

## MAINE CAMPAIGN FINANCE

These resources are current as of 12/1/18. We do our best to periodically update these resources and welcome any comments or questions regarding new developments in the law.

Please email us at [advocacy@afj.org](mailto:advocacy@afj.org).

### WHAT'S NEW IN THIS GUIDE

The following changes/additions have been made since the previous version of this guide:

- Updated contribution limits and source restrictions
- Updated various changes in campaign finance law based on 2015 citizens initiated legislation
- Updated Clean Election changes based on 2015 initiative
- Updated changes in disclosures for independent expenditures based on 2015 initiative
- Updated various campaign finance penalties based on 2015 initiative
- Updated information regarding use of Rank Choice Voting for federal elections

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**This guide summarizes key aspects of state campaign finance law and regulations. It is not intended to provide legal advice or to serve as a substitute for legal advice**

**In some jurisdictions, city and/or county regulations may also apply to certain political activities. Check with the appropriate local jurisdiction before undertaking any activity.**

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# CONTRIBUTION LIMITS AND SOURCE RESTRICTIONS

**NOTE:** The following contribution limits apply to candidates who are *not* accepting public financing under Maine’s Clean Election Act. Such candidates commonly are referred to in Maine as “traditionally” or “privately” financed candidates.

Limits are per-election, with the primary and general elections counting separately.

From	To Candidates			To Committees		
	Governor	Legislative	County and Muni’s of more than 15,000	PAC’s	Parties	BQC’s
Individuals	\$1,600	\$400	\$800	Unlimited	Unlimited	Unlimited
PACs	\$1,600	\$400	\$800	Unlimited	Unlimited	Unlimited
Corporations	\$1,600	\$400	\$800	Unlimited	Unlimited	Unlimited

\*\* All contributions made by a person, either directly or indirectly, on behalf of a particular candidate, that are in any way earmarked or otherwise directed through an intermediary or conduit to the candidate, are considered to be contributions from that person to the candidate.

21-A M.R.S.A. § 1015(4). [21-A M.R.S.A Ch. 13\(2\) §1015.](#)

## Contribution Defined

- Contribution includes any gift, subscription, loan, advance or deposit of money or anything of value made for the purpose of influencing the nomination or election of any person to state, county or municipal office or for the purpose of liquidating any campaign deficit of a candidate for political office or for the initiation, support or defeat of a ballot question. [Ethics Rules Chapter 1, §1\(12\).](#)
- Contribution also includes a contract, promise or agreement, to make a contract – even if it is only an implied promise that is not legally enforceable. 21-A M.R.S.A. Ch. 13(2) §1012.

## Aggregation

- Maine historically had a \$25,000 individual aggregate contribution limit. On June 4, 2014, the Maine Commission on Governmental Ethics and Election Practices issued a [statement](#) clarifying that, as a result of the recent U.S. Supreme Court decision *McCutcheon v. FEC*, it will no longer enforce the \$25,000 aggregate limit “unless and until it receives further guidance from the Maine Legislature or a court of competent jurisdiction.”
- Committees may not make contributions in support of the candidacy of one person aggregating more than \$750 for gubernatorial candidates or \$350 for any other candidate.

- All contributions made by a corporation – including a parent, branch, or other subdivision – and the corporation’s PAC are aggregated and considered to be contributions from a single entity. [21-A M.R.S.A Ch. 13\(2\) §1015-A](#).

### Lobbyists

- While the Legislature is in session, the Governor, members of the Legislature, any constitutional officers and their staff members and agents may not intentionally solicit or accept a contribution from a lobbyist, lobbyist associate or lobbyist employer. This limitation does not apply to the following:
  - Solicitations or contributions for bona fide social events hosted for nonpartisan, charitable purposes;
  - Solicitations or contributions relating to a special election to fill a vacancy from the time of announcement of the election until the election; and
  - Solicitations or contributions accepted by a member of the Legislature supporting that member’s campaign for federal office.
- [M.R.S.A Ch. 25\(2\) §1015](#).
- During a legislative session, an organization that employs a lobbyist may not make a contribution through a PAC with which the organization is affiliated or direct that the affiliated political action committee make a contribution to a legislator.
- [Ethics Rules Chapter 1 §12\(2\)](#).

