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## 2014 Gubernatorial Candidate's Guide

Maine Commision on Governmental Ethics & Election Practices

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

# 2014 Gubernatorial Candidate's Guide

## *Running for Office in Maine*





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## IMPORTANT NOTICE

### ***Note on publication of the 2014 Candidate's Guide (December 2013)***

*This guide is for individuals who are running for the office of Governor in the 2014 elections. This guide includes all changes to campaign finance law that were enacted in the first session of the 126th Legislature.*

*Information concerning the petitioning process and qualifications for office is provided by the Secretary of State.*

*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 statutes are controlling in the event of any omission or error in this publication. Its contents are subject to statutory changes enacted by the Legislature and rule changes approved under the Administrative Procedure Act.*

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



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## CHAPTER 1

# Getting Started as a Candidate

### BECOMING A CANDIDATE

Generally, there are three ways you become a candidate:

- when you start raising and/or spending money on your candidacy;
- when you file nomination papers and get on the ballot; or
- when your party committee nominates you to fill a vacancy.

#### **Definition of a “Candidate”**

‘Candidate’ means any person who has filed a [primary or nomination petition] and has qualified as a candidate by either procedure, or any person who has received contributions or made expenditures or has given his consent for any other person to receive contributions or make expenditures with the intent of qualifying as a candidate. (21-A M.R.S.A. § 1(5))

### SELECTING A CAMPAIGN TREASURER

Every candidate is required to appoint a campaign treasurer before accepting any cash or in-kind contributions, making any expenditures, or incurring any obligations. 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.

Every candidate should select a capable and reliable treasurer who will actively keep track of your campaign finances, save records of your campaign contributions and expenditures as required by law, and file complete and accurate reports.

The Commission recommends that the candidate select a treasurer other than the candidate who can keep accurate records and balance a checkbook. However, the Election Law does allow a candidate to serve as the treasurer.

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.



## FORMING A CAMPAIGN COMMITTEE

As a candidate, you may choose to organize one 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).

## “TESTING THE WATER” - EXPLORATORY ACTIVITIES

**Purpose.** Before deciding to run for office, an individual may want to explore the feasibility of becoming a candidate. Certain “exploratory activities” may be conducted by an individual without triggering registration and reporting requirements.

**Exploratory Activities vs. Candidate-related Activities.** Exploratory activities conducted by an individual to determine if there is support for their candidacy include, but are not limited to: conducting a poll, telephone calls, and travel.

These “candidate-related” activities include, but are not limited to: using general public political advertising to publicize his or her intention to campaign for office; hiring staff or consultants for campaign activities; raising funds in excess of what could reasonably be expected to be used for exploratory activities; making or authorizing statements that refer to him or her as a candidate; or taking action to qualify for the ballot. Certain “candidate-related” activities indicate that the individual has decided to become a candidate and therefore must appoint a treasurer and register with the Commission.

**Record-Keeping and Reporting.** Contributions raised and expenditures made to conduct exploratory activities are not considered campaign contributions or expenditures unless the individual becomes a candidate.

The individual is required to keep records of contributions raised and expenditures made. Contribution limits (see page 5) apply to contributions raised for exploratory activities. Contributions and expenditures are reported in the first campaign finance report for the election if the individual becomes a candidate.

## WHEN TO REGISTER AS A CANDIDATE

Event occurs:	What to do:	How to register:
If you make plans to accept cash or in-kind contributions, make expenditures, or incur obligations for your campaign	Appoint a treasurer <u>before</u> accepting any contributions, making expenditures, or incurring obligations, and then register as a candidate within 10 days of appointing a treasurer	Complete the candidate registration form and submit it to the Commission
If you give your consent for any other person to receive contributions or make expenditures with the intent of qualifying as a candidate		
If you filed a primary or nomination petition and qualified as a candidate under either procedure	Appoint a treasurer within 10 days of qualifying as a candidate, and register as a candidate within 10 days of appointing a treasurer	



## REGISTERING AS A CANDIDATE

Within 10 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). 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.

The duties to timely appoint a treasurer and to register as a candidate are statutory requirements under 21-A M.R.S.A. § 1013-A(A), so candidates are advised to take these responsibilities seriously.

## CODE OF FAIR CAMPAIGN PRACTICES

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

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

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.

## OPEN A SEPARATE BANK ACCOUNT

All candidates must have a separate bank account for their campaign funds. Candidates must deposit all contributions into a separate bank account that is used only for their campaign. A candidate may never commingle campaign contributions 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 campaign contributions into the account. You are allowed to spend any interest earned on your campaign account, but you must

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.

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. Using the campaign account's checks or debit card (rather than cash or your personal funds) will help you to keep track of the dates, amounts and payees of your expenditures when it is time to file your campaign finance reports.

## WRITE-IN CANDIDATES

Under the Commission's Rules, write-in candidates are required to register and to file campaign finance reports with the Commission according to the same reporting schedule as candidates on the ballot.





Please check with the Office of the Secretary of State regarding the requirements for write-in candidates.

#### REPLACEMENT CANDIDATES

Under the Commission's Rules, replacement candidates are required to register and to file campaign finance reports with the Commission according to the same reporting schedule as all other candidates.

#### 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) & (4); 1016; 1016-A 1017(2) & (3-A), (10); 1020-A(6), (10)
Authorizing One Campaign Committee	21-A M.R.S.A. § 1013-A(1)(B)
Exploratory Activities	21-A M.R.S.A. § 1015-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)
Code of Fair Campaign Practices	21-A M.R.S.A. §§ 1101 <i>et seq.</i>
Commingleing of Campaign and Personal Funds	21-A M.R.S.A. § 1016(1)
Write-In Candidates	Rules, Chapter 1, Section 1(5)



## CHAPTER 2

### Contributions: Cash, In-Kind and Loans

#### 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 . . .”* (21-A M.R.S.A. § 1012(2), See Appendix)

For further explanation of what is a contribution, please refer to 21-A M.R.S.A. § 1012(2) (see the Appendix) and Chapter 1, Section 6 of the Commission’s Rules.

#### CONTRIBUTION LIMITATIONS

For the 2014 elections, a contributor may donate up to \$1,500 to an individual who is a gubernatorial candidate in an election. The primary and general elections are considered separate elections.

**Contributors Subject to Limitations.** The limit applies to all types of contributors, including:

- individuals;
- political action committees and party committees;

- businesses, corporations, firms and partnerships; and
- other associations and organizations.

#### CONTRIBUTION LIMITS FOR 2014 ELECTIONS: GUBERNATORIAL CANDIDATES

	PRIMARY	GENERAL	TOTAL
<b>Party Candidates</b>	<b>\$1,500</b>	<b>\$1,500</b>	<b>\$3,000</b>
<b>Unenrolled Candidates</b>	<b>N/A</b>	<b>\$1,500</b>	<b>\$1,500</b>

These limits apply to the aggregate of all contributions – cash, in-kind and loans – made by a contributor. These limits do not apply to contributions made by the candidate, candidate spouse or domestic partner.

**Contributions by Candidate and Candidate’s Spouse/Domestic Partner.** The limits do not apply to contributions made by the candidate or by the candidate’s spouse or domestic partner, who may contribute an unlimited amount to the campaign.

**Corporate Contributions.** Corporations and labor unions may use their general treasury funds to contribute to candidates for state, county or local office in Maine.

**Aggregate Contribution Limit.** No individual may make contributions aggregating more than \$25,000 to all candidates for state, county and local office in any



calendar year, except for contributions to a candidate **made by the candidate or by the candidate's spouse or domestic partner.**

**Adjustments to Contribution Limit.** The Ethics Commission adjusts the contribution limits based on the consumer price index in December of each election year. The next adjustment will be made in 2014.

### LOANS ARE CONTRIBUTIONS

**Loans Subject to Contribution Limits.** Under the Election Law, non-commercial loans are considered contributions to the candidate. They are subject to the maximum amounts that a contributor may provide to a candidate per election. For gubernatorial candidates, the contribution limit is \$1,500 per election.

**Loans Not Subject to Contribution Limits.** The limitation does not apply to loans from the candidate and the candidate's spouse or partner, who may lend – or contribute – an unlimited amount to the campaign.

Loans to a candidate made by a financial institution in Maine in the ordinary course of business are not considered to be contributions and are not subject to the contribution limits.

### CONTRIBUTIONS FROM MARRIED COUPLES AND DOMESTIC PARTNERS

If you receive a contribution in the form of a check listing two spouses or domestic partners, the Commission staff recommends recording the contribution in the name of the individual(s) signing the check, regardless whether both of their names are included in the name of the bank account.

If both individuals sign the check (or if one signs the

check and the other makes a notation in the memo portion of the check), please allocate the contribution equally between both of them unless you receive something in writing indicating that the contributors prefer a different allocation.

In general, if someone signs a check to make a contribution, and the campaign wishes to allocate a portion of the contribution to a spouse, the Commission staff recommends that the campaign obtain something in writing from the "non-signing" spouse confirming that it was their intent to make part of the contribution. The written statement could be as informal as an e-mail or handwritten note.

### ATTRIBUTING A CONTRIBUTION TOWARD THE PRIMARY OR GENERAL ELECTION

**Party Candidates.** For candidates who are enrolled in a political party (Democratic, Green-Independent, or Republican), the primary and general elections are considered different elections.

Gubernatorial candidates who are on the ballot for both elections may accept \$1,500 from a contributor for the primary election and \$1,500 from the same contributor for the general election for a total of \$3,000.

**Unenrolled Candidates.** All contributions received by unenrolled (independent) candidates are counted toward a single election – the general election. Therefore, unenrolled gubernatorial candidates may accept a total of \$1,500 from each contributor.

