by the Commission

**Audits.** The Commission will audit a random percentage of all 2010 legislative candidates receiving MCEA funding. The Commission's auditor will request the bank account statements for the entire campaign, vendor invoices and proof of payment for selected expenditures, and the detailed descriptions of





EXAMPLE OF INVOICE FOR CONSULTING SERVICES					
<b>ELECTION Associates</b> 456 State Street, Augusta, Maine 04332		<b>What makes this invoice meet the audit documentation standards?</b>  Provided services are described.  Goods which the consultant purchased for the campaign are listed separately with invoice attached.  Invoice is signed.			
<b>BILL TO:</b> Honorable Ruth Baker c/o Committee To Elect Baker 123 Maine Street Augusta, ME 04032				Invoice Date: 09/18/2010	
Service/Product	Rate			Hours	Total
Design of Palm Card	\$50 per hr			3.0	\$150
Printing of card: Graphics Center Color Printing SEE ATTACHED COPY OF INVOICE		2,000 cards at \$0.50 each	\$1,000		
<b>Total Due 30 Days from Date of Invoice</b>				<b>\$1,150</b>	
Authorized Signature: Elizabeth C. Brown		Print Name: Elizabeth Brown Title: Owner			

services for which the campaign paid \$500 or more to a vendor. For more information about the Commission's audit process, please see Chapter 10 of this Guidebook.

**Other Requests for Documentation.** As part of its compliance reviews of all expenditures of MCEA funds, the Commission staff sometimes requests a vendor invoice or proof of payment to verify the goods and services purchased.

**Failure to Keep Required Documentation.** Keeping bank statements, vendor invoices, and proof of payment is a statutory requirement for MCEA candidates. Failing to keep these records is a legal violation of the MCEA. If a campaign cannot support its reported expenditures with the required documentation, the Commission may disallow the expenditures and require the campaign to repay those funds. Undocumented expenditures are considered on a case-by-case basis and each campaign will have an opportunity to explain the undocumented expenditures before being required to repay MCEA funds.

### Statement of Sources of Income

All legislative candidates who are not already members of the Legislature must file a Statement of Sources of Income no later than 5:00 p.m. on August 2, 2010. The statement includes the sources of the income which the candidate received during the calendar year before the election year from employment, self-employment, gifts, and other sources. The forms are mailed to candidates in July of the election year. Incumbent Legislators who have filed a Statement of Sources of Income in February of the election year have already met this requirement and are not required to file the statement in August.

**LEGAL REFERENCES**

Requirement to Keep Records	21-A M.R.S.A. §§ 1013-A(4); 1016; 1125(12-A); Rules, Chapter 3, Section 7(1)
Records for Vehicle Travel	Rules, Chapter 3, Section 7(1)(C)
Requirement to File Reports	21-A M.R.S.A. §§ 1013-A(4); 1016; 1017(3-A); 1125(12); Rules, Chapter 3, Section 7(2)
Electronic Filing Requirement	21-A M.R.S.A. § 1017(10)
Seed Money Report	21-A M.R.S.A. § 1125(2-A); Rules, Chapter 3, Section 3(1)(C)
Fax and Certified Mail Submission of Reports	21-A M.R.S.A. § 1020-A(4-A)
Filing Schedule for Legislative Candidates	21-A M.R.S.A. § 1017(3-A)
Substantially Non-Conforming Reports	21-A M.R.S.A. § 1020-A(2)



## CHAPTER 5

### What to Include in Campaign Finance Reports

#### Time Period for Each Report

As explained in Chapter 4, each campaign finance report that you will file covers a specific period of time. You need to report all expenditures occurring during that period and all obligations that remain unpaid at the end of the period. If you had activity in an earlier time period that has not been reported, you need to amend the previously filed report for the earlier time period. When completing your reports, you and your treasurer are encouraged to call the Commission staff with any questions.

#### Seed Money Report

The Seed Money Report should include all seed money contributions received during the qualifying period and all expenditures made during the period, except for any transactions disclosed in the Semianual Reports covering 2009. For more information on the Seed Money Report, please see pages 9-10.

#### Regularly Scheduled Campaign Finance Reports (after certification)

*Reporting Receipts of MCEA Funds.* For electronic filers, the Commission staff will enter on your reports the amounts of the MCEA payments you have received. Paper filers should list the amount of MCEA payments on Schedule A of the reporting form.

*Reporting Expenditures.* The Election Law requires that all candidates disclose every expenditure on campaign finance reports submitted to the Commission. As a Maine Clean Election Act candidate, you need to be especially careful to report all expenditures, so that every dollar of public funds spent by you or your campaign is disclosed.

The Commission recommends obtaining a bank debit card and a checkbook for your campaign. Making expenditures directly from the campaign's bank account simplifies record-keeping and promotes accurate reporting.



Expenditures are reported on Schedule B of the campaign finance report. The Election Law requires you to report the date, amount, payee, and purpose of the expenditure. The “payee” refers to the vendor that provided the goods or services to the campaign. Please do not report “cash” or “reimbursement” as the payee. If the campaign is making a reimbursement to someone who has purchased a good or service for the campaign, please do not enter as the payee the individual receiving the reimbursement. (Please refer to the next section about how to report reimbursements.) The name of the candidate or a campaign worker may appear under “Payee” if the candidate or worker is receiving a reimbursement for travel or if the campaign worker is being paid for a good or service which the worker has provided to the campaign.

To report the purpose of the expenditure, the Commission requires candidates to indicate an “expenditure type” for each expenditure. Some expenditure types require a remark that describes in more detail the nature of the goods or services purchased (see table below). It is important that you choose the most appropriate expenditure type for each transaction and that you give a concise but descriptive explanation for those expenditure types that require a remark.

EXPENDITURE TYPES			
	Expenditure Types Requiring <b><u>NO</u></b> Remark		Expenditure Types which <b><u>REQUIRE</u></b> a Remark
CON	Contribution to other candidate, party, committee	CNS	Campaign consultants
FOD	Food for campaign events, volunteers	EQP	Equipment (office machines, furniture, cell phones, etc.
LIT	Campaign literature (printing & graphics for signs, palmcards, etc.)	FND	Fundraising events
MHS	Mail house (all services purchased)	OTH	Other (bank fees, entrance fees, small tools, wood, etc.
OFF	Office rent, utilities, phone and internet services, supplies	PRO	Other professional services
PHO	Phone banks, automated telephone calls	SAL	Campaign workers' salaries and personnel costs
POL	Polling and survey research	TRV	Travel (fuel, mileage, lodging, etc.)
POS	Postage for U.S. Mail and mail box fees		
PRT	Print media ads		
RAD	Radio ads, production costs		
TVN	TV or cable ads, production costs		
WEB	Internet, e-mail, website		

*Reporting Reimbursements Made to the Candidate, Supporter, or Candidate's Family Member.* Many MCEA candidates ask if they or a supporter can use personal funds or a credit card to pay for campaign goods or services and later be reimbursed by the campaign. This is permissible as long as the campaign is careful to reimburse the candidate or supporter. The Commission's Rules require that the reimbursement be made in the same reporting period as the candidate or supporter paid the vendor. If no reim-

#### Documenting Purchases Made by Others

If you, a supporter, or family member make a purchase for the campaign that was over \$50, please remember that your campaign is required to obtain an invoice or receipt from the vendor and proof that the vendor received payment. This proof of payment could be the canceled check paid to the vendor, a receipt from the vendor showing that the vendor received payment, or a bank or credit card statement of the person receiving the reimbursement that identifies the vendor as the payee.



bursement is made, the campaign has received an in-kind contribution of goods and services, which is not permitted for MCEA candidates.

If you or one of your supporters uses personal funds or a credit card to pay a vendor, report the vendor as the payee and the date on which the vendor received payment. In the Remark section, enter the name of the person who paid the vendor and who received the reimbursement. If the person receiving the reimbursement is a member of the candidate's household or immediate family, the relationship to the candidate must be reported (e.g., "Reimbursement to May White, candidate's spouse.") The payment must be reported in the reporting period in which the vendor received the payment.

EXAMPLES OF CORRECTLY REPORTED REIMBURSEMENTS				
SCHEDULE B – EXPENDITURES				
DATE EXPENDITURE MADE	NAME OF EACH PAYEE	EXPENDITURE TYPE (use code)	REMARK	AMOUNT
5/10/2010	USPS - AUGUSTA	POS	200 STAMPS PAID BY AL HAMILTON; REIMBURSEMENT MADE ON 5/28/2010	\$84.00
5/24/2010	OFFICE SUPPLY INC	PRT	COPIES PAID BY J. ADAMS, CANDIDATE'S SON; REIMBURSEMENT MADE ON 5/30/2010	\$154.67

**Reporting Withdrawals of Cash.** The Commission recommends that you use your campaign's bank account to pay for expenditures by writing checks or by using a debit card. By doing this for as many expenditures as possible, the campaign will be better able to keep track of the dates, amounts, and payees of all expenditures. You will also have proof of payment to a vendor – a cancelled check or a transaction record on your bank statement.

If the campaign chooses to withdraw cash to use for petty expenses by campaign workers, do not report a payment to "cash." Instead, for each cash expenditure, keep a receipt or record which includes the date, amount, payee, and purpose of each expenditure, and include this information on your campaign finance reports.

**Reporting Expenditures Made by a Consultant.** When you hire a consultant or consulting firm to assist your campaign, and the consultant makes expenditures on behalf of your campaign, you are required by statute to report those expenditures as though the campaign made them directly. When you hire a consultant, you should explain that you will need a receipt or paid invoice from any vendor that the consultant pays for any goods or services worth \$50 or more. This is important if you use media buyers or consultants to purchase television and radio airtime. Your campaign must have copies of invoices or other



accounting documents from the media stations as well as invoices from the media buyers and report these expenditures correctly (example below).

It is your campaign's responsibility to find out about expenditures made by your consultants on your campaign's behalf and to report those expenditures. If you reported a lump sum payment to a consultant in a previously filed report, you may need to amend that report to deduct from that amount any expenditures made by your consultant (so the costs are not double-reported), and you should note in the Remarks column that the expenditures were made by the consultant.