### In-kind contributions

- “In-kind contribution” means any gift, subscription, loan, advance or deposit of anything of value other than money made for the purpose of influencing the nomination or election of any person to political office or for the initiation, support or defeat of a ballot question. [Ethics Rules Chapter 1, §1\(12\)](#). There are a number of exceptions from the definition of in-kind contribution. The most relevant exceptions include:
  - 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. This is often described as the in-home or office fundraising event exception;
  - 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;
  - The use of offices, telephones, computers and similar equipment when that use does not result in additional cost to the provider; and
  - 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.

- o [21-A M.R.S.A. Ch. 13\(2\) §1012.](#)

### **Testing the Waters**

- o The legislature [permits](#) candidates to raise money to test the waters and gauge public opinion about whether the candidate should run for office. Testing the water contributions are subject to the contribution limits discussed above, but do not have to be disclosed by the candidate if he or she chooses not become a candidate. If the individual becomes a candidate, the funds or services received are contributions and are subject to the traditional reporting requirements.
- o Examples of testing the waters activities include, but are not limited to, conducting a poll, telephone calls, and travel.
- o The following types of activities are excluded, and would indicate the testing the waters phase is over 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.  
21-A M.R.S.A. § 1015-B

### **Coordinated Communications – Contributions**

- Expenditures made to promote or support the nomination or election of a candidate, or to oppose or defeat the candidate's opponent(s) that are made in cooperation, consultation or concert with, or at the request or suggestion of, the candidate, are considered to be a contribution to the candidate. Ethics Rules Chapter 1, § 6(9).

### **Solicitations by Political Action Committees**

- If the campaign activities of a Political Action Committee (PAC) within a calendar year primarily promote or support a single candidate, contributions to that PAC that were solicited by that candidate are considered to be contributions made to the candidate, and count against that candidate's contribution limits.
- Solicitation of contributions include, but is not limited to, the candidate's appearing at a fundraising event organized by or on behalf of the PAC, or suggesting that a donor make a contribution to that committee.  
[21-A M.R.S.A. § 1015\(4\).](#)

### **Solicitations by Officeholders**

- The Secretary of State, the Treasurer of State, the Attorney General, the State Auditor, or any individual running for these offices, may not form a political action committee or be involved in decision making for or solicit contributions to a political action committee, but they may do so for a candidate committee. [21-A M.R.S.A Ch. 13\(4\) § 1063.](#)

# MAINE CLEAN ELECTION ACT

The Maine Clean Election Act (“MCEA”) established a voluntary program of full public financing of political campaigns for candidates running for Governor, State Senator, and State Representative. Maine voters passed the MCEA as a citizen initiative in 1996. MCEA has been amended a few times over the years, most recently in 2015 with the passage of an initiated bill to “strengthen” the MCEA. Candidates who choose to participate may accept very limited private contributions at the beginning of their campaigns (“seed money contributions”). To become eligible for public financing, candidates must demonstrate community support by collecting a minimum number of \$5 contributions (“qualifying contributions”). After a candidate begins to receive MCEA funds from the State, he or she may not accept private contributions and almost all goods and services received must be paid for with MCEA funds.

The seed money and qualifying contributions must be made by individuals. As such, much of the MCEA will not be relevant to nonprofits and unions. Historically the MCEA had a larger impact on nonprofit and union campaign activities because independent campaign activities would trigger matching funds for the candidate’s opponent. These provisions, however, were [removed from the MCEA](#) as a result of litigation.

We provide a brief summary of the MCEA here, but the Commission has a more complete discussion on its [website](#).