**Collecting General Election Contributions Before the Primary Election.** A candidate may accept contributions from a single contributor for the primary and for the general election at the same time, so long as:



- the candidate designates each contribution in campaign finance reports as having been received for the primary or the general election,
- all general election contributions received before the primary election are segregated from primary election campaign funds in a separate campaign account, and
- the candidate may not borrow general election contributions to promote the candidate's nomination in the primary election.

Under the Commission's Rules, any amount contributed to a candidate after the primary election is considered to be for the general election except for candidates who lost the primary election and are retiring debts for the primary election.

#### **UNSUCCESSFUL CANDIDATES IN THE PRIMARY ELECTION: ACCEPTING CONTRIBUTIONS AFTER THE PRIMARY**

Maine Election Law allows candidates who lose the primary election to accept contributions for the purposes of paying off debts and outstanding loan balances. In this situation, contributions received after the date of the primary election are for the primary and therefore a contributor is not permitted to give more than the contribution limit of \$1,500 in the aggregate.

For example, if a contributor gives you \$1,000 before the primary, this same contributor is permitted to give you an additional \$500 after the primary—for a total of \$1,500. However if a contributor gives you \$1,500 before the primary, this contributor is not permitted to give you any additional amount after the primary.

#### **RESTRICTIONS AND PROHIBITIONS ON CONTRIBUTIONS**

***Anonymous Contributions.*** Anonymous contributions of more than \$10 may not be accepted.

***Contributions in the Name of Another.*** No person may make a contribution in the name of another person, and no candidate may knowingly accept such a contribution.

Candidates are expected to take reasonable steps to identify the original source of funds and to report the actual contributor. Misreporting the source of contributions is a serious violation of the Election Law. Candidates who knowingly accept a contribution made by one person in the name of another person may be assessed a penalty of up to \$5,000. It is a crime to make a contribution in the name of another person or to knowingly accept a contribution made by one person in the name of another person.

The Commission staff has received questions from candidates concerning this prohibition in connection with parents contributing for their children. If the candidate has a doubt as to whether a child gave a contribution, the Commission recommends that the candidate contact the contributor to confirm and document that the child gave the contribution and that it was not given by the child's parents.

***Contributions from Lobbyists During the Legislative Session.*** The Governor, a member of the Legislature, a constitutional officer, or the staff or agent of the Governor, a member of the Legislature or a constitutional officer may not solicit or accept a contribution from a lobbyist, lobbyist associate or client during any period of time in which the Legislature is in session (even with their personal funds) except for contributions to a Legislator's campaign for federal



office.

***Contributions from Corporations and Affiliated Entities.*** In certain circumstances, the Election Law considers businesses, for profit and non-profit corporations, and other organizations to be a single contributor if they have common owners or officers. If the entities are considered a single contributor, the combined total of their contributions to a candidate may not exceed the contribution limit for that office. Candidates are expected to take reasonable actions to avoid accepting over-the-limit contributions from affiliated entities.

A sole proprietorship and its owner are considered to be a single entity. In addition, two or more entities are considered a single contributor if they share the majority of the members of their boards of directors; share two or more officers; are owned or controlled by the same majority shareholder(s); are in a parent-subsidary relationship; or are limited liability companies owned or controlled by the same member or member majority.

If a for profit or non-profit corporation controls or funds a PAC, the PAC and the corporation are considered to

When a campaign accepts contributions from multiple businesses/nonprofits which are considered to be a single contributor under the Election Law, over-the-limit contributions may result. If your campaign has accepted contributions from affiliated entities, please check 21-A M.R.S.A. § 1015-A and call the Commission staff if you have any questions.

be the same contributor.

***Earmarked Contributions.*** If a person gives an amount of money to an intermediary such as a political action committee, a party committee or another

candidate and directs that the money be contributed to a specific candidate, the original source of the funds is considered the contributor to the candidate.

The intermediary is required to notify the candidate of the original source of the funds, so that the candidate may report the original source as the contributor of the earmarked funds. Examples of earmarked contributions would include:

- an employer giving \$250 to an employee and directing the employee to contribute the money to a candidate;
- an organization giving \$300 to a party committee, and asking the party committee to donate it to a candidate; or
- a parent giving \$100 to a teenage child and directing the child to donate the money to a candidate.

#### **IN-KIND CONTRIBUTIONS**

“In-kind contributions” are goods and services that are provided to a campaign at no cost or at a cost that is less than the usual and customary charge. They are subject to the same contribution limit as cash contributions (\$1,500 per election). 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 to give to the candidate buys plywood and paint and is not reimbursed by the campaign;
- 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; and
- a commercial vendor extends credit to the campaign under terms that are not substantially similar to the terms extended in the ordinary course of business to nonpolitical customers. Also, please see page 42-43 for an explanation of how unpaid debts and obligations may be considered in-kind contributions if they remain unpaid after an election.

Candidates are required to report in-kind contributions (see Chapter 7). The campaign must report a description and the fair market value (FMV) of the goods and services received. FMV is what the goods or services would have cost the campaign if it had paid cash for the donated goods or services. A discount on goods or services is an in-kind contribution and thus is reportable. The discount is the amount of the in-kind contribution.

#### OTHER IN-KIND CONTRIBUTIONS

***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 the volunteer provides their services with the knowledge of their employer during their paid work-time, then the employer has made a contribution to your campaign.

***Appearing in Advertising Sponsored by Third-Parties.*** In 2008, the Commission considered an advertisement 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.

If the advertisement qualifies as a contribution, you would be required to report receiving the value of the contribution. It would count toward the contribution limit. Please feel free to contact the Commission staff to receive advice on what factors the Commission might consider in determining whether the advertisement would be a contribution.

***Coordinating Expenditures with Others.*** Individuals (including friends and family) and organizations have a First Amendment right to spend money to promote or oppose 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 and the contribution limits apply (\$1,500 per election per contributor for gubernatorial candidates).

Chapter 4 explains the differences between an independent expenditure and a coordinated communication (or expenditure). This is one area of Election Law that can be confusing and thus can lead to violations with significant penalties. The Commission recommends that campaign staff take this issue seriously and call the Commission staff with any questions.

You are allowed to ask others not to spend money in support of your candidacy. Even if another person or organization were to spend money subsequently, merely making a request not to make an independent expenditure would not by itself constitute cooperation.

One exception to this law is that candidates may coordinate with a state or local party committee on a candidate party listing—sometimes referred to as a “slate card.” Please see the next section for an explanation of a “slate card.”

#### **GOODS AND SERVICES THAT ARE NOT CONTRIBUTIONS**

**“Slate Card” or Candidate Party Listing.** Candidates may coordinate with a state or local party committee on a candidate party listing—sometimes

referred to as a “slate card.” Slate cards are excluded from the definition of contribution but must adhere to specific requirements in order to meet this exemption.

One requirement is that the treatment of all candidates must be substantially similar. A slate card may include the following content:

- the identification of each candidate (photos may be used);
- the offices sought;
- the office currently held by the candidates;
- brief statements about the party’s or candidates’ positions, candidate biographies and accomplishments, campaign slogans, encouragement to vote for the candidate;
- campaign or party logos; and
- information about voting, such as voting hours and polling stations.

If a slate card includes content that is not specifically listed in the statute, the expenditure may not qualify for the exception. A complete list of the requirements can be found in 21-A M.R.S.A. § 1012(5). Please contact the Commission if you have questions on whether a communication meets the requirements.

Please note that this exception applies to state and local party committees only, and does not apply to caucus committees or other PACs.

**Assistance from State Party Committees.** Candidates may receive some assistance from paid employees of a state party committee without that help constituting an in-kind contribution. State party





committees may compensate employees to:

- provide up to 40 hours of assistance to a candidate in each election (primary or general);
- 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.

**Other Exempt Goods and Services.** Certain goods and services are excluded from the legal definition of “contribution.” The campaign’s receipt of these items 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 Guide.

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;
- state, county, and local party committees may pay for a campaign event at which three or more candidates are present;
- an individual may volunteer his services to a campaign at no charge

(including professional services such as legal advice, assistance with databases, internet activities, and web and graphic design) as long as the individual is not being compensated by an employer or anyone else for providing the services; and

- each volunteer may pay up to \$250 cumulatively in each election (primary and general) toward the cost of food, beverages, and invitations in the course of volunteering for candidate-related activities (e.g., when volunteering at a house party or a campaign event, a campaign supporter may buy up to \$250 in food).

## CONSIDERATIONS WHEN COLLECTING CONTRIBUTIONS

### **Occupation and Employer Information Required.**

Candidates are required to report the occupation and employer of contributors who give more than \$50 to the candidate during a report period. Under the Commission’s Rules, the campaign must make a reasonable effort to obtain this information from the contributor.

The Commission staff recommends that the campaign ask the contributor for the information *at the time the contribution is solicited*. If a contributor is unwilling to provide the information upon request, please report “information requested” in the occupation and employer fields for that contributor in the campaign finance report.

### **Obtain and Keep Records of Contributions.**

Treasurers and candidates are also required to keep a detailed and exact account of the name and address of





every person making a contribution of more than \$10, and the date and amount of the contribution.

***Contributions from Minors (Persons Younger than 18 Years Old)*** When a campaign receives a contribution from a minor and the campaign has doubts as to the source of funds, the Commission staff recommends that the campaign confirm and document that the minor gave the contribution and that the contribution was not given from the minor's parents. 21-A M.R.S.A. §§ 1004(3) and 1004-A(3) prohibits contributions made to a candidate in the "name of another" and a penalty of up to \$5,000 may be assessed on the contributor and on the campaign for this violation.