REPORTING PAYMENTS MADE TO A CONSULTANT: MEDIA BUYER				
SCHEDULE B – EXPENDITURES				
DATE EXPENDITURE MADE	NAME OF EACH PAYEE	EXPENDITURE TYPE (use code)	REMARK	AMOUNT
5/10/2010	MEDIA ASSOCIATES	CNS	CONSULTING SERVICES FOR PURCHASING TV ADS; TOTAL PAID TO MEDIA ASSOC. \$32,600	\$1,600
5/10/2010	WMTW TV	TV	PAID BY MEDIA ASSOC ON BEHALF OF THE CAMPAIGN	\$20,000
5/10/2010	WABI TV	TV	PAID BY MEDIA ASSOC ON BEHALF OF THE CAMPAIGN	\$11,000

**Reporting Mileage Reimbursements and Travel Expenditures.** As previously discussed on page 38, mileage reimbursements must be documented by a travel log. See the table below as an example of how to correctly report mileage reimbursements. Remember that volunteers (other than the candidate's spouse or domestic partner) may use up to \$100 of their own funds for campaign travel. Any amount exceeding \$100 must be reimbursed by the campaign based upon the volunteer's travel log. Candidates and their spouses or domestic partners may spend any amount of their personal funds for campaign travel without seeking reimbursement.

EXAMPLE OF CORRECTLY REPORTED <u>MILEAGE</u> REIMBURSEMENT				
SCHEDULE B – EXPENDITURES				
DATE EXPENDITURE MADE	NAME OF EACH PAYEE	EXPENDITURE TYPE (use code)	REMARK	AMOUNT
<i>(Date of reimbursement)</i>	<i>(Name of person receiving payment for mileage)</i>	<i>(TRV is correct code)</i>	<i>(Report the number of miles traveled for campaign purposes. The number of miles must be supported by a travel log. See Appendix for example)</i>	<i>(Amount of reimbursement)</i>
5/31/2010	JOHN ADAMS	TRV	REIMBURSEMENT FOR 100 MILES AT \$0.44 PER MILE; CANDIDATE'S SON	\$44.00
The best practice for making travel reimbursements to yourself or supporters is to make the reimbursement in the same reporting period in which the travel occurred.				



Candidates may use MCEA funds to pay for lodging for campaign purposes, but must keep lodging expenses reasonable. If your campaign is paying for lodging, please describe the campaign purpose of the travel in the Remark section (e.g., attended candidate debate at the Univ. of Maine, Orono; interviews with Portland TV and radio stations on 10/1 and 10/2/2010).

**Reporting Expenditures to PACs and Party Committees.** Your campaign may use MCEA funds to purchase goods and services from political action committees (PACs) and party committees, as long as you pay the fair market value of the goods or services. Receiving a discount from the PAC or party committee may constitute an impermissible in-kind contribution to your campaign. (Please see pages 51-52) Also, the payment must be solely for the purpose of promoting your nomination or election. If you purchase goods or services from a PAC or party committee, you must include in the Remarks section of Schedule B a detailed explanation of the goods or services purchased.

### Reporting the Purchase and Sale of Campaign Property (Schedules B and E)

When the campaign uses MCEA funds to purchase property or equipment costing \$50 or more that could be converted to the candidate's personal use after the campaign (e.g., computers, fax machines, printers, cell phones, tools), please report the purchase of such property or equipment on Schedule B (Expenditures) and Schedule E (Campaign Equipment/Property).

If your campaign purchases equipment with MCEA funds that could be converted to your personal use after the election (e.g., computers or cell phones) the campaign must sell it for fair market value at the end of the campaign.

After the election, MCEA candidates must sell this property at fair market value and return the proceeds by the deadline for the campaign finance report due 42 days after your final election for the cycle (primary or general). Please report the proceeds from this sale on Schedule E. The requirement to sell the property or equipment for fair market value is discussed on page 48.

### Reporting Unpaid Debts and Obligations (Schedule D)

If you have incurred unpaid debts and obligations and they remain unpaid at the end of the reporting period, enter them on Schedule D. If the unpaid debt and obligation (all or in part) is still unpaid at the end of subsequent reporting period(s), you will have to re-enter the amount that is unpaid on Schedule D.

Report the date on which the debt or obligation was incurred, the name and address of the creditor, the amount and purpose of the transaction. When any payment (all or part) is made on a debt or obligation, that payment amount is reported as an expenditure on Schedule B. Your treasurer will continue to disclose the unpaid balance of that debt or obligation on Schedule D until full payment is made to the vendor.





## Reporting Interest Earned on Bank Accounts

MCEA candidates are permitted to earn interest on campaign funds in bank accounts and to spend that interest for campaign purposes. There is a separate screen on the Commission's e-filing system to report interest earned. At the end of each reporting period, calculate the total amount of interest earned for the entire reporting period, and enter the total onto the report.

### LEGAL REFERENCES

Time Periods of Report	21-A M.R.S.A. § 1017(2)
Seed Money Report	21-A M.R.S.A. § 1125(2-A); Rules, Chapter 3, Section 3(1)(C)
Duty to File Complete Reports	21-A M.R.S.A. §§ 1013-A(4); 1016; 1017(2); 1125(12); Rules, Chapter 3, Section 7(2)
Contents of Report	21-A M.R.S.A. § 1017(5)
Obligation to Report Itemized Contributions, including contributor name, address, occupation, and employer	21-A M.R.S.A. § 1017(5)
Obligation to Report Itemized Expenditures, including date, payee, and purpose	21-A M.R.S.A. § 1017(5)
Requirement to Use Commission Forms	21-A M.R.S.A. § 1017(6)
Reporting Expenditures by Consultants	Rules, Chapter 1, Section 7(1)
Reporting Purchases of Property	Rules, Chapter 3, Section 7(2)(C)

## CHAPTER 6

### Making Expenditures of Maine Clean Election Act Funds

#### Best Practices When Spending Maine Clean Election Act Funds

The Commission staff recommends paying for all campaign purchases directly from the campaign bank account by check or with a debit card. While campaigns may use the personal funds or credit card of the candidate or a supporter to pay a vendor (provided the campaign makes a prompt reimbursement), the Commission discourages this practice. Paying vendors directly from the campaign bank account will assist the campaign in meeting its legal requirements in two ways:

- The statements for the campaign's bank account will include all of the dates and amounts of campaign purchases, which will be helpful at the time of preparing its campaign finance reports.
- The campaign will have easy access to proof that the vendor received payment (e.g., a canceled check or a bank account statement that lists the vendor as the payee for a debit card transaction).

Also, Maine Clean Election Act candidates are required to obtain a receipt or invoice from the vendor stating the particular goods or services purchased for each expenditure of \$50 or more.

The Commission recommends keeping a receipt for every expenditure - no matter how small.

#### Spending Primary Election Funds for General Election Goods and Services

Under the Commission's Rules, if a candidate makes an expenditure for consulting services or for campaign literature and advertising before the primary election and more than one-half of that expenditure is for goods or services to be used in the general election, that portion of the expenditure will be counted as a general election receipt and expenditure for purposes of calculating matching funds for the general election. This rule is designed to discourage candidates from intentionally pre-purchasing general elec-



tion goods and services before the primary election in order to deny or reduce matching funds to a general election opponent.

Generally, the Commission becomes aware that a pre-primary expenditure is for the general election when the candidate's MCEA opponent files a request for matching funds based on the pre-primary expenditure. The Commission's Rules require that these requests be made no later than August 30 of the election year.

If any candidate chooses to spend money before the primary election for goods and services for the general election, the candidate should be aware that the expenditure could affect matching funds for the general election.

For example, three weeks before the primary election, candidate Bill James pays his community newspaper \$2,000 for advertising even though he does not have a primary opponent. Based on a request filed by Bill James' opponent (who is MCEA financed), the Commission staff determines that the expenditure is for one \$500 ad that ran just before the primary election and a \$1,500 ad scheduled to run just before the general election. Because more than one-half of the \$2,000 expenditure was for the general election, the Commission will count the \$1,500 ad as a general election receipt and expenditure when calculating matching funds for the general election.

### Requirement to Spend MCEA Funds for Campaign-Related Purposes

MCEA candidates can spend their campaign funds in almost any way that they wish to promote their political campaign, but the Commission has established official guidelines on certain categories of expenditures (e.g., food, lodging, staff). Those guidelines can be found on pages 45 - 46.

A candidate may not spend MCEA funds for any purpose other than to promote the candidate's campaign (e.g., personal use, to promote another candidate, the candidate's party, or a social cause or a charity). Candidates may pay MCEA funds to another candidate, a political party, or a charity or non-profit in exchange for campaign goods and services worth the amount of the payment. If a candidate wishes to pay an entry fee to an event hosted by a political party or a charity (or to place an ad in an event publication), that is acceptable as long as the expenditure promotes the candidate's political campaign.

MCEA candidates may spend public funds only on campaign-related expenses and not for other purposes such as the candidate's personal benefit, party-building, or to promote another candidate's campaign.

Misspending MCEA funds is a serious violation of law. If you are unsure whether a particular purchase will be viewed as campaign-related, please call the Commission staff for advice.

## 2010 EXPENDITURE GUIDELINES For Maine Clean Election Act Candidates

Candidates must spend Maine Clean Election Act (MCEA) funds for campaign-related purposes and not for other purposes such as the candidate's personal benefit, party-building, or to promote another candidate's campaign.

### PERMISSIBLE CAMPAIGN-RELATED EXPENDITURES

Expenditures for "campaign-related purposes" are those which are traditionally accepted as necessary to promote the election of a candidate to political office. Candidates using MCEA funds must also take into account the public nature of the funds, the underlying objectives of the MCEA, and the reasonableness of the expenditures under the circumstances. In Maine, traditional campaign expenses have included:

- Printing and mailing costs;
- Political advertising expenses;
- Campaign communications such as signs, bumper stickers, T-shirts, or caps with campaign slogans, etc.;
- Office supplies;
- Campaign events (e.g., food, rent of tent or hall, etc.);
- Campaign staff expenses;
- Campaign travel expenses, such as fuel and tolls; and
- An entry fee for an event organized by a party committee, charity, or community organization or an ad in an event publication, as long as the expenditure benefits the candidate's campaign.

### PROHIBITED EXPENDITURES

**Candidates may not use MCEA funds for personal expenses.** This means candidates may not borrow from or use MCEA funds for personal or other non-campaign expenses, even if temporarily and with the intention of repaying the funds. Personal expenses are for goods and services that the candidate would otherwise purchase independently of the campaign, such as:

- Day-to-day household food items and supplies;
- Vehicle and transportation expenses unrelated to the campaign;
- Mortgage, rent, or utility payments for the candidate's personal residence, even if part of the residence is being used by the campaign; and
- Clothing, including attire for political functions such as business suits or shoes.

### Maine Clean Election Act funds may not be spent to:

- make independent expenditures supporting or opposing any candidate, ballot measure, or political committee;
- assist in any way the campaign of any candidate other than the candidate for whom the funds were originally designated;
- contribute to another candidate, a political committee, or a party committee, other than in exchange for goods and services;
- pay a consultant, vendor, or campaign staff, other than in exchange for campaign goods or services;
- make a thank-you gift (including a gift card) to a volunteer or supporter;
- compensate the candidate for services provided by the candidate;
- make a donation to a charity or a community organization, other than in exchange for campaign goods or services;
- promote political or social positions or causes other than the candidate's campaign;
- pay civil penalties, fines, or forfeitures to the Commission, or defend the candidate in enforcement proceedings brought by the Commission; or
- assist the candidate in a recount of an election.