## Qualifying

- To qualify for MCEA funding, a candidate must first sign and file a declaration of intent to seek certification as a Maine Clean Election Act candidate within 5 business days after beginning to collect qualifying contributions (QC’s). [21-A M.R.S.A § 1125](#).
- To qualify for public funds under the MCEA, a candidate must demonstrate a threshold amount of community support by collecting a minimum number of \$5 “qualifying contributions” (QC’s). Qualifying contributions collected *more than* 5 business days before the declaration of intent has been filed will not count. For legislative candidates, the contributions must be made by registered voters in the candidate’s district, and for candidates for governor the contributions must be made by individuals registered to vote in Maine.
- Candidates must collect a minimum of:
  - 3,200 qualifying contributions for Gubernatorial candidates (at least \$16,250)
  - 175 qualifying contributions for Senate candidates (at least \$750)
  - 60 qualifying contributions for House candidates (at least \$250)
- Candidates are encouraged to collect more than the minimum number of qualifying contributions in case some contributors are not registered to vote in the district or the state. [21-A M.R.S.A § 1125\(3\)](#).

## Seed Money Contributions

- A participating candidate may collect and spend “seed-money contributions” after becoming a candidate and before being officially certified as a MCEA candidate. Seed money is intended to cover expenses related to becoming a MCEA candidate. Only individuals may make seed-money contributions. Unlike qualifying contributions (discussed below), seed-money contributions may be accepted from individuals who are not residents of the state and who do not reside in a candidate’s district. Seed-money contributions may not be accepted from lobbyists or their employers while the legislature is convened, PAC’s or corporations. Contributions of seed money are subject to a \$100 limitation per donor, and include both direct and in-kind contributions.
- Gubernatorial candidates are required to report the name and address of individual contributors to the Ethics Commission. [21-A M.R.S.A. § 1125\(2-B\)](#).
- A participating candidate must limit total seed money contributions to the following amounts:
  - \$200,000 for gubernatorial candidate;
  - \$3000 for a candidate for the State Senate; or
  - \$1000 for a candidate for the State House of Representatives [21-A M.R.S.A §1125\(2\)](#).
- Once a person has been certified as a participating Maine Clean Election Act candidate, he or she may not solicit, accept or collect additional contributions.

## Obligations Upon Qualification

- Upon certification, a candidate must limit his or her campaign expenditures and obligations to the revenues distributed to the candidate from the MCEA fund. Any seed-money that has not been spent prior to the first MCEA distribution is subtracted from the MCEA funds that will be given to that candidate, as the purpose of the seed money is to help candidates qualify for MCEA and get ready of the campaign, not to provide campaign resources.
- After qualifying as an MCEA candidate, a person may not accept any additional contributions unless specifically authorized by the Commission. All revenues distributed to a certified candidate from the fund must be used for campaign-related purposes. [21-A M.R.S.A § 1125\(6\)](#).

## Collecting Additional Qualifying Contributions and Supplemental Campaign Funds

- On November 3, 2015, Maine voters approved a citizen initiative increasing the amount of public funding MCEA candidates could receive. Certified MCEA candidates in contested general elections may continue to collect QCs after certification and request supplemental payments of MCEA funds. These payments are intended to ensure that MCEA candidates will have access to sufficient campaign funds for their elections. Additional QCs may be collected from January 1 to October 16, and cannot be from contributors who gave QCs used for certification or for other supplemental payment requests.

### Levels of Supplemental Payments

House Candidates  
QCs Payment

Senate Candidates  
QCs Payment

15 QCs \$1,275	45 QCs \$5,075
30 QCs \$2,550	90 QCs \$10,150
45 QCs \$3,825	135 QCs \$15,225
60 QCs \$5,100	180 QCs \$20,300
75 QCs \$6,375	225 QCs \$25,375
90 QCs \$7,650	270 QCs \$30,450
105 QCs \$8,925	315 QCs \$35,525
120 QCs \$10,200	360 QCs \$40,600
180 QCs for \$15,275 maximum	535 QCs for \$60,675 maximum