In documenting the source of funds, the campaign may want to confirm that:

- the decision to contribute was made knowingly and voluntarily by the minor;
- the funds, goods, or services contributed are owned or controlled by the minor; and
- the funds were not given to the minor for the purpose of making the contribution.

## **CONTRIBUTIONS FOR RECOUNTS**

If you are in a recount of an election, you may accept unlimited funds and services from party committees and caucus campaign committees. You may also receive unlimited donations of in-kind services from attorneys, consultants, and their firms who are not

being reimbursed for their services. All other contributors are restricted to the contribution limits found on page 5.

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.

## **COMMISSION REVIEW OF CONTRIBUTIONS**

The Commission reviews contributions disclosed by candidates in their campaign finance reports, and sometimes requests additional information when reports are incomplete or a compliance question is raised. In most cases, the information provided by the campaign resolves the issue at the level of the Commission staff, and no further action is necessary. Your prompt responses are appreciated as the Commission staff encourages compliance with reporting requirements and the contribution limitations.



	LEGAL REFERENCES
Definition of Contribution	21-A M.R.S.A. § 1012(2)
Contribution Limits	21-A M.R.S.A. § 1015(1) - (3)
Contributions in the Name of Another	21-A M.R.S.A. §§ 1004(3); 1004-A(3)
Contributions from Lobbyists	1 M.R.S.A. § 1015(3); Rules, Chapter 1, Section 12
Contributions from Affiliated Corporations and Organizations	21-A M.R.S.A. § 1015-A
Earmarked Contributions	21-A M.R.S.A. § 1015(4)
Loans	Rules, Chapter 1, Section 6(2)
Occupation and Employer of Contributor	21-A M.R.S.A. §§ 1016(3)(B); 1017(5)
In-Kind Contributions	Rules, Chapter 1, Section 6(4) - (5)
Assistance by Paid Employees	21-A M.R.S.A. §§ 1012(2)(A)(4), (2)(B)(7)(a)
Exempt Goods and Services	21-A M.R.S.A. § 1012(2)(B)
Coordinating Expenditures with Third-Parties	21-A M.R.S.A. § 1015(5)
Recounts of Elections	21-A M.R.S.A. § 1018-B





## CHAPTER 3

### Expenditures, Debts and Reimbursements

#### DEFINITION OF EXPENDITURE

The term expenditure means:

*“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 made in accordance with applicable banking laws and regulations and in the ordinary course of business is not included.” (21-A M.R.S.A. § 1012(3)(A)(1))*

Certain items, activities, and communications are exempt from the definition of expenditure. These exempted items are listed in 21-A M.R.S.A. § 1012(3)(B). (See the Appendix for the definition of “expenditure” and exemptions.)

#### UNPAID DEBTS AND OBLIGATIONS

The legal definition of expenditure includes making an obligation to a vendor for goods or services ordered. Chapter 1, Section 7(3) of the Commission's Rules specifies certain actions which constitute making an expenditure — regardless whether a payment has been made for the good or service. Please see chart above right.

Chapter 7 of this Guide explains how to report expenditures that *have been paid* and *unpaid* obligations.

UNPAID OBLIGATIONS WHICH CONSTITUTE AN EXPENDITURE
The placement of an order for goods or services
A promise or agreement (even an implied one) that payment will be made
The signing of a contract for a good or service
The delivery of a good or service even if payment has not been made

#### CONSIDERATIONS WHEN MAKING EXPENDITURES

##### **Obtain and Keep Records of Expenditures.**

Candidates and treasurers are required to obtain and keep receipts or invoices for every expenditure of \$50 or more. Please remember this requirement when paying a vendor and keep the receipt in the campaign records.

**Making Reimbursements.** The Commission recommends paying for all purchases directly from the campaign bank account using a debit card or by writing checks. This will assist the campaign in keeping track of the dates, payees, and amounts of its expenditures. Nevertheless, the campaign is allowed to purchase



campaign goods and services with the personal funds or credit card of the candidate or a supporter and to reimburse the purchaser.

When a reimbursement is made to a person (including the candidate), the campaign may want to institute a procedure which requires the person seeking the reimbursement to provide a copy of the receipt or invoice as part of the reimbursement request. This assures that the campaign is in compliance with record-keeping requirements.

#### 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 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.

#### EXPENDITURES CONSIDERED "CONTRIBUTIONS"

**Receiving a Vendor Discount.** If the campaign receives goods or services from a vendor at a cost that

is less than the usual and customary charge, the campaign has received an in-kind contribution. The value of the contribution is the amount of the discount and it must be reported as an in-kind contribution in a campaign finance report. The contribution is subject to the same contribution limit as cash contributions and the limit applies to the total of all in-kind and cash contributions from the contributor for the election.

**Receiving Credit from a Vendor.** When a commercial vendor extends credit to your campaign, please inquire whether the terms the vendor offered your campaign are substantially similar to extensions of credit made to nonpolitical customers that are of similar risk, and whether the vendor extended the credit in the ordinary course of business.

If these conditions are not met, the campaign's receipt of goods and services without payment would constitute an in-kind contribution to your campaign under the Commission's Rules.

When commercial vendors extend credit to your campaign, please be aware that the receipt of the goods or services without payment could be considered an in-kind contribution under the Commission's Rules.

All forms of contributions are subject to the contribution limit per election (see chart on page 5). Receiving an over-the-limit contribution may subject you or the contributor to a financial penalty of up to the amount by which the contribution limit has been exceeded.

If your campaign is considering having credit extended by commercial vendors, you may want to plan your fundraising so that you can pay these unpaid debts soon after the election.



Under the Commission's Rules, the Commission shall presume any debt that remains unpaid more than six months after the election in which the debt was incurred to be a contribution to the candidate, unless the candidate provides clear and convincing evidence to the Commission that the candidate intends to raise funds or take other measures to satisfy the debt. If the debt remains unpaid for four years, the Commission is required by its rules to determine whether the debt is a contribution.

#### COMPLIANCE REVIEWS

The Commission conducts compliance reviews of all expenditures disclosed by candidates in campaign finance reports, and sometimes requests additional information from candidates and treasurers to verify that reporting is complete and accurate (see Chapter 9).

#### LEGAL REFERENCES

Definition of Expenditure	21-A M.R.S.A. § 1012(3)
Unpaid Debts and Obligations	21-A M.R.S.A. §§ 1012(3)(A)(2), (4) Rules, Chapter 1, Section 7(3)
Sharing Expenditures with Other Candidates	Rules, Chapter 1, Section 7(11)
Purchasing Discounted Goods or Services	Rules, Chapter 1, Section 6(4)
Receiving Credit from a Vendor	Rules, Chapter 1, Section 6(6)





## CHAPTER 4

# Understanding Coordinated Expenditures and Independent Expenditures

### WHY IS THIS IMPORTANT?

Independent spending for TV and radio ads, mailers, newspaper ads, and phone calls has increased dramatically over the past four years. In Maine, individuals and organizations may spend an unlimited amount of money on communications to support a candidate (or to oppose the candidate's opponent) as long as the spender has not coordinated or cooperated with the candidate or the candidate's agents in making the expenditure. If there is any coordination or cooperation, the expenditure is considered to be an in-kind contribution to the candidate and subject to the contribution limits, and must be reported by the candidate.

In this chapter, the term "candidate" includes the candidate's political committee, which is the group of individuals who are conducting activities to promote the nomination or election of the candidate with the knowledge and consent of the candidate. The term "candidate" also includes agents of the candidate or candidate's political committee (see "Who is an agent?" on this page).

This can have a financial impact on a candidate's campaign. If the expenditure was coordinated, the candidate may have to reimburse the spender for the expenditure. Moreover, the candidate may be fined for accepting an over-the-limit contribution.

Candidates and their committees should make sure that campaign staff and agents of the campaign understand what is "independent" and that their role in the campaign may make it impossible for them to be considered independent of the candidate and campaign.

### COORDINATED EXPENDITURES

In general, any expenditure to support a candidate or oppose the candidate's opponent is "coordinated" if it is made in cooperation, consultation or concert with, or at the request or suggestion of a candidate, a candidate's political committee or their agents.

**Who is an "Agent?"** To be considered an "agent" of a candidate or candidate's political committee, a person must have authorization, either express or implied, to engage in activities on behalf of the candidate and/or candidate's committee. Some factors that may also be considered in determining whether someone is an agent of the candidate or committee are the person's role in the campaign and the campaign activities performed by the person. In order to avoid situations involving coordinated expenditures, the Commission staff recommends that candidates urge their treasurer, deputy treasurer, campaign committee chair or officers, campaign manager, and other individuals who hold positions of responsibility in the campaign to avoid cooperating with other people or groups





who are spending to promote the candidate, unless those payments are one of the exceptions to “expenditure” established by the Legislature (e.g., slate cards, membership communications, purchases of up to \$250 in food for a house party).

***What Does “In Cooperation, Consultation or in Concert With” Mean?*** The Commission’s Rules state that that “in cooperation, consultation or in concert with” includes, but is not limited to:

- Discussion between the candidate and the creator, producer or distributor of a communication, or the person paying for that communication, regarding the content, timing, location, mode, intended audience, volume of distribution, or frequency of placement of that communication, and
- Participation by the candidate in making any decision regarding the content, timing, location, mode, intended audience, volume of distribution, or frequency of placement of the communication.

An expenditure is presumed to be made in cooperation, consultation or concert with, or at the request or suggestion of a candidate, when:

- the expenditure is made in cooperation, consultation or in concert with any person who, during the twelve months preceding the expenditure, has been the candidate’s treasurer or an officer of the candidate’s authorized committee, has had a paid or unpaid position managing the candidate’s campaign, or has received any campaign-related compensation or reimbursement from the candidate;

- the candidate has directly shared the candidate’s campaign plans, activities or needs with the spender for the purpose of facilitating a payment by the spender on a communication to voters to promote or support the candidate; or
- the communication replicates, reproduces, republishes or disseminates, in whole or in substantial part, a communication designed, produced, paid for or distributed by the candidate.