## GUIDELINES ON SELECTED ISSUES

**Electronics and Other Personal Property.** Goods purchased with MCEA funds that could be converted to personal use after the campaign (e.g., computers, fax machines, and cellular telephones) must be reported on Schedules B and E of the candidate reporting form. No later than 42 days after the final report for the campaign, the goods must be sold at fair market value and the proceeds returned to the Maine Clean Election Fund. Candidates are welcome to lease electronic and other equipment.

**Food.** Candidates may spend a reasonable amount of MCEA funds on food for campaign events or to feed volunteers while they are working. Legislative candidates may not use MCEA funds to purchase food that is consumed only by the candidate and/or the candidate's spouse. Gubernatorial candidates may use MCEA funds to purchase meals for the candidate and/or the candidate's spouse if associated with travel for campaign purposes.

**Car Travel.** MCEA campaigns may reimburse the candidate or campaign workers for their car travel, as long as the person reimbursed has kept a travel log. For 2010, the campaign may make a travel reimbursement up to the number of miles traveled (as reported in the log) multiplied by \$0.44. Campaigns must keep the travel logs for two years, and provide them to the Commission if requested. Candidates and their spouses or domestic partners may spend any amount of their personal funds for campaign travel without seeking reimbursement. Other individuals may spend up to \$100 of their personal funds to pay for travel without making a contribution to the campaign.

**Lodging.** Candidates may use MCEA funds to pay for lodging if necessary for campaign purposes, but must keep lodging expenses reasonable.

**Post-Election Notes and Parties.** Candidates may spend up to the following maximum amounts of MCEA funds on post-election parties, thank you notes, or advertising to thank supporters or voters: \$250 for State Representative candidates, \$750 for State Senate candidates, and \$2,500 for gubernatorial candidates. Candidates may also use personal funds for these purposes.

**Campaign Training.** Candidates may use MCEA funds for tuition or registration costs to receive training on campaigning or policy issues.

**Salary and Compensation.** Candidates may use MCEA funds to pay for campaign-related services by staff or consultants, provided that compensation is made at or below fair market value and sufficient records are maintained to show what services were received. Documentation must include a description of the labor performed by the staff member or consultant, and an itemization of any goods or services purchased from other vendors including date, vendor, and amount.

## REQUIRED RECORD-KEEPING

The MCEA requires participating campaigns to keep bank or other account statements for the campaign account covering the duration of the campaign. For every expenditure of \$50 or more, the campaign must also keep:

- (1) an invoice from the vendor stating the particular goods or services purchased, and
- (2) a cancelled check, cash receipt, or other acceptable proof that the vendor received payment.

For any services provided to the campaign by a vendor for which the campaign paid \$500 or more for the election cycle, the campaign must keep an invoice, timesheet, or other document specifying in detail the services the vendor provided, the amount paid and the basis for the compensation paid by the campaign. Please select a treasurer who will be responsible about keeping these records.

## AUDITING AND COMPLIANCE

In 2010, the Commission staff will audit all gubernatorial candidates receiving MCEA funding and at least 20% of MCEA legislative candidates. The staff will review all receipts and expenditures disclosed by MCEA candidates in campaign finance reports. The Commission frequently requests additional information from candidates to verify that public funds were spent for campaign-related purposes. Candidates who misuse public funds may be required to repay some or all public funds received, may be liable for civil penalties, and may be referred to the State Attorney General for possible criminal prosecution.



## **Payments to the Candidate, Members of the Candidate's Immediate Family or Household, or Affiliated Business or Nonprofit Entities**

Campaigns may not use MCEA funds to compensate the candidate or a sole proprietorship owned by the candidate for services received by the campaign (e.g., if the candidate has designed the campaign's literature or has kept the financial accounts for the campaign).

Generally, the campaign may not pay MCEA funds to a member of the candidate's immediate family or household, or to a business entity in which the candidate, or an immediate family or household member holds a significant proprietary or financial interest. Also, the campaign may not pay MCEA funds to a nonprofit entity in which the candidate or a member of the candidate's immediate family or household is a director, officer, executive director or chief financial officer. Such payments are permitted only if the immediate family or household member, or business or nonprofit entity, provides the goods or services in the normal course of their occupation or business, and if other conditions are met. A copy of the Commission's current policy on this topic is posted on the Commission's website. The Commission staff intends to update the policy for the 2010 elections to reflect 2009 statutory changes in the restrictions.

Remember that MCEA candidates cannot receive any in-kind contributions. Therefore, the business or non-profit organization cannot contribute goods or services to the campaign. (Please read the next chapter regarding the prohibition on accepting contributions.)

The campaign may reimburse the candidate or members of the candidate's immediate family or household for goods or services they have purchased on behalf of the campaign. Please see pages 38 - 39 for a description of how to report such reimbursements.

## **Sharing Expenditures with Other Candidates**

Candidates may share expenses for goods or services, such as joint campaign literature or advertising. To avoid making or receiving an in-kind contribution, each candidate should make a reasonable effort to pay the portion of the overall cost that is proportionate to the benefit received by the candidate.

The Commission staff recommends that all candidates involved in the joint expenditure should clearly disclose in their campaign finance reports that the goods or services have been purchased jointly with other candidates. That reporting will avoid any concern that candidates are using their campaign funds to subsidize other candidates' campaigns. The Commission staff recommends that the "paid for" statement in the communication disclose that it was paid for and authorized by the candidates, even if a single candidate paid the vendor for the ad or literature.



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## **Buying Electronics and Other Personal Property or Equipment**

When the campaign uses MCEA funds to purchase property or equipment worth \$50 or more that could be converted to the candidate's personal use after the campaign (e.g., computers, fax machines, printers, cell phones, tools), special requirements apply to ensure that public funds are not spent to enrich the candidate. Please report the purchase of such property or equipment on Schedule B (Expenditures) and Schedule E (Campaign Equipment/Property). These requirements do not apply to property or equipment purchased with seed money contributions.

After the election, MCEA candidates must sell this property at fair market value and send the proceeds to the Commission by the deadline for the campaign finance report due 42 days after your final election (primary or general). Please report the proceeds from this sale on Schedule E. (Property or equipment purchased with seed money does not need to be sold for fair market value after the election.)

Fair market value is determined by what is fair and reasonable under normal market conditions based on the value of items of similar description, age, and condition. If the campaign sells the property or equipment through an on-line auction, the campaign likely will be presumed to have received fair market value for the equipment.

Candidates may keep and re-use goods that have value only to the campaign, such as signs and campaign literature.

## **Paying for Cell Phones and Service**

Your campaign may use MCEA funds to pay for cell phone use, but please remember that MCEA funds cannot be used to pay for personal expenses and that the usual documentation requirements apply. To meet these requirements, some campaigns find it convenient to purchase inexpensive pre-paid phones for the campaign and to use all of the purchased minutes by the end of the campaign. If the phone was purchased for less than \$50 (without minutes), it is considered to have no fair market value if all the purchased minutes were used by the end of the campaign.

If a campaign worker uses their personal cell phone for campaign purposes and the campaign chooses to reimburse the worker for the use of the cell phone, the campaign should keep billing statements for the phone account that lists the campaign-related calls charged to that account. If requested, the campaign should be able to identify a sufficient number of campaign-related calls to support the amount of the reimbursement. Otherwise, the Commission may disallow the reimbursement, and require that the campaign repay the amount of the reimbursement to the State.



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## **Raising Campaign Funds through Sales of Goods**

MCEA candidates may not use public funds to purchase goods to sell at a profit.

## **Purchasing Television Advertising**

If a candidate uses MCEA funds to purchase television advertising, the advertisement must be closed-captioned if closed captioning is available from the station that will broadcast the advertisement.

## **Overspending**

Candidates should be careful to avoid spending more money to promote their campaigns than the amount of MCEA funds received from the Commission that the candidate was authorized to spend. (If the candidate receives matching funds, the Commission often advances some funds to the candidate which the candidate is not authorized to spend.)

Spending more than is permitted by an MCEA candidate (“overspending”) can potentially be a serious violation of the Election Law because it could unfairly affect the outcome of an election. In the 2006 and 2008 elections, the Commission assessed civil penalties against some candidates for unintentional overspending.

## **Commission’s Compliance Procedures**

The Commission conducts compliance reviews of all expenditures disclosed by MCEA candidates in campaign finance reports, and frequently requests additional information from candidates and treasurers to verify that public funds were spent for campaign-related purposes. In addition, the Commission staff conducts post-election audits of all MCEA candidates for Governor and at least 20% of legislative candidates receiving MCEA funding. For a complete description of these compliance reviews and audits, please see Chapter 10 of this Guidebook.



**LEGAL REFERENCES**

Campaign-Related Purposes	21-A M.R.S.A. § 1125(6); Rules, Chapter 3, Section 6
Expenditure Guidelines	21-A M.R.S.A. § 1125(6)
Required Records of Expenditures	21-A M.R.S.A. §§ 1016, 1125(12-A)
Required Reporting of Expenditures	21-A M.R.S.A. §§ 1017(5), 1125(12)
Payments to Immediate Family Members	21-A M.R.S.A. § 1125(6-C) and (12)
Payments to Household Members	21-A M.R.S.A. § 1125(6-C)
Pre-Primary Expenditures for General Election	Rules, Chapter 1, Section 7(4); Chapter 3, Section 5(4)
Requirement to Sell Campaign Equipment	Rules, Chapter 3, Section 7(2)(C)



## CHAPTER 7

### Prohibition on Accepting Contributions

#### Definition of Contribution

The term “contribution” is defined in the Election Law to include: “A gift, subscription, loan, advance or deposit of money or anything of value made for the purpose of influencing the nomination or election of any person to state, county or municipal office or for the purpose of liquidating any campaign deficit of a candidate . . . .” For further explanation of what is a contribution, please refer to 21-A M.R.S.A. §1012(2) (copied in the Appendix to this Guidebook) and Chapter 1, Section 6 of the Commission’s Rules.

Once certified, MCEA candidates are prohibited from accepting any contributions - cash or in-kind. It is important that candidates understand what constitutes an in-kind contribution, because accepting a contribution is a violation of the MCEA.

#### Paying for Goods and Services with Personal Funds

If the campaign accepts a cash contribution, it must be returned. If the contribution was inadvertently deposited into the campaign bank account, the funds must be withdrawn and returned to the contributor.