## COMMUNICATIONS

### Issue Advocacy vs. Express Advocacy

- Maine defines “express advocacy” using so-called “magic words” similar to those proposed by the Supreme Court in *Buckley v. Valeo*. Express advocacy means any communication that uses phrases such as “vote for,” “reelect,” “vote against,” “defeat,” and “\_\_\_\_\_ in 2012,” as well as “vote Pro-Life” or “vote Pro-Choice” accompanied by a listing of clearly identified candidates described as Pro-Life or Pro-Choice, and communications of campaign slogan(s) or individual word(s), which in context can have no other reasonable meaning than to urge the election or defeat of one or more clearly identified candidate(s). See [Ethics Rules Ch. 1, § 10\(2\)\(B\)](#).
- The Commission presumes that every communication naming or depicting a candidate within 28 days of a primary election or 35 days of a special election, or from Labor Day to a General election day and on election day is an express-advocacy expenditure. Although this presumption is rebuttable, groups attempting to do so have not been successful. [21-A M.R.S.A. § 1019-B\(1\)](#).
  - Any organization that will attempt to rebut the presumption should discuss its ad with the Commission prior to disseminating it. If the communication is deemed to be an independent expenditure, it must bear a disclaimer. If the organization fails to include a disclaimer because the organization believes it to be an issue ad, and the Commission deems it to be an independent expenditure, then the organization will have committed a violation by paying for an issue ad that was lacking a disclaimer. However, if the organization includes a disclaimer as a precaution, that action might hinder the rebuttal of the ad before the Commission, as the Commission may view the disclaimer as evidence that it was an independent expenditure.

### Disclaimers for Pre-Election Communications – Communications

- including non-express advocacy issue advertising – that name or depict a clearly identified candidate and that are disseminated during the 21 days before a primary election or the 35 days before a general election must state the name of the person or organization that made or financed the communication and a statement that the communication was or was not authorized by the candidate.

This requirement applies to all advertising, mail, signs, internet communications, flyers and other media. [21-A M.R.S.A §1014](#).

## Membership Communications

- Because communications to an organization's members are not "expenditures," an organization may spend unlimited amounts of money telling its members to vote for or against a particular candidate. [21-A M.R.S.A § 1012\(3\)\(B\)\(3\)](#). However, if the organization spends more than \$50 on membership communications in any one candidate's race, the organization must report that activity. [21-A M.R.S.A § 1019-A](#). The report must be filed on the Campaign Finance Report for Membership Organizations or Corporate Communications.
- Reports must be filed on the following schedule:
  - 42 days before the election
  - 11 days before the election
  - 42 days after the election
- Only communications in excess of \$50 for any one race are disclosed. If the \$50 threshold is reached, all activity relating to that candidate over the \$50 must be reported. The reporting occurs during different "reporting periods" listed on the report. The organization does not have to identify its donors.

## Independent Expenditures

- Independent expenditures are defined in Maine law as:
  - Any expenditure for a communication expressly advocating a candidate's election or defeat, other than by making a contribution to a candidate or a candidate's committee; and
  - presumed to be any expenditure made to design, produce or disseminate a communication that names or depicts a clearly identified candidate and is disseminated during the 28 days, including election day, before a primary election; during the 35 days, including election day, before a special election; or from Labor Day to a general election day. [21-A M.R.S.A. § 1019-B\(1\)](#).
- Independent expenditures do not include:
  - Expenditures made in cooperation, consultation or concert with, or at the request or suggestion of, a candidate or a candidate's committee;
  - A telephone survey that meets generally accepted standards for polling research and that is *not* conducted for the purpose of influencing the call recipients;
  - A telephone call naming a clearly identified candidate and identifies an individual's position on a candidate, ballot question or political party for the purpose of encouraging the individual to vote (as long as the call contains no advocacy for or against any candidate); and
  - A voter guide that consists primarily of candidates' responses to surveys and questionnaires and that contains no advocacy for or against any candidate. [21-A M.R.S.A §1019-B\(5\)](#).