An expenditure will not be presumed to have been made in cooperation, consultation or concert with, or at the candidate’s request or suggestion solely because:

- the spender has obtained a photograph, biography, position paper, press release, logo, or similar material about the candidate from a publicly available source;
- the person making the expenditure has previously provided advice to the candidate on suggested communication strategies, budgets, issues of public policy, or other campaign plans or activities;
- the person makes an expenditure in response to a general, non-specific request for support by a candidate, provided that there is no discussion, cooperation or consultation with the candidate prior to the expenditure relating to the details of the expenditure;
- the spender has also made a contribution to the candidate, or has discussed with the candidate his or her campaign plans or activities as part of the candidate’s solicitation



for a donation;

- the expenditure is made by a for-profit or non-profit organization for invitations, announcements, food and beverages and similar costs associated with an event to which the candidate has been invited by the organization to make an appearance before the organization's members, employees, shareholders and the families thereof; or
- the expenditure is made by an individual who spends \$100 or less for costs associated with a sign that is lettered or printed individually by hand and that reproduces or replicates a candidate's campaign-related design or graphic.

### INDEPENDENT EXPENDITURES

The term "independent expenditure" applies only to certain expenditures for communications made to influence how someone votes for a candidate. Independent expenditures are payments or obligations made by individuals and organizations, acting independently of candidate campaigns, for communications that *expressly advocate* the election or defeat of a candidate. Communications include but are not limited to print media and online advertisements, radio and television ads, live calls and robocalls, direct mail and e-mail communications, and campaign signs, palmcards and other campaign literature.

In addition, a communication that names or depicts a "clearly identified" candidate—*without* any expressed advocacy—may be an "independent expenditure" if the communication is made within a certain period before

an election called the "presumption period."

Other communications such as business advertisements that name or depict a clearly identified candidate during the presumption period may not be considered a communication made to influence the election. For these communications a signed written statement rebutting the presumption is filed with the Commission within 48 hours of making the expenditure. The

PRESUMPTION PERIODS: 2014 ELECTIONS	
Primary	21 days for the primary election:
	May 20—June 10
General	35 days for the general election:
	October 1—November 4

Commission considers each rebuttal statement on a case-by-case basis.

Some communications are exempt from the presumption, such as slate cards and membership communications.

### CAN A CANDIDATE FUNDRAISE FOR A POLITICAL ACTION COMMITTEE OR POLITICAL PARTY COMMITTEE?

While a candidate is not prohibited from fundraising for a political action committee (PAC) or a political party committee, the candidate should be aware of certain risks in doing so. If the PAC or party committee is going to spend money to promote the candidate, the candidate may wish to consider whether the assistance with fundraising will create the public perception or lead to the conclusion that the candidate cooperated with the PAC or party committee's expenditures to promote the candidate. For example, if a PAC's activities for the calendar year are primarily to promote or support the nomi-



nation or election of the candidate, the contributions solicited by the candidate are considered contributions to the candidate. Candidates are encouraged to contact the Commission staff for guidance if they have questions about fundraising for PACs or party committees that will be actively supporting or opposing candidates in the 2014 elections.

#### LEGAL REFERENCES

Political Committees and Intermediaries	21-A M.R.S.A. § 1015(4)
Coordinating Expenditures with Third-Parties	21-A M.R.S.A. § 1015(5)
Publication or Distribution of Political Statements	21-A M.R.S.A. § 1014(2)(2-A)
Reports of Independent Expenditures	21-A M.R.S.A. § 1019-B(1-5); Commission Rules, Chapter 1, Section 10
Contributions and Other Receipts	Commission Rules, Chapter 1, Section 6, Sub-section 9
Expressly Advocate and Clearly Identified	Commission Rules, Chapter 1, Section (10), Sub-section 2
Rebuttable Presumption	Commission Rules, Chapter 1, Section 10, Sub-section 5
Membership Communications	21-A M.R.S.A. § 1019-A



## CHAPTER 5

# Campaign Communications and Disclosure Statements

### DISCLOSURE STATEMENTS ON CAMPAIGN COMMUNICATIONS

Whenever a candidate, or the candidate's 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.

A communication *financed by the candidate or the candidate's committee* is not required to include the address of the person who made or financed the communication in the disclosure statement. If anyone other than the candidate or the candidate's committee financed the communication, the disclosure statement must include the address of the person, except that if the communication is broadcast *by radio* only the city and state of the address is required (see next page).

In addition, a disclosure statement is required for 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, including election day, or in the last 35 days before the general election, including election day, even if the communication does not expressly advocate for or against a candidate.

**What does “Expressly Advocate” mean?** The term “expressly advocate” is defined in Chapter 1, Section 10(2)(B) of the Commission rules. The definition includes phrases such as “Jones for House of Representatives” or “Vote for the Governor,” and other words which in context can have no reasonable meaning other than to urge the election or defeat of one or more clearly identified candidates.

The determination of whether the communication contains express advocacy is based on the entire content of the communication, and whether the communication has any reasonable meaning other than to urge the election or defeat of a candidate.

**What does “Clearly Identified” mean?** The term “clearly identified” is defined in 21-A M.R.S.A. § 1012 (1). A communication clearly identifies a candidate when the communication includes the name of the candidate, a photograph or drawing of the candidate, or identification of a candidate by an unambiguous reference.



### ***Disclosure Statements on Radio Advertisements***

The disclosure statement on radio advertisements does not have to include the *street address* of the person who paid for the communication. But it must include the name of the town/city and state of that person.

***Examples of Disclosure Statements*** The following are examples of suitable disclosure statements for political communications based on the person who made the expenditure for the communication.

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

<p><b>SMITH</b></p> <hr/> <p><b>For Governor</b></p>
<p>Paid for and authorized by Jane Smith</p>

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

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

<p><b>SMITH</b></p> <hr/> <p><b>For Governor</b></p>
<p>Authorized by the Candidate and Paid for by Ruth Clark, Treasurer</p>

- 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 Jane Smith

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

<p><b>SMITH</b></p> <hr/> <p><b>For Governor</b></p>
<p>Authorized by the Candidate and Paid for by the Committee to Elect Jane Smith</p>

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

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

<p><b>SMITH</b></p> <hr/> <p><b>For Governor</b></p>
<p>Authorized by the Candidate Jane Smith and Paid for by Sam White, 5 Oak Street, Pinetree City</p>

- Authorized by Candidate Jane 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

**Signs That Are Lettered or Printed by Hand.** A sign is not required to have a disclosure statement if:

- it is lettered or printed individually by hand—including hand silk screened and stenciled signs;
- it has been paid for and authorized by the candidate (or candidate's committee/agent); and
- it clearly identifies the name of the candidate.

**Small Items.** Certain items are exempt from the disclosure requirement because of their small size:

Clothing	Badges	Badge Holders
Balloons	Noisemakers	Campaign Buttons
Coasters	Glasses	Plastic Tableware
Envelopes	Erasers	Pencils/Pens
Combs	Nail Files	Emery Boards
Ashtrays	Matchbooks	Swizzle Sticks
Paper/Plastic Cups	Tickets to Fundraisers	
Letter Openers	12-inch or Shorter Rulers	

A disclosure statement is also not required on advertisements in electronic media where including the disclosure statement would be impractical due to size or character limitations.

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.

## 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 paid for by the candidate that use the candidate's voice and are made in support of the candidate.

## REQUIREMENTS FOR BROADCASTERS (TV AND RADIO) AND NEWSPAPERS

Broadcasting stations, cable television systems, 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.

Under federal regulations (47 CFR § 73.1212(a)(2)(ii) and 47 CFR § 76.1615(a)), in the case of any television political advertisement concerning candidates for public office, the sponsor shall be identified with letters equal to or greater than four percent of the vertical picture height that air for not less than four seconds. This requirement applies to broadcast and cablecast television ads for all candidates, not just federal candidates.

If you have any questions concerning these requirements, you may wish to consult with radio and television station personnel or other consultants who are producing your advertisements.



## 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. In addition, some municipalities and towns have adopted local sign ordinances regulating the timing and placement of political signs. Campaigns should check with local officials before placing signs.

## 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.

## ENFORCEMENT

A person who violates the disclosure requirement may be subject to a civil penalty of up to \$5,000. If the disclosure statement on a yard sign is lacking or inadequate, the maximum penalty is \$200. In determining the amount of a penalty, the Commission will consider factors such as how widely the communication was disseminated, whether the omission was intentional, and whether the communication conceals or misrepresents the identity of the person who paid for the communication. If the person who paid for the communication or is responsible for the violation corrects it within 10 days of being notified by the Commission, the Commission may decide to assess no civil penalty.

### 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 6

# Campaign Records and Record-Keeping

### LEGAL REQUIREMENTS TO KEEP CERTAIN RECORDS

The Election Law requires every candidate and treasurer to keep a detailed and exact account of all contributions and expenditures over \$50 as well as a receipt or invoice for expenditures made or authorized by the candidate. The campaign is not required to submit records to the Commission unless requested.

The candidate and the treasurer are required to keep campaign records for two years after filing of the final campaign finance report required for the election cycle.

Candidates in the general election who have closed out their campaign with the filing of the 42-Day Post General Report, must keep campaign records until December 2016. A campaign is closed out when the cash balance and outstanding debt and loan balances are all \$100 or less.

Remember that if you are filing post-election Semiannual Reports, you must keep records beyond December 2016.