Once you have been certified as an MCEA candidate, your campaign may not accept cash contributions from any source. You are not permitted to contribute cash or to make a loan to your campaign. You or your supporters are allowed to purchase goods and services with personal funds or a credit card, provided that the campaign reimburses you or your supporter in the same reporting period in which the purchase was made.

#### In-Kind Contributions

In-kind contributions are goods or services that are provided to the campaign at no cost or at a cost that is less than the usual and customary charge. The Commission recommends that MCEA candidates who



receive an in-kind contribution contact the Commission staff promptly to receive guidance on how to rectify the situation. The staff will likely advise that the campaign should reimburse the provider of the goods and services immediately with MCEA funds.

Please call the Commission at 287-4179 if you have questions about in-kind contributions.

The following activities are examples of in-kind contributions:

- the candidate purchases campaign signs and is not reimbursed by the campaign;
- a supporter of a candidate pays for some of the candidate's advertising in a community newspaper and is not reimbursed by the campaign;
- a friend of a candidate who owns a copy shop provides the campaign with a discount on printing services;
- a volunteer who is making signs for a candidate buys plywood and paint and is not reimbursed by the campaign; and
- the owner of a local business provides the campaign, free of charge, some of his paid staff members to work for the campaign on company time.

### Exempt Goods and Services

Certain goods and services are excluded from the legal definition of "contribution." The campaign's receipt of these goods and services is not an in-kind contribution. Candidates and treasurers are encouraged to familiarize themselves with these "exempt" goods and services. They are listed in the Appendix of this Guidebook. Some examples of exempt goods and services are:

- a trade association, commercial business, or labor union may donate office space or office equipment to a campaign, provided that there is no additional cost;
- an individual may volunteer his services to a campaign at no charge (including professional services such as legal advice, assistance with databases, and web and graphic design) as long as the individual is not being compensated by an employer for providing the services; and
- each volunteer may pay up to \$100 cumulatively in each election (primary or general) toward the cost of food, beverages, and invitations in the course of volunteering for a campaign (e.g., when volunteering at a house party or a campaign event, a campaign supporter may buy up to \$100 in food).



## Coordinating Expenditures with Third-Parties

Individuals (including friends and family) and organizations have a First Amendment right to spend money to promote the election of a candidate. To avoid making a contribution to the candidate, however, they must make the expenditures independently of the candidate and his or her campaign. The Election Law states that: “Any expenditure made by any person in cooperation, consultation or concert with, or at the request or suggestion of, a candidate, a candidate's political committee or their agents is considered to be a contribution to that candidate.” (21-A M.R.S.A. § 1015(5)) This means that if any person or organization makes an expenditure to support you and has consulted with you on the expenditure, you have accepted a contribution. After you have been certified as an MCEA candidate, this is not permitted because you may not accept contributions.

One exception to this policy is that candidates may coordinate with a state or local party committee on a “slate card” of three or more candidates. Slate cards are excluded from the definition of contribution. Please note that this exception applies to state and local party committees only, and does not apply to caucus committees or other political action committees.

Because independent expenditures on communications to voters may cause matching funds to be paid to a candidate's MCEA opponent, some candidates may wish to tell supporters not to make independent expenditures in support of their campaigns. You are allowed to ask third-parties not to spend money in support of your candidacy. Even if the third-party were to spend money subsequently, merely making a request not to make an independent expenditure would not constitute cooperation in the view of the Commission staff.

## Appearing in Advertising Sponsored by Third-Parties

In 2008, the Commission considered advertising concerning federal issues of public policy in which a candidate for state office appeared. The advertisement portrayed the candidate in a positive light, but did not mention his candidacy. In that instance, the Commission applied the legal definition of “contribution” and determined that the candidate's involvement in the advertisement did not constitute a contribution to the candidate's campaign.

Please be aware, however, that if an individual or organization invites you to appear in a paid advertisement, the value of the advertising could be considered a contribution to your campaign, which is not permitted if you receive MCEA funding. You may wish to contact the Commission staff to receive advice on what factors the Commission might consider in determining whether the advertisement would be a contribution.



## Volunteer Services vs. Paid Assistance

Individuals are permitted to provide their services for free to your campaign as volunteers. A candidate may provide compensation to a volunteer for a portion of the volunteer's time spent on campaign activities. However, if an individual provides their services to a campaign at the direction of their employer during their paid work-time, then the employer has made a contribution to the campaign.

## Assistance from State Party Committees

MCEA candidates can receive assistance from paid employees of a state party committee without that help being an in-kind contribution. State party committees may:

- direct their paid employees to provide up to a total of 40 hours of assistance (for all employees combined) to a candidate in each election (the primary or general election);
- recruit and oversee volunteers for campaign activities involving three or more candidates; or
- coordinate campaign events involving three or more candidates.

This exception applies only to state party committees (Democratic, Green-Independent, and Republican), and does not apply to local party committees, caucus committees, or other political action committees.

## Contributions for Recounts

If you are involved in a recount of an election, you cannot use MCEA funds for the recount. You may accept unlimited funds and services from party committees, caucus campaign committees, and from attorneys, consultants, and their firms. All contributions received and expenditures made in connection with a recount must be disclosed in a special financial report due 90 days after the election.

LEGAL REFERENCES	
Ban on Accepting Contributions	21-A M.R.S.A. § 1125(6)
Definition of Contribution	21-A M.R.S.A. § 1012(2)
In-Kind Contributions	Rules, Chapter 1, Sections 6(4) - (5)
Discounted Goods or Services	Rules, Chapter 1, Section 6(4)
Contributions of Paid Employee Services	21-A M.R.S.A. § 1012(2)(A)(4); Rules, Chapter 1, Section 6(5)
Exempt Goods and Services	21-A M.R.S.A. § 1012(2)(B)
Coordinated Expenditures	21-A M.R.S.A. § 1015(5)
Assistance from State Parties	21-A M.R.S.A. § 1012(2)(B)(10)

## CHAPTER 8

### Disclosure on Campaign Communications

#### Disclosure on Campaign Communications

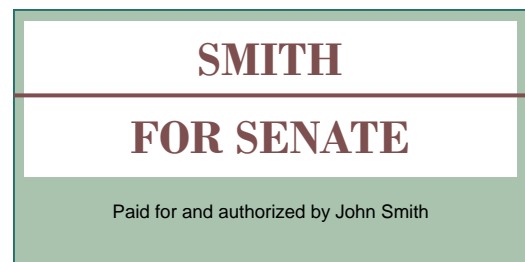
Whenever a candidate, or the candidate's authorized political committee or agents, authorize a communication expressly advocating the election or defeat of the candidate through broadcasting stations, newspapers, magazines, campaign signs or outdoor advertising facilities, publicly accessible websites, direct mail or other similar types of general public political advertising, or through flyers, handbills, bumper stickers, and other non-periodical publications, the communication must clearly and conspicuously state that it has been so authorized. The communication must also clearly state the name of the person who made or financed the expenditure for the communication. Due to a 2009 change in the Election Law, if the communication has been financed by the candidate or the candidate's committee, the communication is no longer required to include the address of the person who made or financed the communication. If financed by others, the communication must include the address of the person.

In addition, these requirements apply to any communication that names or depicts a clearly identified candidate and that is disseminated to voters in the last 21 days before the primary election or in the last 35 days before the general election.

The following are examples of suitable attribution statements for political communications based on the party who made the expenditure for the communication:

#### *Expenditure Made by the Candidate (address not required):*

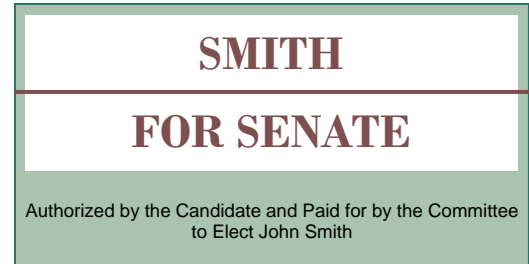
- Paid for and authorized by John Smith
- Paid for and authorized by the Candidate





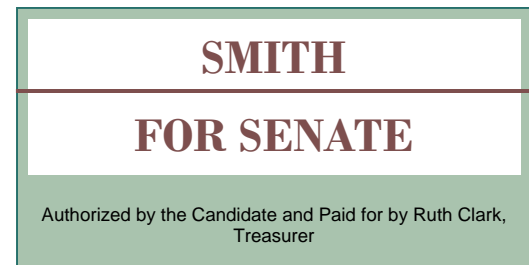
*Expenditure Made by the Candidate's Committee (address not required):*

- Authorized by the Candidate and paid for by the Committee to Elect John Smith



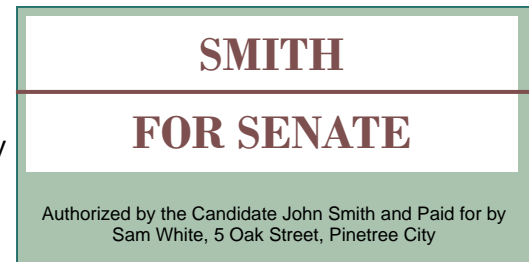
*Expenditure Made by a Candidate's Agent (address not required):*

- Authorized by the Candidate and paid for by Ruth Clark, Treasurer
- Authorized by the Candidate and paid for by Peter Brown, Chair of the Committee to Elect John Smith



*Expenditure Made by Others who are not Associated with the Campaign (address is required):*

- Authorized by Candidate John Smith and paid for by Sam White, 5 Oak Street, Pinetree City



Please remember a communication authorized by the candidate and paid by a third party who is not associated with the campaign, must be reported either as an in-kind contribution (contribution limit applies) or as an expenditure (third party must be reimbursed).

### **Communications Exempt from Disclosure**

Certain items are exempt from the disclosure requirement because of their small size: ashtrays, badges and badge holders, balloons, campaign buttons, clothing, coasters, combs, emery boards, envelopes, erasers, glasses, key rings, letter openers, matchbooks, nail files, noisemakers, paper and plastic cups, pencils, pens, plastic tableware, 12-inch or shorter rulers, swizzle sticks, and tickets to fund-raisers. The Commission may exempt similar items if it determines those items are too small and it would be unnecessary to include the required disclosure. If you have any questions as to whether an item is required to have a disclosure statement, please call the Commission at (207) 287-4179.



### **Signs That Are Lettered or Printed by Hand**

A sign that is lettered or printed individually by hand, that has been authorized by the candidate, and that clearly identifies the name of the candidate is not required to include the name or the address of the person who made or financed the expenditure for the sign. The sign is required to include a statement that the sign has been authorized by the candidate (or by his or her committee or agents).