### RECORDS FOR CONTRIBUTIONS

**Contributions of more than \$10 up to \$50.** For contributions over \$10 but not more than \$50, the campaign is required to keep a record of:

- the date of the contribution,
- the amount of the contribution, and
- the contributor's name and address.

All contributions from contributors giving \$50 or less in a report period may be totaled into a lump sum for reporting purposes as long as no contributor has given more than \$50 in the aggregate for the entire campaign.

**Contributions of more than \$50.** For individuals who have given more than \$50 during a report period (e.g., \$40 is given in the beginning of the report period and then another \$40 is given in the last week of the report period), the campaign is required to keep a record of the contributor's occupation and employer in addition to their name and address. The Commission staff recommends that the campaign ask the contributor for their occupation and employer information at the time the contribution is solicited.

Candidates are required to report this information. If a contributor is unwilling to provide the information to the campaign, report "information requested" in the occupation and employer fields in the campaign finance report (see page 35).

### RECORDS FOR EXPENDITURES

For expenditures over \$50, the Election Law requires that candidates and treasurers keep a receipted bill (a bill or invoice marked paid) stating the particular goods or services purchased.

Also, the candidate and treasurer are required to keep a detailed and exact account of all expenditures made





by or on behalf of the candidate or campaign committee, including the name of each payee, and the date and amount of the expenditure.

#### **DOCUMENTING PURCHASES MADE WITH FUNDS OF THE CANDIDATE OR AN INTERMEDIARY**

The Commission staff encourages candidates to make all payments 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 requirement applies for expenditures of more than \$50. The campaign must obtain from the candidate or intermediary an original invoice or receipt from the vendor.

##### **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 a receipted bill or invoice from the vendor.

#### **DOCUMENTING PURCHASES MADE BY A CONSULTANT**

If your campaign pays a consultant for goods or services worth more than \$50, it is required to obtain an invoice from the consultant.

In addition, if the consultant purchases goods or services from a sub-vendor or third party worth more than \$50, your campaign is required to obtain an

invoice or receipt for every purchase made by the consultant from a sub-vendor.

“The candidate or treasurer shall obtain and keep a receipted bill, stating the particulars, for every expenditure in excess of \$50 made by or on behalf of a political committee or a candidate...” (21-A M.R.S.A. § 1016(4)).

An easy way to meet this record requirement is to ask the consultant to provide copies of sub-vendor invoices at the time that the consultant is invoicing the campaign. An example of a consultant invoice, when a sub-vendor was used, is shown on the next page. When the records for the campaign include copies of sub-vendor invoices, the campaign is then able to comply with the reporting requirement for goods and services received by the campaign from sub-vendors (see pages 29-46).

#### **DOCUMENTING PURCHASES MADE BY A MEDIA BUYER**

When a media buyer is working on behalf of the campaign and purchases advertising time from media outlets (e.g., TV and radio stations) worth more than \$50, the candidate and treasurer are required to obtain and keep an invoice or receipt from the media outlets which provided the services. An invoice from the buyer is required for the goods and services provided by the buyer directly—such as commissions and production costs. These requirements are the same as for consultants and were discussed in the previous section.

When your campaign hires a buyer, you should explain the sub-vendor documentation standards to the buyer. You may want to require that copies of invoices from the media outlets be submitted to the



EXAMPLE OF INVOICE FOR CONSULTING SERVICES			
<b>ELECTION Associates</b>		456 State Street, Augusta, Maine 04330	
<b>BILL TO:</b>		Invoice Date: 09/18/2014	
Honorable Ruth Baker c/o Committee To Elect Baker 123 Capital Street Augusta, ME 04330			
Service/Product	Rate	Hours	Total
Design of Palm Card	\$100 per hr	3.0	\$300
Printing of card: Graphics Center Color Printing <b>SEE ATTACHED COPY OF INVOICE</b>	50,000 cards		\$5,000
<b>Total Due 30 Days from Date of Invoice</b>			<b>\$5,300</b>
Authorized Signature: Elizabeth C. Brown		Print Name: Elizabeth Brown Title: Owner	

What makes this invoice meet the record documentation standards?

Services provided by the consultant are described.

Goods which the consultant purchased for the campaign are listed separately with invoice attached.

campaign along with the buyer's invoice. This will provide the campaign with the documentation needed and will ensure that the reporting is in compliance with requirements.

provided to the campaign, and

- labor records and tax forms for campaign staff.

## OTHER CAMPAIGN RECORDS

Other documents that are typically kept as records of the campaign include:

- campaign bank account statements and cancelled checks,
- signed and dated contracts for services

## REQUESTS FOR DOCUMENTS BY THE COMMISSION

As part of its compliance reviews, the Commission staff sometimes requests documentation for contributions and expenditures (e.g., a vendor invoice to verify the goods and services purchased).

### LEGAL REFERENCES

Requirement to Keep Records	21-A M.R.S.A. §§ 1013-A(4), 1016, & 1016-A
Required Records for Contributions	21-A M.R.S.A. §§ 1016 & 1016-A
Records of Expenditures Made on Behalf of the Candidate	21-A M.R.S.A. §§ 1016(4) & 1016-A; Rules Chapter 1, Section 7(1)





## CHAPTER 7

# Campaign Finance Reporting

### LEGAL REQUIREMENT

All candidates for Governor, the Legislature, and 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 except those county candidates who have been granted an exemption from filing because their campaigns will have no financial activity.

Most reports must be filed by 11:59 p.m. on the filing deadline except 24-Hour Reports which are filed within twenty-four hours of receiving a contribution of \$1,000 or more or making a single expenditure of \$1,000 or more (see page 32).

While the Commission mails written reminders to candidates and treasurers, it is a joint responsibility of the candidate and treasurer to remember and to comply with the filing deadlines.

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

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.

### TIME PERIOD FOR EACH REPORT

Each campaign finance report covers a specific period of time. You need to report all contributions received and expenditures made 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.

### REQUIRED REPORTS

***Semiannual Report for Candidates with Financial Activity in 2013.*** If a candidate raised or spent more than \$1,000 *before June 30, 2013*, a 2013 July Semiannual Report must be filed no later than July 15, 2013 covering all financial activity during 2013. If the 2013 July report is filed, the 2014 January Semiannual is also required.

If a candidate did not raise or spend more than \$1,000 on or before June 30, 2013 but reaches the threshold amount on or before December 31, 2013, only the 2014 January Semiannual Report is required. The candidate or treasurer must file a 2014 January Semiannual Report no later than January 15, 2014 covering all financial activity during 2013.



### **Required Pre- and Post-Election Reports for All Candidates.**

In addition to Semiannual Reports, candidates are required to file campaign finance reports according to the schedule found in the table on the next page. Each report covers a specific time period and includes all activity within that period.

**24-Hour Reports.** The 24-hour reporting requirement applies during the 13-day period prior to an election (see the calendar on page 33). This 13-day period includes two weekends. The report must be filed within 24 hours when a candidate:

- receives a single contribution (including a loan) of \$1,000 or more from, or
- makes a single expenditure or incurs an unpaid obligation of \$1,000 or more.

Overhead costs, such as rent, taxes, utilities and some salary payments are not required to be reported. It is important to remember that the term “expenditure” includes making an obligation to a vendor for goods or

### **UNPAID OBLIGATIONS WHICH ARE REPORTABLE IN 24-HOUR REPORTS**

The placement of an order for goods and services
A promise or agreement (even an implied one) that payment will be made
The signing of a contract for a good or service
The delivery of a good or service even if payment has not been made

services ordered. If you incur an obligation with a vendor during the 24-hour reporting period, you must report the obligation within 24 hours — regardless when you pay the vendor. Please see the table on this page for a list of actions which constitute making an obligation.

Any contributions, expenditures, or obligations disclosed in a 24-Hour Report will be automatically entered into the next campaign finance report.

### **2014 PRE-ELECTION SEMIANNUAL REPORTS FOR GUBERNATORIAL CANDIDATES IN THE 2014 ELECTIONS**

**What events determine when pre-election semiannual reports are required?** The campaign’s fundraising and spending. Once the threshold amount of \$1,000 or more has been raised or spent in 2013, a semiannual report is required.

**What determines if both the July 2013 and January 2014 reports are required?** The date on which the threshold amount is reached. If the threshold amount (\$1,000 or more) is reached on or before June 30, 2013, both reports are required. If the threshold amount is reached any time from July 1 to December 31, 2013, only the January 2014 report is required.

**If a campaign does not reach the threshold amount in calendar year 2013, what is the first report filed for the 2014 elections?** The 42-Day Pre-Primary Report is the first report filed by the campaign and covers the period from the beginning of the campaign through April 22, 2014.

Please note: Some candidates in the 2014 elections reached the threshold amount in 2011 and have been filing semiannual reports since January 2012. If a candidate in the 2014 elections raised or spent \$1,000 or more in calendar year 2012 and has *not filed* a 2013 January Semiannual Report, please contact the Commission for assistance.