### **Automated Telephone Calls**

Prerecorded automated telephone calls and scripted live telephone calls that name a clearly identified candidate during the 21 days before a primary election or 35 days before a general election must include the name of the person who made or financed the communication, except that the disclosure is not required for prerecorded automated calls that are paid for by the candidate and that use the candidate's voice.

### **Communications Not Authorized by the Candidate**

Similar requirements apply to communications that are paid for by third parties, such as political action committees and party committees, and that are not authorized by the candidates. Those communications must disclose the person who made or financed the expenditure for the communication and that the communication was not authorized by the candidate or campaign.

### **Constituent Mailings**

Constituent newsletters, sent by incumbent Legislators, are used to inform the voters in their district of the work accomplished during the most recent legislative session. Prior to mailing, these newsletters are reviewed by legislative officers (Clerk of the House or Secretary of the Senate) to verify that they do not advocate for the election or defeat of any candidate. The purpose of these mailings is a factual account of the session and are not to be used for campaign purposes. Thus, a disclosure statement is not required.

### **Requirements for Broadcasters (TV and Radio) and Newspapers**

Broadcasting stations and newspapers in Maine may not broadcast or print communications that lack the required information about the sponsor of the communications and whether the communication was authorized by the candidate.





## Enforcement

If the Commission receives a complaint about communications that do not contain the required disclosure, the Commission will request that the disclosure be added to the communication. The person who financed the communication has ten days to correct the violation after being notified by the Commission. A communication or expenditure that results in a violation of the requirements may result in a penalty of up to \$200.

## Placement of Political Signs

The Commission has no jurisdiction over where candidates place roadside signs. Guidance from the Maine Department of Transportation is included in the Appendix.

## Unauthorized Removal of Campaign Signs from Public Roadways

The unauthorized removal or destruction of political signs is a civil violation under Maine law (Title 23, Section 1917-A), and may carry a fine of up to \$250. Specifically, the law states that “a person who takes, defaces or disturbs a lawfully placed sign bearing political messages relating to a general election, primary election or referendum commits a civil violation for which a forfeiture of up to \$250 may be adjudged.”

The law does not apply to a person authorized by a candidate or political committee to remove signs placed by or at the direction of that candidate or political committee. It also does not apply to the landowner, or agent of the landowner, on whose property a sign has been placed.

A candidate or candidate’s committee would file a complaint with the local police and /or the District Attorney’s office for appropriate action.

### LEGAL REFERENCES

Required Disclosure on Candidate Communications	21-A M.R.S.A. § 1014(1), (2-A)
Exempted Communications	21-A M.R.S.A. § 1014(1)
Hand-made Signs	21-A M.R.S.A. § 1014(1)
Automated Telephone Calls	21-A M.R.S.A. § 1014(5)
Required Disclosure on Third-Party Communications	21-A M.R.S.A. § 1014(2), (2-A)
Broadcasters and Newspapers	21-A M.R.S.A. § 1014(3), (3-B)
Enforcement	21-A M.R.S.A. § 1014(4)



## CHAPTER 9

### Post-Election Responsibilities for MCEA Candidates

#### Notify Commission of Changes of Address and Phone Number

During and after the campaign, it is important for candidates and treasurers to notify the Commission directly when their address and/or telephone number changes. If the Commission is not notified, the candidate may miss important notices and filing deadlines. It is also important for the staff to know how to contact candidates as it conducts its review of campaign finance reports.

#### Election Night Parties and Post-Election Thank-You Notes and Ads

Candidates may spend limited amounts of MCEA funds on election night parties, thank-you notes, or advertising to thank supporters or voters:

- \$250 for State Representative candidates and
- \$750 for State Senate candidates.

Please note in the “Remarks” section on Schedule B that the expenditure was for post-election thank-you’s.

Candidates may spend an unlimited amount of personal funds for these purposes.

The purchase of gifts and gift cards for campaign workers and volunteers is not permitted with MCEA funds but may be purchased with the personal funds of the candidate.

#### Return of “Unauthorized” Matching Funds

Candidates who lose the 2010 primary must return any unauthorized matching funds by June 22, 2010.

Candidates in the general election must return any unauthorized funds by November 16, 2010.

If an MCEA candidate has received matching funds that the candidate was not authorized to spend, the candidate must return the funds within two weeks of the candidate’s last election (primary or general). The Commission will notify the candidate of the amount of matching funds that must be returned.



## Return of All Unspent MCEA Funds

Candidates are required to return all unspent MCEA funds that the candidate did not spend on their campaign. These unspent funds must be returned by the deadline for the final campaign finance report.

The Commission will verify whether this amount is consistent with the expenditures that have been reported by the candidate. If there is a discrepancy, the Commission will request that the candidate resolve it by amending the reported expenditures to accurately disclose the candidate's actual payments of MCEA funds.

**For the 2010 general election, all unspent MCEA funds must be returned by:**

**December 14, 2010**

The amount to be returned should be the same as the cash balance on Schedule F of the 42-Day Post-General Report.

If your bank balance does not agree with the report, you may have reported a duplicate expenditure, forgotten to report an expenditure or bank interest, or neglected to make a reimbursement to yourself or a supporter. *It is the responsibility of the candidate and treasurer to accurately report expenditures.*

## Sale of Property that Could be Converted to the Candidate's Personal Use

After the election, MCEA candidates must sell any campaign property or equipment purchased with public funds that could be converted to the personal use of the candidate or campaign staff (e.g., computers, fax machines, printers, cell phones). The candidates are required to sell the goods at fair market value and return the proceeds to the Commission with the 42-Day Post-Election Report (see page 48 for an explanation of how to determine fair market value). Please report the sale proceeds on Schedule E of the campaign finance report.

## 42-Day Post-Election Report

MCEA candidates must pay all outstanding obligations, including reimbursements to themselves or campaign workers, by the 35th day after the candidate's last election for the year (primary or general), and must file a final campaign finance report no later than 42 days after the election. For candidates in the 2010 general election, this deadline will be December 14, 2010. For candidates who did not win the primary election, the deadline will be July 20, 2010.

## Statement of Sources of Income

Legislative candidates who win the general election are required to file a Statement of Sources of Income for the election year by February 15 of the first term of the Legislature. The statement includes the sources of the income which the Legislator received as a candidate during the election year from employment, self-employment, gifts, and other sources. The forms are provided to Legislators shortly after the New Year.

## Post-Election Audits

The Commission will audit at least 20% of legislative campaigns receiving MCEA funding. See Chapter 10 for more information on the audits.

IMPORTANT POST-ELECTION DEADLINES FOR MCEA CANDIDATES		
	CANDIDATES WHO LOST PRIMARY ELECTION	GENERAL ELECTION CANDIDATES
All <u>unauthorized matching funds</u> must be returned by:	June 22, 2010	November 16, 2010
All outstanding obligations, debts, and reimbursements must be paid by:	July 13, 2010	December 7, 2010
All <u>authorized MCEA funds</u> and equipment sales proceeds must be returned by:	July 20, 2010	December 14, 2010

### LEGAL REFERENCES

Change of Address or Telephone Number	21-A M.R.S.A. § 1013-A(5)
Election Night Parties and Post-Election Thank-You's	Rules, Chapter 3, Section 6(5)
Return of Unauthorized Matching Funds	Rules, Chapter 3, Section 7(2)(B)
Return of Unspent MCEA Funds	21-A M.R.S.A. § 1125(12); Rules, Chapter 3, Section 7(2)(B)
Sale of Property Purchased with MCEA Funds	Rules, Chapter 3, Section 7(2)(C)
Statement of Sources of Income	5 M.R.S.A. § 19



## CHAPTER 10

### Compliance Reviews and Audits of MCEA Campaigns

#### Requirements for MCEA Candidates to Document Expenditures

MCEA candidates and their treasurers are required to obtain the following documents for every expenditure that is more than \$50:

- a vendor invoice stating the particular goods and services purchased, as well as the cost; and
- a record proving that the vendor received payment. The proof of payment may take the form of a cancelled check, a receipt from the vendor, or a bank debit or credit card statement identifying the vendor as the payee.

A reimbursement to a candidate, a campaign worker, or a volunteer requires an additional piece of documentation – copies of the person's check and personal bank statement or personal credit card statement.

*Candidates and campaigns can simplify record keeping and documentation by minimizing the number of reimbursements.*

Campaigns should maintain expenditure documentation on file but are not required to submit it to the Commission unless the candidate is selected for an audit, or the Commission requests it for other reasons. Expense documentation is necessary to confirm whether the MCEA candidate purchased authorized, campaign-related goods and services from a vendor and used MCEA funds to pay the vendor. Candidates must keep these records for two years after they filed their last report with the Commission.

Candidates who were defeated in a primary election must keep campaign records until July 22, 2013. All general election candidates must keep campaign records until December 16, 2013.

#### Compliance Reviews of All MCEA Candidates

The Commission staff conducts a compliance review of all expenditures of MCEA funds disclosed in campaign finance reports. That review typically occurs in the two to three weeks after each filing dead-



line. The review is conducted by the Commission's auditor and other staff members. The purpose of these reviews is to verify that MCEA funds were spent for campaign-related purposes, the candidate has met all reporting requirements, and that personal property purchased with MCEA funds has been handled correctly.

After the review, the Commission staff may request that the candidate amend the campaign finance report to provide more complete information about a transaction. In order to verify that an expenditure was accurately reported and made for campaign purposes, the Commission staff may request campaign records such as receipts, travel logs, or bank account statements.

### Formal Audit

The Commission has a program of random formal audits of MCEA candidates. The purpose of these audits is to confirm that all campaign expenditures are accurately reported, approved by the candidates, properly documented, and made for campaign-related purposes. The Commission audits a significant percentage of MCEA legislative candidates and all publicly funded gubernatorial candidates.

#### REQUIRED SUPPORTING DOCUMENTATION FOR CAMPAIGN EXPENDITURES

The following are acceptable forms of the required documentation for expenditures made by MCEA legislative candidates in the 2008 primary and general elections:

1. A copy of all campaign bank account statements.
2. A copy of the original vendor invoice.
3. One of the following:
  - a. Copy of cancelled (cleared) check.
  - b. Copy of cleared check image provided by the bank.
  - c. Debit card transaction – copy of the relevant bank statement showing the payee name and amount.
  - d. Credit card transaction – copy of the relevant credit card statement showing the payee and amount.
  - e. Cash receipt issued by the vendor showing the amount paid and the date of purchase.
4. For reimbursements to the candidate or a campaign worker for campaign expenditures, the candidate must provide the following documentation:
  - a. Copy of the original vendor invoice,
  - b. Proof of payment by the person reimbursed in one of the forms described above, and
  - c. Proof of reimbursement by the campaign in one of the forms described above.

**Request for Documentation.** If you are selected for an audit, you will receive a letter from the Commission's auditor requesting copies of supporting documentation for specific transactions listed in your campaign finance reports. The letter will include a deadline for providing the documentation to the auditor, usually two weeks.

**Required Documentation.** The Maine Clean Election Act requires that receipts and invoices be maintained for every expenditure greater than \$50 to document that the expenditure was for campaign purposes. In addition, proof of payment (cancelled check, bank statements, credit card statements, etc.) is needed to document that payment was made. The list of required supporting documentation for each expenditure is found on the prior page. A copy of the supporting documentation for each identified transaction must be submitted to the Commission as part of the audit.

**Documentation for Consulting Services and Salaries.** When a campaign contracts for services with a consulting firm or hires an individual for personal services, the supporting documentation for these expenditures is an invoice signed by either the an officer of the firm or if services were contracted with an individual, signed by the individual who provided the services (see example below).

If a consultant or individual purchases goods or services on behalf of the campaign, the receipt or invoice for the purchased goods and services must be provided and attached to the invoice submitted to the campaign by the consultant or individual.

EXAMPLE OF INVOICE: CONSULTING SERVICES			
<b>ELECTION Associates</b> 456 State Street Augusta, Maine 04332			
<b>BILL TO:</b> Honorable Ruth Baker c/o Committee To Elect Baker 123 Maine Street Augusta, ME 04032		Invoice Date: 09/18/2010	
<b>Service/Product</b>	<b>Rate</b>	<b>Hours</b>	<b>Total</b>
Design of Palm Card	\$50 per hr	3.0	\$150
Printing of card: Graphics Center Color Printing SEE ATTACHED COPY OF INVOICE	2000 cards at \$0.50each		\$1,000
<b>Total Due 30 Days from Date of Invoice</b>			<b>\$1,150</b>
Authorized Signature: Elizabeth C. Brown <span style="float: right;">Print Name: Elizabeth Brown Title: Owner</span>			

What makes this invoice meet the audit documentation standards?

Provided services are described.

Goods purchased on behalf of the campaign are listed separately and the invoice is attached.

Invoice is signed.





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***Audit Report and Presentation to the Commission.*** After the campaign has had a reasonable opportunity to provide requested documentation and information, the auditor will prepare and send to the candidate a draft version of the audit report. Minor reporting or record-keeping violations that were cured through the audit process are not discussed in the draft audit report. The draft audit report will include any other findings of non-compliance or deficiencies and recommendations for Commission action. The draft audit report is a final opportunity for the campaign to address any unresolved issues in the audit or to disagree with the auditor's findings. If the audit finds no violations, the auditor will issue a final report stating that no exceptions (violations or deficiencies) were found.

After considering any response from the candidate, the auditor will prepare a final audit report which will include the candidate's comments on the draft audit. The final report will be presented to the members of the Commission at a public meeting. The candidate will have an opportunity to address the Commission members at the public meeting when the audit report is presented.

#### **Audit Results for 2006 and 2008 Candidates**

In 2006 and 2008, the Commission audited all MCEA candidates for Governor and 20% of the MCEA candidates for the Legislature. While many audits found no deficiencies, the auditors identified a significant number of reporting, record-keeping, and other violations. The errors found by the auditors ranged from failure to maintain required expenditure documentation to misreporting and misuse of MCEA funds. Some of the findings and actions by the Commission are listed in the following table.


**2006 AND 2008 ELECTIONS: NON-COMPLIANCE ISSUES IDENTIFIED THROUGH AUDITS**

<b>NON-COMPLIANCE ISSUE</b>	<b>COMMISSION ACTION</b>
Candidate spent MCEA funds for personal or other purposes that were not campaign-related	Repayment of misused MCEA funds; finding of violation and assessment of a financial penalty
Commingling MCEA funds with personal or business funds	Finding of violation and possible assessment of a financial penalty
Substantial undocumented expenditures (campaign has not kept a vendor invoice, or proof that the vendor received payment)	Finding of violation and assessment of a financial penalty; possible repayment of MCEA funds used for undocumented expenditures
Substantial misreporting	Finding of violation and assessment of a financial penalty; amendment to campaign finance report
Overspending (campaign spending in excess of the authorized amount of MCEA funds)	Finding of violation and assessment of a financial penalty
Paying for goods or services received in the qualifying period with the initial MCEA funds payment	Finding of violation, and assessment of a financial penalty
Misreporting an unpaid obligation as an expenditure in the Seed Money Report, resulting in a larger initial payment of MCEA funds	Finding of violation, and repayment of portion of MCEA funds

**LEGAL REFERENCES**

Authority to Conduct Audits

21-A M.R.S.A. § 1003(1)



## APPENDIX

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## DEFINITION OF CONTRIBUTION AND EXPENDITURE

### (21-A M.R.S.A. §§ 1012(2) AND (3))

#### **2. Contribution.** The term "contribution:"

##### A. Includes:

- (1) A gift, subscription, loan, advance or deposit of money or anything of value made for the purpose of influencing the nomination or election of any person to state, county or municipal office or for the purpose of liquidating any campaign deficit of a candidate, except that a loan of money to a candidate by a financial institution in this State made in accordance with applicable banking laws and regulations and in the ordinary course of business is not included;
- (2) A contract, promise or agreement, express or implied, whether or not legally enforceable, to make a contribution for such purposes;
- (3) Funds received by a candidate or a political committee that are transferred to the candidate or committee from another political committee or other source; and
- (4) The payment, by any person other than a candidate or a political committee, of compensation for the personal services of other persons that are provided to the candidate or political committee without charge for any such purpose; and

##### B. Does not include:

- (1) The value of services provided without compensation by individuals who volunteer a portion or all of their time on behalf of a candidate or political committee;
- (2) The use of real or personal property and the cost of invitations, food and beverages, voluntarily provided by an individual to a candidate in rendering voluntary personal services for candidate-related activities, if the cumulative value of these activities by the individual on behalf of any candidate does not exceed \$100 with respect to any election;
- (3) The sale of any food or beverage by a vendor for use in a candidate's campaign at a charge less than the normal comparable charge, if the charge to the candidate is at least equal to the cost of the food or beverages to the vendor and if the cumulative value of the food or beverages does not exceed \$100 with respect to any election;



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- (4) Any unreimbursed travel expenses incurred and paid for by an individual who volunteers personal services to a candidate, if the cumulative amount of these expenses does not exceed \$100 with respect to any election;
  - (4-A) Any unreimbursed campaign-related travel expenses incurred and paid for by the candidate or the candidate's spouse or domestic partner;
  - (5) The payment by a party's state, district, county or municipal committee of the costs of preparation, display or mailing or other distribution of a party candidate listing;
  - (6) Documents, in printed or electronic form, including party platforms, single copies of issue papers, information pertaining to the requirements of this Title, lists of registered voters and voter identification information, created, obtained or maintained by a political party for the general purpose of party building and provided to a candidate who is a member of that party;
  - (7) Compensation paid by a state party committee to its employees for the following purposes:
    - (a) Providing no more than a total of 40 hours of assistance from its employees to a candidate in any election;
    - (b) Recruiting and overseeing volunteers for campaign activities involving three or more candidates; or
    - (c) Coordinating campaign events involving three or more candidates;
  - (8) Campaign training sessions provided to three or more candidates;
  - (8-A) Costs paid for by a party committee in connection with a campaign event at which 3 or more candidates are present;
  - (8-B) Wood or other materials used for political signs that are found or contributed if not originally obtained by the candidate or contributor for campaign purposes;
  - (8-C) The use or distribution of any communication, as described in section 1014, obtained by the candidate for a previous election and fully paid for during that election;
  - (9) The use of offices, telephones, computers and similar equipment when that use does not result in additional cost to the provider; or
  - (10) Activity or communication designed to encourage individuals to register to vote or to vote if that activity or communication does not mention a clearly identified candidate.



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### 3. Expenditure. The term "expenditure:"

#### A. Includes:

- (1) A purchase, payment, distribution, loan, advance, deposit or gift of money or anything of value made for the purpose of influencing the nomination or election of any person to political office, except that a loan of money to a candidate by a financial institution in this State made in accordance with applicable banking laws and regulations and in the ordinary course of business is not included;
- (2) A contract, promise or agreement, expressed or implied, whether or not legally enforceable, to make any expenditure;
- (3) The transfer of funds by a candidate or a political committee to another candidate or political committee; and
- (4) A payment or promise of payment to a person contracted with for the purpose of supporting or opposing any candidate, campaign, political committee, political action committee, political party, referendum or initiated petition or circulating an initiated petition; and

#### B. Does not include:

- (1) Any news story, commentary or editorial distributed through the facilities of any broadcasting station, newspaper, magazine or other periodical publication, unless the facilities are owned or controlled by any political party, political committee, candidate, or candidate's immediate family;
- (1-A) Any communication distributed through a public access television station if the communication complies with the laws and rules governing the station and all candidates in the race have an equal opportunity to promote their candidacies through the station;
- (2) Activity or communication designed to encourage individuals to register to vote or to vote if that activity or communication does not mention a clearly identified candidate;
- (3) Any communication by any membership organization or corporation to its members or stockholders, if that membership organization or corporation is not organized primarily for the purpose of influencing the nomination or election of any person to state or county office;
- (4) The use of real or personal property and the cost of invitations, food and beverages, voluntarily provided by an individual to a candidate in rendering voluntary personal services for candidate-related activities, if the cumulative value of these activities does not exceed \$100 with respect to any election;





- 
- (5) Any unreimbursed travel expenses incurred and paid for by an individual who volunteers personal services to a candidate, if the cumulative amount of these expenses does not exceed \$100 with respect to any election;
  - (5-A) Any unreimbursed campaign-related travel expenses incurred and paid for by the candidate or the candidate's spouse or domestic partner;
  - (6) Any communication by any person that is not made for the purpose of influencing the nomination for election, or election, of any person to state or county office;
  - (7) The payment by a party's state, district, county or municipal committee of the costs of preparation, display or mailing or other distribution of a party candidate listing;
  - (8) The use or distribution of any communication, as described in section 1014, obtained by the candidate for a previous election and fully paid for during that election campaign;
  - (9) Documents, in printed or electronic form, including party platforms, single copies of issue papers, information pertaining to the requirements of this Title, lists of registered voters and voter identification information, created or maintained by a political party for the general purpose of party building and provided to a candidate who is a member of that party;
  - (10) Compensation paid by a state party committee to its employees for the following purposes:
    - (a) Providing no more than a total of 40 hours of assistance from its employees to a candidate in any election;
    - (b) Recruiting and overseeing volunteers for campaign activities involving three or more candidates; or
    - (c) Coordinating campaign events involving three or more candidates;
  - (10-A) Costs paid for by a party committee in connection with a campaign event at which three or more candidates are present;
  - (11) Campaign training sessions provided to three or more candidates;
  - (11-A) Wood or other materials used for political signs that are found or contributed if not originally obtained by the candidate or contributor for campaign purposes; or
  - (12) The use of offices, telephones, computers and similar equipment when that use does not result in additional cost to the provider.