### 2014 CAMPAIGN FINANCE FILING SCHEDULE FOR GUBERNATORIAL CANDIDATES IN THE 2014 ELECTIONS

TYPE OF REPORT	FILING DEADLINE (BY 11:59 P.M.)	REPORT PERIOD
Semiannual Reports:*		If filing first report: Beginning of campaign – June 30, 2013 <b>or</b> If filed 2013 Jan Semiannual: Jan 1, 2013 – June 30, 2013
2013 July Semiannual	July 15, 2013	
2014 Jan Semiannual	January 15, 2014	If filing first report: Beginning of campaign – Dec 31, 2013 <b>or</b> If filed 2013 July Semiannual: July 1, 2013 – Dec 31, 2013
* Gubernatorial candidates raising or spending more than \$1,000 in 2013 must file campaign finance report(s) showing all contributions received and all expenditures made during the applicable report period.		
42-Day Pre-Primary	April 29, 2014	If semiannual report(s) filed, report period is: January 1, 2014 – April 22, 2014 If semiannual report(s) NOT filed, report period is: Beginning of campaign – April 22, 2014
11-Day Pre-Primary	May 30, 2014	April 23 – May 27, 2014
42-Day Post-Primary	July 22, 2014	May 28 – July 15, 2014
42-Day Pre-General	September 23, 2014	July 16 – September 16, 2014
11-Day Pre-General	October 24, 2014	September 17 – October 21, 2014
42-Day Post-General	December 16, 2014	October 22 – December 9, 2014

### 2014 PRIMARY ELECTION 24-HOUR REPORT PERIOD MAY 28, 2014 – JUNE 9, 2014

Sun	Mon	Tue	Wed	Thu	Fri	Sat
May 25	26	27	Starts on 28	29	30	31
June 1	2	3	4	5	6	7
8	Ends on 9	10 Primary Election	11	12	13	14

### 2014 GENERAL ELECTION 24-HOUR REPORT PERIOD OCTOBER 22, 2014 – NOVEMBER 4, 2014

Sun	Mon	Tue	Wed	Thu	Fri	Sat
Oct 19	20	21	Starts on 22	23	24	25
26	27	28	29	30	31	1
2	Ends on 3	4 General Election	5	6	7	8



### **Reports Required for Candidates Who Are Defeated in the Primary.**

Candidates who are defeated in the primary must file the primary election reports, but are not required to file the three general election reports. The 42-Day Post-Primary Report due July 22, 2014 is the last campaign finance report for candidates who have cash, loan, and debt balances of \$100 or less.

#### **WHEN TO FILE 24-HOUR REPORTS:**

- Within 24 hours of the contribution or 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.

Candidates who have a cash balance, outstanding loan balance, or campaign debt of more than \$100 after the filing of the 42-Day Post-Primary Report must file semiannual reports every January 15<sup>th</sup> and July 15<sup>th</sup> until the cash balance, outstanding loans, or debts are \$100 or less. (Please see Chapter 8.)

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

#### **REPORTING CASH AND IN-KIND CONTRIBUTIONS**

**Reporting Contributions of \$50 or Less.** If a contributor has given you contributions that total \$50 or less during a report period, you are not required to itemize the contributions. You may enter those contributions as a lump sum. When filing your reports, please select

DESCRIPTION OF A CAMPAIGN FINANCE REPORT		
<b>Cover Page</b>	Contact Information & Financial Summary	Contact information for you and your treasurer is reported here. This page also contains a financial summary for the reporting period and year-to-date totals for the campaign.
<b>Schedule A</b>	Cash Contributions	Cash contributions you received during the report period are displayed on this schedule. You must itemize contributions for any contributor who has given you more than \$50 in the report period, by providing the name, address, occupation and employer of the contributor, and the date and amount of the contribution.
<b>Schedule A-1</b>	In-Kind Contributions	In-kind contributions (goods and services) you received during the report period are shown on this schedule, including a description of the goods and services and a statement of their fair market value. The fair market value is what it would have cost if you had paid cash for the donated goods or services. Some goods and services do not constitute in-kind contributions and, therefore, are not reportable. (See Chapter 2 and Appendix.)
<b>Schedule B</b>	Expenditures	Expenditures you made during the report period are displayed on this schedule, including date, amount, payee, and type of expenditure. Some expenditure types require a more detailed remark (see expenditure types on page 36).
<b>Schedule C</b>	Loans and Loan Repayments	Information about loans received, payments made, or loans forgiven is displayed on this schedule.
<b>Schedule D</b>	Unpaid Debts and Obligations	All debts or obligations that are unpaid <u>at the close of the report period</u> are shown here.





the contributor type of “Contributors Giving \$50 or Less.”

Once a contributor exceeds the \$50 contribution amount, you must itemize their contribution in the report. For example, a contributor donates \$30 at the beginning of a report and donates another \$30 two weeks later. The \$30 contribution donated two weeks later must be itemized by reporting the name, address, and if the contribution came from an individual, the occupation and employer of the individual.

***Duty to Report Contributor's Occupation and Employer.*** If a contributor — who is an individual — has given you contributions totaling more than \$50 for the report period, you are legally required to report the contributor's occupation and employer (if any).

Under the Commission's Rules, your campaign must make a reasonable effort to obtain the information from the contributor. If a contributor is unwilling to provide the information to you in response to a request, please report “information requested” in the occupation and employer fields.

***Reporting a Return of a Contribution.*** If you return a contribution, you must disclose that you returned the funds in a campaign finance report. A return of a contribution is required in certain circumstances:

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

***Reporting Fees When Using an Online Fundraising Service.***

Many candidates are now using online fundraising services offered by PayPal, Fundly, MyEvent, and other companies to collect campaign contributions over the internet. Sometimes the company charges a service fee (calculated using a percentage applied to the contribution amount) or a transaction fee (a set fee per contribution). After a contributor makes a contribution using a credit card, the fundraising service company subtracts the fees before transferring the contribution to the campaign. For example, if a contributor makes a \$100 contribution and the fees are \$3.50, the company transfers \$96.50 to the campaign. Campaigns have been confused as to the correct amount to report: Is it \$100 or \$96.50?

The answer is \$100—in almost all cases—because in the agreement for services between the company and the campaign, the campaign agreed to pay the service fees. In this example, the service fees are reported as an expenditure with the purpose code “OTH.”

However, some companies may give the contributor the option to pay the fees instead of the campaign. Usually, when the contributor agrees to pay the fees, the full contribution amount is the amount transferred to the campaign. Since the fees were agreed to and paid by the contributor, the campaign does not report them.

## REPORTING EXPENDITURES

***Legal Requirement.*** The Election Law requires that all candidates disclose every expenditure on campaign finance reports submitted to the Commission. 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. It is not acceptable to report “cash,” “reimbursement,” or the candidate’s name as the payee. The only time that the candidate’s name should appear under “Payee” is when the candidate is receiving a reimbursement for mileage. The name of a campaign worker may appear under “Payee” if the 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. (Please refer to the following sections concerning the reporting of reimbursements.)

***Types of Expenditures and Required Remarks.*** To report the purpose of the expenditure, the Commission requires candidates to indicate an “expenditure type” for each expenditure and 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 each expenditure.

***Reporting Reimbursements Made to the Candidate, Supporter, or Candidate’s Household Member.*** Many 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. Otherwise, the candidate or supporter has made an in-kind contribution to the campaign.

The payment must be disclosed in the reporting period in which the vendor received the payment. 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 immediate family or household, the relationship to the candidate must be reported (e.g., “Reimbursement to John Alden, candidate’s spouse.”)

***Reporting Mileage Reimbursements.*** When reporting a mileage reimbursement, enter the name of the person receiving the reimbursement as the payee. Volunteers may spend up to \$350 of their personal funds per election (primary and general) on campaign

EXPENDITURE TYPES			
CNS	Campaign consultants	POL	Polling and survey research
CON	Contribution to other candidate, party, committee	POS	Postage for U.S. Mail and mail box fees
EQP	Equipment (office machines, furniture, cell phones, etc.)	PRO	Other professional services
FND	Fundraising events	PRT	Print media ads only (newspapers, magazines, etc.)
FOD	Food for campaign events, volunteers	RAD	Radio ads, production costs
L I T	Print and graphics (flyers, signs, palmcards, t-shirts, etc.)	SAL	Campaign workers’ salaries and personnel costs
MHS	Mail house (all services purchased)	TRV	Travel (fuel, mileage, lodging, etc.)
OFF	Office rent, utilities, phone and internet services, supplies	TVN	TV or cable ads, production costs
OTH	Other (bank fees, entrance fees, small tools, wood, etc.	WEB	Website design, registration, hosting, maintenance, etc.
PHO	Phone banks, automated telephone calls		



travel. After that, the campaign must reimburse the volunteer for their travel expenditures or the spending will be considered an in-kind contribution to the campaign.

**Reporting Purchases Made by a Consultant or Firm.** When you hire a consultant and the consultant makes expenditures on behalf of your campaign, you are required by Election Law and Commission Rule to report those expenditures as though the campaign made them directly (see example below).

In order to meet this reporting requirement, the Commission staff recommends that when you hire a consultant, you ask the consultant to provide your campaign with a receipt, invoice or other statement from any vendor that received a payment of \$50 from your consultant.

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. An example of a consultant invoice is found on the next page.

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 Household Members.** You may pay campaign funds to members of your immediate family or to members of your household for goods or services they have provided to your campaign. If you do, you must report the family or other relationship (e.g., "spouse," "domestic partner," "brother," "roommate") in the explanation section for that expenditure. You must also report the relationship if you reimburse the family or household member for a purchase they made on behalf of the campaign.

**Reporting Unreimbursed Expenditures from the Candidate's Personal Funds.** Traditionally financed candidates who are self-funding all or part of their campaign can either enter the expenditure made for their campaign as an in-kind contribution (one entry) or enter the expenditure and enter a corresponding cash contribution in the same amount (two entries). If only the expenditure paid for by the candidate is entered, the campaign's cash balance will be incorrect.