**Candidate's Name:**

**SAMPLE TRAVEL LOG for MCEA Candidates and their Campaign Staff**

Questions? Call 207-287-4179

*Name of Person Traveling:*  
(Requesting reimbursement)

**Commission on Governmental  
Ethics and Election Practices**

Mailing: 135 State House Station  
Augusta, Maine 04333  
Location: 45 Memorial Circle  
Augusta, Maine

*Address:*

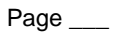
Phone: 207-287-4179

Fax: 207-287-6775

Website: [www.maine.gov/ethics](http://www.maine.gov/ethics)

Date of Travel (Required)	Odometer Reading at Start (Suggested)	Odometer Reading at End (Suggested)	Number of Miles Traveled (Required)	Purpose and Destinations of Travel (Required)
<p align="center"><b>HOW TO REPORT TRAVEL</b></p> <p>Report reimbursements on Schedule B of a campaign finance report. <u>The person receiving the reimbursement is the "Payee."</u></p> <p>If the campaign pays for fuel, report the expenditure on Schedule B of a campaign finance report listing the gas station as the "Payee," and use this log for documentation, not reimbursement.</p> <p>Receipts for expenditures over \$50 and travel logs must be kept until December 2013 (3 years after the 42-Day Post-General Report).</p>				Number of miles this page
				Number of miles from attached pages
				Total miles traveled
			\$	Multiply by \$0.44 (per mile rate for 2010 elections) <b>This is the maximum reimbursement amount based on mileage. The payments for fuel can not exceed this amount.</b>

**Actual Amount of Reimbursement: \$** \_\_\_\_\_

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**MATCHING FUNDS FORMULA AND CALCULATION EXAMPLE FOR PRIMARY ELECTION:**
**Two Way Race (MCEA vs. MCEA)**
**Primary Election Matching Funds Formula**

The formula for calculating matching funds in a two way race when both candidates are MCEA-funded is shown below. In this formula, the amounts of seed money raised by the MCEA candidates are not used in the calculation.

FORMULA FOR CALCULATING MATCHING FUNDS IN A <u>PRIMARY ELECTION</u> TWO WAY RACE: Two MCEA CANDIDATES		
Your amount (MCEA Candidate)	compared to	Your opponent's amount (MCEA Candidate)
MCEA funds received for the primary election		MCEA funds received for the primary election
plus		plus
Independent expenditures made to support you minus independent expenditures made to oppose you		Independent expenditures made to support your opponent minus independent expenditures made to oppose your opponent

**Primary Election Matching Funds Example**

The example below shows how matching funds are calculated in a two way race when both candidates are MCEA-funded. In this calculation, the seed money raised by the MCEA candidates is not used.

PRIMARY ELECTION MATCHING FUNDS: EXAMPLE OF TWO WAY RACE: MCEA CANDIDATES FOR REPRESENTATIVE				
MCEA Candidate			MCEA Candidate	
Primary election MCEA payment	\$1,504		\$1,504	Primary election MCEA payment
plus			plus	
Independent expenditures (IEs) in support	\$300		\$500	Independent expenditures (IEs) in support
Total	\$1,804		\$2,004	Total
Matching funds authorized	\$200		\$0	Matching funds authorized


**MATCHING FUNDS FORMULA AND CALCULATION EXAMPLE FOR PRIMARY ELECTION:**
**Two WAY RACE (MCEA VS. TRADITIONALLY FINANCED)**
**Primary Election Matching Funds Formula**

The formula for calculating matching funds in a two way race when one candidate is MCEA-funded and the opponent is traditionally financed is shown below. In this formula, the amount of seed money raised by the MCEA candidate is used in the calculation.

FORMULA FOR CALCULATING MATCHING FUNDS IN A <u>PRIMARY ELECTION</u> TWO WAY RACE: ONE MCEA CANDIDATE AND ONE TRADITIONALLY FINANCED CANDIDATE		
Your amount (MCEA Candidate)	compared to	Your opponent's amount (Traditionally Financed Candidate)
Amount of seed money raised		Receipts or expenditures (whichever is greater) for the primary election
plus		
MCEA funds received for the primary election		plus
plus		
Independent expenditures made to support you minus independent expenditures made to oppose you		Independent expenditures made to support your opponent minus independent expenditures made to oppose your opponent

**Primary Election Matching Funds Example**

The example below shows how matching funds are calculated in a two way race when one candidate is MCEA-funded and the opponent is traditionally financed. In this calculation, the seed money raised by the MCEA candidate is used.

PRIMARY ELECTION MATCHING FUNDS:				
EXAMPLE OF TWO WAY RACE: MCEA CANDIDATE FOR REPRESENTATIVE WITH TRADITIONALLY FINANCED OPPONENT				
MCEA Candidate			Traditionally Financed Candidate	
Amount of seed money raised	\$500	compared to	\$1,900	Receipts or expenditures (whichever is greater) for the primary election
plus				
Primary election MCEA payment	\$1,504			
Sub-total	\$2,004			
plus			plus	
Independent expenditures (IEs) in support	\$300		\$500	Independent expenditures in support
Total	\$2,304		\$2,400	Total
Matching funds authorized	\$96	Even though the total amount of IEs spent in support of the traditionally financed candidate is \$200 more than the total in support of the MCEA candidate, only \$96 in matching funds is authorized due to other factors.		



## MATCHING FUNDS FORMULA AND CALCULATION EXAMPLE FOR GENERAL ELECTION:

### Two Way Race: MCEA vs. MCEA (CONTINUED)

#### General Election Matching Funds Formula

The formula for calculating matching funds in a two way race when both candidates are MCEA-funded is shown below. In this formula, the cash balance on the day of the primary is not used in the calculation.

FORMULA FOR CALCULATING MATCHING FUNDS IN A <u>GENERAL ELECTION</u> Two Way Race: Two MCEA Candidates		
Your amount (MCEA Candidate)	compared to	Your opponent's amount (MCEA Candidate)
MCEA funds received for the general election		MCEA funds received for the general election
plus		plus
Independent expenditures made to support you minus independent expenditures made to oppose you		Independent expenditures made to support your opponent minus independent expenditures made to oppose your opponent

#### General Election Matching Funds Example

The example below shows how matching funds are calculated in a two way race when both candidates are MCEA-funded. In this calculation, the cash balance on the day of the primary is not used.

GENERAL ELECTION MATCHING FUNDS: EXAMPLE OF Two Way Race: Two MCEA Candidates for Senate			
MCEA Candidate		compared to	MCEA Candidate
General election MCEA payment	\$19,078		\$19,078 General election MCEA payment
Plus independent expenditures (in support)	\$900		\$600 Plus independent expenditures (in support)
<b>Total</b>	<b>\$19,978</b>		<b>\$19,678 Total</b>
<b>Matching funds authorized</b>	<b>\$0</b>		<b>\$300</b> Because the cash balance on the day of the primary is not used in the calculation, the matching funds are authorized based on the difference in total independent expenditures for each candidate.



### MATCHING FUNDS FORMULA AND CALCULATION EXAMPLE FOR GENERAL ELECTION:

#### Two WAY RACE: MCEA VS. TRADITIONALLY FINANCED

#### General Election Matching Funds Formula

The formula for calculating matching funds in a two way race when one candidate is MCEA-funded and the opponent is traditionally financed is shown below. In this formula, the cash balance on the day of the primary is used in the calculation.

FORMULA FOR CALCULATING MATCHING FUNDS IN A <u>GENERAL ELECTION</u> TWO WAY RACE: ONE MCEA CANDIDATE AND ONE TRADITIONALLY FINANCED CANDIDATE		
Your amount (MCEA Candidate)	compared to	Your opponent's amount (Traditionally Financed Candidate)
Campaign balance on the day of the primary election		Campaign balance on the day of the primary election
plus		plus
MCEA funds received for the general election		Receipts or expenditures (whichever is greater) for the general election
plus		plus
Independent expenditures made to support you minus independent expenditures made to oppose you		Independent expenditures made to support your opponent minus independent expenditures made to oppose your opponent

#### General Election Matching Funds Example

The example below shows how matching funds are calculated in a two way race when one candidate is MCEA-funded and the opponent is traditionally financed. In this calculation, the cash balance on the day of the primary is used.

GENERAL ELECTION MATCHING FUNDS: EXAMPLE OF TWO WAY RACE: MCEA CANDIDATE FOR REPRESENTATIVE WITH TRADITIONALLY FINANCED OPPONENT			
MCEA Candidate		compared to	Traditionally Financed Candidate
Campaign balance on day of primary election	\$500		\$100 Campaign balance on day of primary election
plus			plus
General election MCEA payment	\$4,144		\$4,100 Receipts or expenditures (whichever is greater for the general election)
Total	\$4,644		\$4,200 Total
Plus independent expenditures (in support)	\$200		\$300 Plus independent expenditures (in support)
<b>Total</b>	<b>\$4,844</b>		<b>\$4,500 Total</b>
<b>Matching funds authorized</b>	<b>\$0.00</b>		<b>n/a</b> Because the cash balance on the day of the primary is used in the calculation, no matching funds are awarded even though the IEs supporting the traditionally financed candidate are \$100 greater.

**MATCHING FUNDS FORMULA AND CALCULATION EXAMPLE FOR PRIMARY ELECTION:  
THREE WAY RACE (MCEA VS. TRADITIONALLY FINANCED)**

**FORMULA FOR CALCULATING PRIMARY ELECTION MATCHING FUNDS IN A THREE WAY RACE:  
TWO MCEA CANDIDATES AND A TRADITIONALLY FINANCED CANDIDATE**

Your amount (MCEA Candidate A)	compared to	Your opponent's amount (MCEA Candidate B)	Your opponent's amount (Traditionally Financed Candidate C)
Amount of seed money raised		Amount of seed money raised	Receipts or expenditures (whichever is greater) for the primary election
plus		plus	
MCEA funds received for the primary election		MCEA funds received for the primary election	
plus		plus	plus
Independent expenditures made to support you minus independent expenditures made to oppose you		Independent expenditures made to support Candidate B minus independent expenditures made to oppose Candidate B	Independent expenditures made to support Candidate C minus independent expenditures made to oppose Candidate C

**EXAMPLE OF A THREE WAY RACE - TWO MCEA CANDIDATES AND ONE TRADITIONALLY FINANCED CANDIDATE  
NOTE: TOTAL FOR MCEA CANDIDATE B IS HIGHEST BEFORE AWARD OF MATCHING FUNDS**

MCEA Candidate A			Opponent MCEA Candidate B		Opponent Traditionally Financed Candidate C	
Seed money raised	\$500		\$200	Seed money raised		
Seed money amounts are only used to determine whether the MCEA candidate totals are less than the traditionally financed totals. Seed money amounts are not used in the calculation between two MCEA candidates.						
MCEA payments made for primary election	\$1,504	COMPARED TO	\$1,504	MCEA payments made for primary election	\$1,000	Receipts or expenditures (whichever is greater) for the primary election
plus			plus		plus	
	n/a		\$300	First independent expenditure (IE) made in race - supporting Candidate B	n/a	Independent expenditure
Total	\$1,504		\$1,804	Total	\$1,000	Total
Matching Funds Awarded	\$300		\$0	Matching Funds Awarded	n/a	Under the Commission’s Rules, since the candidate with the highest total is MCEA Candidate B, the seed money collected by Candidates A and B is <u>not</u> counted when awarding matching funds to Candidate A to equalize with Candidate B.
After matching funds awarded	\$1,804		\$1,804	MCEA candidate funding is equal.	\$1,000	





**MATCHING FUNDS FORMULA AND CALCULATION EXAMPLE (ON NEXT PAGE) FOR GENERAL ELECTION:  
THREE WAY RACE (MCEA VS. TRADITIONALLY FINANCED)**

**FORMULA FOR CALCULATING GENERAL ELECTION MATCHING FUNDS IN A THREE WAY RACE:  
TWO MCEA CANDIDATES AND A TRADITIONALLY FINANCED CANDIDATE**

<b>Your amount (MCEA Candidate A)</b>		<b>Your opponent's amount (MCEA Candidate B)</b>	<b>Your opponent's amount (Traditionally Financed Candidate C)</b>
Campaign balance on day of primary election		Campaign balance on day of primary election	Campaign balance on day of primary election
plus		plus	plus
MCEA funds received for the general election		MCEA funds received for the general election	Receipts or expenditures (whichever is greater) for the general election
plus		plus	plus
Independent expenditures made to support you minus independent expenditures made to oppose you	compared to	Independent expenditures made to support Candidate B minus independent expenditures made to oppose Candidate B	Independent expenditures made to support Candidate C minus independent expenditures made to oppose Candidate C

**EXAMPLE OF A THREE WAY RACE WITH ONE TRADITIONALLY FINANCED OPPONENT**  
**(NOTE: TRADITIONALLY FINANCED CANDIDATE'S TOTAL IS GREATER THAN BOTH MCEA CANDIDATES' TOTALS)**

MCEA Candidate A		MCEA Candidate B		Traditionally Financed Candidate C	
Campaign balance on day of primary	\$200	\$100	Campaign balance on day of primary	\$900	Campaign balance on day of primary (this amount is added to receipts)
	plus	plus		plus	
Total MCEA payments received for general election	\$4,144	\$4,144	Total MCEA payments received for general election	[\$4,000 in receipts + \$900 balance on primary equals] <b>\$4,900</b> [which is greater than total expenditures of \$3,000]	Total receipts (includes cash balance on day of primary plus cash, in-kind and loans) or Total expenditures (whichever is greater)
Totals	\$4,344	\$4,244		\$4,900	

**Trigger Report filed by traditionally financed candidate results in matching funds for MCEA candidates.**

Matching Funds Awarded	<b>\$556</b> (\$4,900 - \$4,344)	<b>\$656</b> (\$4,900 - \$4,244)	In this example, because the totals for MCEA Candidates A and B are less than traditionally financed Candidate C, each candidate's balance on the day of the primary election <u>is</u> used in the calculation and results in different matching fund authorizations.		
<b>New Totals</b>	<b>\$4,900</b>	<b>\$4,900</b>		<b>\$4,900</b>	
Next, an IE is filed in support of candidate A	\$100	n/a		n/a	
Matching Funds Awarded	<b>\$0.00</b>	<b>\$100</b>		n/a	
Total (after award of matching funds)	<b>\$5,000</b>	<b>\$5,000</b>		<b>\$4,900</b>	Candidate C may now raise and spend up to \$5,000 without triggering matching funds. Before the IE was filed the amount was \$4,900.





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](http://www.maine.gov/ethics)  
Phone: 207-287-4179  
Fax: 207-287-6775

## POLICY ON PAYING CAMPAIGN FUNDS TO FAMILY MEMBERS

This memorandum describes the policies and procedures regarding the use of campaign funds to pay a member of the candidate's immediate family or household.

### DISCLOSING A PAYMENT TO A MEMBER OF THE CANDIDATE'S FAMILY OR HOUSEHOLD (applies to gubernatorial, legislative, and county candidates)

- *Traditionally financed candidates.* If a candidate uses campaign funds to pay or reimburse a member of the candidate's immediate family or household, the candidate must report the family or other relationship (e.g., "brother" or "roommate") in the remarks section of Schedule B (for expenditures) of the campaign finance report.
- *Maine Clean Election Act candidates.* If a candidate uses Maine Clean Election Act funds to pay or reimburse a member of the candidate's "immediate family" (defined below), a member of the candidate's household, or a business or nonprofit entity affiliated with a member of the candidate's immediate family, the candidate must disclose the family or household relationship (e.g., "spouse," "domestic partner," "brother," "roommate," or "business owned by daughter") in the remarks section of Schedule B of the campaign finance report.

For purposes of this disclosure requirement, "immediate family" means the candidate's spouse, parent, grandparent, child, grandchild, sister, half-sister, brother, half-brother, step-parent, stepgrandparent, stepchild, stepgrandchild, stepsister, stepbrother, mother-in-law, father-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law, guardian, former guardian, domestic partner, the immediate family of the candidate's domestic partner, the half-brother or half-sister of the candidate's spouse, or the spouse of the candidate's half-brother or half-sister. (21-A M.R.S.A. §§ 1(20) & 1122(4-A))

### RESTRICTIONS FOR MAINE CLEAN ELECTION ACT CANDIDATES (21-A M.R.S.A. § 1125(6-B))

A candidate may not pay Maine Clean Election Act (MCEA) funds to:

- the candidate or a sole proprietorship owned by the candidate,
- a member of the candidate's immediate family or household,
- a business entity in which the candidate or a member of the candidate's immediate family or household holds a significant proprietary or financial interest, or
- a nonprofit entity in which the candidate or a member of the candidate's immediate family or household is a director, officer, executive director or chief financial officer.



The Legislature also provided two narrow exceptions to this prohibition:

### ***I. Permitted Payments to the Candidate and Household Members***

A candidate may use MCEA funds to pay a member of the candidate's immediate family or household, a business entity in which the candidate or a member of the candidate's immediate family or household holds a significant proprietary or financial interest, or a nonprofit entity in which the candidate or a member of the candidate's immediate family or household is a director, officer, executive director or chief financial officer only if the expenditure is made:

- for a legitimate campaign-related purpose,
- to an individual or business that provides the goods or services being purchased in the normal course of their occupation or business, and
- in an amount that is reasonable taking into consideration current market value and other factors the Commission may choose to consider.

The candidate shall provide documentary evidence that the expenditure qualifies for the exception at the time the expenditure is reported or when the Commission requests such evidence, whichever is sooner. This evidence must consist of documentation that the payee currently is employed by or engaged in a business that provides the goods or services provided; justification for the amount of the expenditure including the usual price paid by other clients; and an explanation of why the expenditure is campaign-related.

### ***II. Reimbursements***

Reimbursements, including travel reimbursements, that are made in accordance with the Commission's rules and guidelines are exempt from this restriction. However, the candidate must disclose the family or household relationship when reporting the reimbursement as described above.

If a MCEA candidate or a family or household member uses personal funds or a personal credit card to pay a vendor for campaign goods or services, the candidate must reimburse the individual with MCEA funds. (There are limited circumstances when reimbursement is not required. Please refer to the Commission's *Candidate Guide* for more information.)



## PLACEMENT OF POLITICAL SIGNS

### Robert Sinclair, Supervisor – Right of Way Maintenance Control

Telephone: (207) 624-3611

The Department of Transportation would like to inform all candidates and their co-workers of the present statutory and regulatory requirements applicable to placement of roadside posters and signs advertising their candidacy. Under the provisions of 23 MRSA §1913-A and Department Regulations, political posters and signs may be erected and maintained as follows:

1. May be erected on private property outside the Right of Way limits of public ways at any time prior to an election, primary or referendum, limited in size to a maximum of 50 square feet;
2. May be erected within the Right of Way limits of public ways no sooner than six (6) weeks prior to an election, primary or referendum and must be removed no later than one (1) week following the date of the election, primary or referendum;
3. **Prohibited practices:** political posters and signs shall not be erected or maintained on any traffic control signs or devices, public utility poles or fixtures, upon any trees or painted or drawn upon rocks or other natural features;
4. No person shall place, maintain or display upon or in view of any highway any unauthorized sign, signal, marking or device which purports to be or is an **imitation of or resembles an official traffic-control device**, such as a stop sign;
5. Political signs may be displayed to view to all public ways **except** for the Interstate Highway System. Title 23 MRSA §1913-A, paragraph 3 (Regulations) and paragraph 6 (Interstate system) states that: **Signs may not be placed within the limits of any controlled access highway nor erected within 660 ft. of the nearest edge of the Interstate Highway System in such a manner that the message may be read from the Interstate Highway.** All signs located at interstate interchanges are in violation and will be removed.
6. **Municipal ordinances** advocating stricter control take precedence over state law. Check with the municipal clerk for any such local ordinances.

Traffic safety should be of the utmost consideration in placement of political signs. Candidates and campaign workers should take great care not to place signs or posters where same could create a traffic hazard. For example, signs or posters should not be placed at or near intersections where they could obstruct the view of on-coming traffic to the motorist entering the intersection. Also, signs or posters should



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not be erected on or in any manner so as to interfere with the effectiveness of traffic control devices. Acceptable display would be those posters or signs affixed to their own stake or post and set in the ground well outside the traveled portion of the highway, or, with the owner's consent and permission, attached to a building or dwelling, or displayed on vehicles or in the windows of business establishments, and in other like manner. Please help the Department of Transportation to prevent an unsightly, indiscriminate and uncontrolled display of election campaign posters throughout the State and to prevent any possible embarrassment to candidates.

**Questions:** Please call Robert Sinclair, Supervisor – Right of Way Maintenance Control at (207) 624-3611.

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# 2010 MCEA LEGISLATIVE CANDIDATE GUIDE

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