#### EXAMPLE: REPORTING PAYMENTS MADE TO A CONSULTANT: MEDIA BUYER

##### SCHEDULE B – EXPENDITURES

DATE EXPENDITURE MADE	NAME OF EACH PAYEE	EXPENDITURE TYPE (use code)	REMARK	AMOUNT
5/10/2014	MEDIA ASSOCIATES	CNS	CONSULTING SERVICES FOR TV AD ; <b>TOTAL PAID TO MEDIA ASSOC. \$76,000</b>	10,000
5/10/2014	WMTW TV	TV	PAID BY MEDIA ASSOC <b>ON BEHALF OF THE CAMPAIGN</b>	\$36,000
5/10/2014	WABI TV	TV	PAID BY MEDIA ASSOC <b>ON BEHALF OF THE CAMPAIGN</b>	\$30,000



### EXAMPLE OF INVOICE FOR CONSULTING SERVICES

#### ELECTION Associates

456 State Street, Augusta, Maine 04332

#### BILL TO:

Honorable Ruth Baker  
c/o Committee To Elect Baker  
123 Maine Street  
Augusta, ME 04032

Invoice Date:  
09/18/2012

What makes this invoice meet the record documentation standards?

Provided services are described.

Goods which the consultant purchased for the campaign are listed separately with invoice attached.

Service/Product	Rate	Hours	Total
Design of Palm Card	\$100 per hr	3.0	\$300
Printing of card: Graphics Center Color Printing <b>SEE ATTACHED COPY OF INVOICE</b>	2,000 cards at \$0.50 each		\$1,000
<b>Total Due 30 Days from Date of Invoice</b>			<b>\$1,300</b>
Authorized Signature: <i>Elizabeth C. Brown</i>	Print Name: Elizabeth Brown Title: Owner		

#### REPORTING WITHDRAWALS OF CASH

The Commission recommends making expenditures by writing checks or using a debit card for the campaign's bank account, so that as many expenditures as possible are made through the campaign account. This will help the campaign keep track of the dates, amounts and payees of all expenditures which must be included on campaign finance reports.

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

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.

#### REPORTING INTEREST EARNED ON BANK ACCOUNTS

Candidates are permitted to earn interest on campaign funds in bank accounts and to spend that interest for campaign purposes. At the end of each report period, calculate the total amount of interest earned for the entire report period, and enter the total onto the report.

#### REPORTING LOANS

Under the Election Law, any loan that is not from a financial institution in Maine is considered a contribution to the campaign and is subject to the limitations on contributions, as explained on page 5. All loan activity—receipt of the loan, loan payments, and forgiveness—must be reported.

If you or a supporter purchased goods or services from a vendor with a personal credit card and have not been reimbursed by the campaign by the end of the report period, do not report the transaction as a loan. Rather, report the transaction as an unpaid debt, as explained in the next section.



## REPORTING UNPAID DEBTS AND OBLIGATIONS

If you have incurred debts and obligations and they remain unpaid at the end of the reporting period, you must report the name and address of the creditor, the amount and date of the transaction, and purpose of the transaction. When any payment (full or partial) is made on a debt or obligation, enter that payment amount in the e-filing system. The payment will be displayed as an expenditure on Schedule B.

## FILING REPORTS ELECTRONICALLY

**Electronic Filing Requirement.** Candidates in the 2014 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. If you expect to have \$1,500 or less in receipts as a gubernatorial candidate, please contact the Commission.

**How to File Electronically.** After you register as a candidate, the Commission staff will send you a username and password for accessing the online electronic filing system (e-filing system). The campaign may use the e-filing system in two ways. Candidates and treasurers may:

1. Directly enter each contribution and each expenditure into the e-filing system on the Commission's website; or
2. Upload the information electronically without having to enter the information transaction by transaction into the system. Please call the Commission staff if you would like more information about this option.

## FILING REPORTS ON 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 by requesting a waiver of the electronic filing requirement. To request a waiver, you need to complete and submit the Electronic Filing Waiver request form to the Commission. The Commission grants all reasonable requests for a waiver. The deadline for filing a waiver request is April 15, 2014, but the Commission will honor requests filed later.

## Contributions and Expenditures Less than \$1,500.

If you expect to have receipts no greater than \$1,500, you may file your campaign finance reports using paper forms without first requesting a waiver. Please contact the Commission for a packet of forms.

## File the Original Signed Report by the Deadline.

The Ethics Commission must receive the original campaign finance report signed by the candidate and/or 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 faxed copy. The time stamp from the Commission's fax machine will be deemed the time that the report was filed; or
- 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.



## REMINDERS BY THE COMMISSION

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

## AMENDMENTS

Candidates and treasurers are required by the Election Law to certify the completeness and accuracy of the information included in each report, and are expected to take that certification seriously. 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 by the deadline).

## 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. Please see Chapter 9 (page 45) for more information.

## LEGAL REFERENCES

Requirement to File Reports	21-A M.R.S.A. §§ 1013-A(4); 1016; 1017(3-A)
24-Hour Reporting Requirement	21-A M.R.S.A. § 1017(3-A)(C)
Required Contents of Report	21-A M.R.S.A. § 1017(5)
Reporting Payments to Members of Household/Family	21-A M.R.S.A. § 1017(5)
Required Reporting of Expenditures	21-A M.R.S.A. § 1017(5)
Forms of Commission	21-A M.R.S.A. § 1017(6)
Electronic Filing Requirement	21-A M.R.S.A. § 1017(10)
Fax and Certified Mail Submission of Reports	21-A M.R.S.A. § 1020-A(4-A)
Substantially Non-Conforming Reports	21-A M.R.S.A. § 1020-A(2)
Reporting Expenditures by Consultants	21-A M.R.S.A. 1016(4); Rules, Chapter 1, Section 7(1)
Reporting Reimbursements	Rules, Chapter 1, Section 7(5)



## CHAPTER 8

### Post-Election Responsibilities

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

#### 42-DAY POST-ELECTION CAMPAIGN FINANCE REPORT

All candidates in an election must file a report 42 days after the last election for the cycle in which they were a candidate. If the campaign's cash balance, or unpaid loan or debt balance is \$100 or less, this will be the candidate's last campaign finance report for the election cycle. For candidates in the 2014 general election, this report is due December 16, 2014.

#### RECOUNTS

If you are in a recount of an election, you may accept unlimited funds and services from party committees and caucus campaign committees. You may also receive unlimited donations of in-kind services from attorneys, consultants, and their firms who are not being reimbursed for their services. All other contribu-

tors are restricted to the contribution limits found on page 5.

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.

#### DISPOSING OF SURPLUS CASH AFTER THE ELECTION

After an election, a candidate may be left with a cash surplus in the campaign account. Surplus cash greater than \$100 may not be converted to the candidate's personal use. A candidate must dispose of surplus cash greater than \$100 within four years of the election for which the funds were received. Under 21-A M.R.S.A. § 1017(8), a candidate may dispose of surplus cash greater than \$100 only by:

- returning contributions to the candidate's contributors, as long as no contributor receives more than the amount contributed;
- making a gift to a qualified political party within Maine, including any county or municipal subdivision of such a party;
- making an unrestricted gift to the State;
- carrying forward the funds to a political committee established to promote the



same candidate for a subsequent election;

- carrying forward the surplus balance for use by the candidate for a subsequent election;
- transferring the surplus balance to one or more other registered candidates or to the political committees established to promote the election of those candidates, provided that the amount transferred does not exceed contribution limits;
- repaying any loans or retiring any other debts incurred to defray campaign expenses of the candidate;
- paying for any expense incurred in the proper performance of the office to which the candidate is elected, as long as each expenditure is itemized on expenditure reports; or
- making a gift to a charitable or educational organization that is not prohibited, for tax reasons, from receiving such a gift.

The Commission's flier on disposing of surplus cash is included in the Appendix.

#### DISPOSING OF LOANS

If your campaign has an outstanding loan balance of more than \$100 and you want to close out your campaign with the filing of the 42-Day Post-Election Report, you may:

- use campaign funds to reduce the outstanding loan balance to \$100 or less;
- or

- ask the lender to forgive the outstanding loan balance.

Once you enter the loan balance as forgiven in the Commission's e-filing system, the forgiven loan amount will appear as a cash contribution from the lender on

Candidates who have made loans to their campaigns may wish to forgive the unpaid amounts rather than be responsible for filing semiannual reports.

Schedule A of your campaign finance report. If the campaign files reports on paper, it must enter the forgiven amount as a cash contribution on Schedule A.

Remember that contribution limits apply to all contributors, except the candidate and the candidate's spouse/domestic partner. A contributor who forgives a loan cannot exceed the contribution limit when the forgiven amount is added to all cash and in-kind contributions made by that contributor for the election.

#### DISPOSING OF UNPAID DEBTS AND OBLIGATIONS

If your campaign has an unpaid debt of more than \$100 and you want to close out your campaign with the filing of the 42-Day Post-Election Report, you may:

- use campaign funds to pay the debt. You are permitted to raise funds after the election for the purpose of paying off debts;
- use your personal funds to pay the person to whom the debt is owed ("the creditor"). Please report your payment of personal funds to the creditor as an in-kind contribution from you; or
- ask the creditor to forgive the unpaid





debt or obligation. If the campaign's debt is owed to you, or your spouse or domestic partner, an unlimited amount may be forgiven. If the debt is owed to anyone else (e.g., a vendor, or a campaign supporter who has not been reimbursed for a purchase), the maximum the creditor may forgive is \$1,500 per election for gubernatorial candidates. If the creditor forgives the unpaid debt, please report the receipt of the goods or services without payment as an in-kind contribution from the creditor.

Under the Commission's Rules, the Commission shall presume that any debt that remains unpaid more than six months after the election in which the debt was incurred to be a contribution to the candidate, unless the candidate provides clear and convincing evidence to the Commission that he or she intends to raise funds or take other measures to satisfy the debt. If the debt remains unpaid for four years, the Commission is required by its rules to determine whether the debt is a contribution.

#### POST-ELECTION SEMIANNUAL REPORTS

Candidates with surplus cash, outstanding loan, or a debt of more than \$100 as of the 42-Day Post-Election Report must continue to file campaign finance reports

There is no limit in Maine Election Law on the amount of funds that a candidate, candidate's spouse or domestic partner can contribute to the candidate's own campaign. You may pay off all loans and unpaid debts with your personal funds.

("semiannual reports") every January 15th and July 15th until the candidate has disclosed how the cash, loan, or debt has been disposed of.

For unsuccessful candidates in the 2014 primary election who must file these reports, the first report is due Thursday, January 15, 2015. For 2014 general election candidates with cash, loans, or debt over \$100, the first semiannual report is due Wednesday, July 15, 2015.

#### STATEMENT OF SOURCES OF INCOME

Executive employees including the Governor are required to file a Statement of Sources of Income annually. The forms are provided to all executive employees shortly after the New Year and are due in April.

The gubernatorial candidate who wins the 2014 general election must file a Statement of Sources of Income within 30 days of the election. The statement will cover calendar year 2014.

#### LEGAL REFERENCES

Change of Address or Telephone Number	21-A M.R.S.A. § 1013-A(5)
Disposing of Surplus Cash After an Election	21-A M.R.S.A. § 1017(8)
Semiannual Reports	21-A M.R.S.A. § 1017(3-A)(E)
Statement of Sources of Income	5 M.R.S.A. § 19
Recounts of Elections	21-A M.R.S.A. § 1018-B







## CHAPTER 9

# Compliance Reviews of Campaign Finance Reports

### PURPOSE OF REVIEWS

The Commission staff conducts compliance reviews of all campaign finance reports. The purpose of the review is to verify that contributions and expenditures were accurately reported and meet Election Law requirements.

### CONDUCT OF REVIEWS

The reviews typically occur in the two to three weeks following each filing deadline. The reviews are conducted by the Commission's staff members. After each review, the Commission staff may request that the candidate or treasurer amend a campaign finance report to correct any errors or to provide more complete information about a transaction.

### INFORMATION REVIEWED

During the review, the Commission staff is verifying compliance to assure that:

- Contributors have not exceeded the contribution limit (*i.e.*, the campaign did not receive any over-the-limit contributions).
- The occupation and employer information has been reported for contributors

giving more than \$50 in a report period.

- The contributor's complete address has been reported for contributors giving more than \$50.
- The correct contributor type has been reported.
- The correct payee has been reported for reimbursements.
- The correct expenditure type has been reported and includes a description of the goods or services in the explanation field.
- Sub-vendors have been reported especially for media purchases involving TV, radio, and cable ads.
- The reported cash balance found on the financial summary is not negative.

### FOLLOW UP BY COMMISSION

If the review identifies a potential non-compliance issue, the Commission staff will contact the campaign. The staff will explain the issue and the method(s) for correcting the error(s). The campaign is given a reasonable amount of time to correct the error(s) and amend any reports. The campaign may request assistance from the Commission staff when amending



### AVOID THESE COMMON REPORTING ERRORS

<b>Incomplete Contributor Information</b>	Missing addresses, first names, occupation, and employer information. <b>Action: Request this information when soliciting contributions.</b>
<b>Incorrect Reporting of Occupation</b>	Occupation is not “Self” or “Self-Employed”; occupation is “accountant”, “teacher”, “gift shop owner”; “business owner” is acceptable. <b>Action: Provide guidance to contributors on what is an “occupation.”</b>
<b>Incorrect Reporting of Employer Name</b>	Employer name is the name of the business, organization, etc. that the contributor is employed by. For contributors, who are business owners, the name of their business is the employer name. For example, “gift shop owner” is occupation and “Maine Street Gifts” is the employer name—not “self-employed.” <b>Action: Provide guidance to contributors on what is an “employer name.”</b>
<b>Contribution Amount Assigned to Wrong Election</b>	A \$3,000 contribution received before the primary is assigned to the primary election only—resulting in a reported over-the-limit contribution; whereas it should have been reported as \$1,500 for the primary and \$1,500 for the general election. <b>Action: Review spreadsheet, database, or report before filing report.</b>
<b>In-kind Contributions Reported as Expenditures</b>	In-kind contributions reported <u>only</u> as expenditures causes an incorrect cash balance (sometimes a negative cash balance). A corresponding cash contribution must be reported to avoid this error—or—report all in-kind contributions on Schedule A-1. <b>Action: Review Summary Schedule of report—cash balance should not be negative.</b>
<b>Sub-Vendor Reporting Missing</b>	Error mostly occurs when a media buyer is used to purchase TV and radio advertising and when a consultant uses a vendor to print communications (signs, palmcards, etc.). The payments to sub-vendors (TV and radio stations, printers, etc.) must be reported as if the campaign made the payments directly. <b>Action: Require vendors to attach copies of sub-vendor invoices when the vendor is requesting payment from the campaign.</b>
<b>Incorrect “Payee” Name for Reimbursements</b>	The name of the person receiving the reimbursement is reported incorrectly as the “Payee Name.” The “Payee Name” is the name of the vendor where the person seeking the reimbursement purchased the goods/services. The only exception is when the campaign is making a reimbursement for travel/mileage. In this situation, the “Payee Name” is the name of the person receiving the reimbursement. <b>Action: Review expenditures reported to individuals—expenditure type should be TRV, SAL, PRO, or CNS in most cases.</b>

### LEGAL REFERENCES

Compliance Reviews

Rules, Chapter 1, Section (4)(2)(A)



## CHAPTER 10

### Campaign Finance Disclosure Website

#### PURPOSE OF WEBSITE

The purpose of campaign finance disclosure is to provide information to citizens concerning who is influencing their votes and elected officials, and that candidates and others are complying with contribution limits and other Election Law requirements. Through this disclosure, the public's "faith and confidence in the integrity of the election process" is maintained. (1 M.R.S.A. § 1001)

The Commissions public disclosure website is:

**[www.mainecampaignfinace.com](http://www.mainecampaignfinace.com)**

#### WHAT INFORMATION IS AVAILABLE?

Registration and financial information is available for candidates, party committees, political action committees, ballot question committees, and lobbyists. This information becomes available to the public after a report is filed. Data in reports is not disclosed on the website until the report is filed.

Candidates, treasurers, campaign workers and any member of the public may browse financial reports (which includes a summary report), obtain specific lists of candidates (e.g., MCEA and traditionally financed candidates), search contributions and expenditures, and download the information found on the website.

By clicking on a topic found on the navigation menu (left side of the home page), you will be directed to a page where you can obtain the information you are looking for.

#### INFORMATION OF INTEREST

Some of the most "searched" topics of information are listed below:

- fundraising and/or spending of certain candidates;
- financing status of candidates (MCEA or traditionally financed);
- identification of certain contributor(s) to a candidate's campaign, party committee, political action committee, or ballot question committee;
- amount of funds being spent on TV and/or radio advertising; and
- clients of lobbyist and the amount of funds spent on lobbying certain legislative bills.

The Commission encourages candidates and the public to explore the public disclosure website. Please contact the Commission if you need assistance or have questions.





## APPENDIX

TITLE	PAGE
DEFINITION OF CONTRIBUTION AND EXPENDITURE	A1
DISPOSING OF SURPLUS FUNDS	A6
PLACEMENT OF POLITICAL SIGNS	A11



## 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 \$250 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;



- (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 \$350 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;
- (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; or





- (11) A purchase of apparel from a commercial vendor with a total cost of \$25 or less by an individual when the vendor has received a graphic or design from the candidate or the candidate's authorized committee.

**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 influencing any campaign as defined in section 1052, subsection 1; 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 \$350 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 \$350 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;



- 
- (12) The use of offices, telephones, computers and similar equipment when that use does not result in additional cost to the provider; or
  - (13) A purchase of apparel from a commercial vendor with a total cost of \$25 or less by an individual when the vendor has received a graphic or design from the candidate or the candidate's authorized committee.



COMMISSION ON GOVERNMENTAL ETHICS AND ELECTION PRACTICES  
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## DISPOSITION OF SURPLUS FUNDS

### 21-A M.R.S.A. § 1017(8)

**Disposition of surplus.** A treasurer of a candidate registered under section 1013-A or qualified under sections 335 and 336 or sections 354 and 355 must dispose of a surplus exceeding \$100 within 4 years of the election for which the contributions were received by:

- A. Returning contributions to the candidate's or candidate's authorized political committee's contributors, as long as no contributor receives more than the amount contributed;
- B. A gift to a qualified political party within the State, including any county or municipal subdivision of such a party;
- C. An unrestricted gift to the State. A candidate for municipal office may dispose of a surplus by making a restricted or unrestricted gift to the municipality;
- D. Carrying forward the surplus balance to a political committee established to promote the same candidate for a subsequent election;
- D-1. Carrying forward the surplus balance for use by the candidate for a subsequent election;
- E. Transferring the surplus balance to one or more other candidates registered under section 1013-A or qualified under sections 335 and 336 or sections 354 and 355, or to political committees established to promote the election of those candidates, provided that the amount transferred does not exceed the contribution limits established by section 1015;
- F. Repaying any loans or retiring any other debts incurred to defray campaign expenses of the candidate;
- G. Paying for any expense incurred in the proper performance of the office to which the candidate is elected, as long as each expenditure is itemized on expenditure reports; and
- H. A gift to a charitable or educational organization that is not prohibited, for tax reasons, from receiving such a gift.

The choice must be made by the candidate for whose benefit the contributions were made.

(Current as of 09/2007)



## PLACEMENT OF POLITICAL SIGNS

### 23 MRSA §1913-A

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 MeDOT 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 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:**

**Chip Kelly, Department of Transportation (MeDOT)**

Telephone: (207) 624-3332 Email: [chip.kelley@maine.gov](mailto:chip.kelley@maine.gov).

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# CANDIDATE GUIDE

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