- See the Maine Clean Elections Act section, above, for additional information related to the implications of an organization paying for independent expenditures. Additional information is available on the [Ethics Commission website](#).
- While Maine presumes that any communication in the weeks prior to an election involving an MCEA candidate is an independent expenditure, that presumption is rebuttable. Within 48 hours of the expenditure, the person or organization spending the funds may file a signed statement with the Maine Ethics Commission asserting that the cost was not incurred with the intent to influence the nomination, election or defeat of a candidate. The person or organization may submit additional evidence to demonstrate that they did not intend to influence the election. The Commission may then gather additional evidence and materials. Based on a preponderance of the evidence, the Commission will determine whether the cost was incurred with the intent to influence the election. [21-A M.R.S.A § 1019B-\(2\)](#); Ethics Rules Ch. 1, § 10(5). As noted above, groups attempting to rebut the presumption have not succeeded.

### Reporting Independent Expenditures

- Independent expenditures exceeding \$250 per candidate per election, The \$250 threshold applies throughout the election cycle, including the 13-day period before an election. After an independent expenditure for a candidate has been reported, any subsequent independent expenditure for that candidate only has to be reported if it is also over \$250. Smaller expenditures do not need to be included in an independent expenditure report. [Independent Expenditure Report – Primary](#) or [Independent Expenditure Report - General](#) [21-A M.R.S.A § 1019-B](#); Ethics Commission Rules Ch. 1, § 10(3).
- Independent expenditures aggregating in excess of \$250 per candidate made during the 60 days before an election must be reported within two calendar days of those expenditures. Once the \$250 threshold is reached, all additional independent expenditures for that candidate must be reported within 24 hours. Ethics Commission Rules, Chapter 1, §10(B).
- Independent expenditures made after the 14<sup>th</sup> day before an election must be reported within one calendar day of those expenditures. Ethics Commission Rules, Chapter 1, §10(B).
- An independent expenditure report must contain an itemized account of each contribution or expenditure aggregating in excess of \$250 in any one candidate's election, the date and purpose of each contribution or expenditure and the name of each payee or creditor. The report must state whether the contribution or expenditure is in support of or in opposition to the candidate. The report filer must swear or affirm whether the expenditure was coordinated with a candidate or his campaign. [21-A M.R.S.A § 1019-B](#).
- The costs for an independent expenditure supporting supports multiple candidates should be allocated among the candidates in rough proportion to the benefit received by each candidate. The allocation should be in rough proportion to the

number of voters who will receive the communication and who are in electoral districts of candidates named. Ethics Commission Rules Chapter 1, § 10(4).

- Reporting of independent expenditures is triggered by any of the following, regardless whether any payment has been made for the good or service:
  - placing an order with a vendor;
  - signing a contract;
  - delivery of a good or the performance of a service by a vendor;
  - or
  - a promise or an agreement (including an implied one) that a payment will be made.        Ethics Commission Rules Chapter 1, § 7(3)(A).

- Disclaimer – Independent expenditure communications must clearly and conspicuously state that the communication is not authorized by any candidate and state the name of the person who made or financed the expenditure for the communication. If the communication is in written form, the communication must contain at the bottom of the communication in print that is no smaller in size than 12-point **bold** print, Times New Roman font, the words "NOT PAID FOR OR AUTHORIZED BY ANY CANDIDATE." [21-A M.R.S.A § 1014\(2\)](#).

## Disclaimers

- Communications expressly advocating a candidate's election or defeat must clearly state the name and address of the person or entity who paid for the communication. The communication must state whether or not it was authorized by a candidate. If in written form and *not* authorized by a candidate, the communication must contain at the bottom of the communication in print that is no smaller in size than 12-point **bold** print, Times New Roman font, the words "NOT PAID FOR OR AUTHORIZED BY ANY CANDIDATE." [21-A M.R.S. § 1014\(2\)\(A\)](#).
- This disclaimer requirement applies to print and broadcast advertisements, cable television systems, signs, billboards, publicly accessible internet sites, direct mail, bumper stickers and other materials. It does not apply to items where a disclaimer would be impracticable, such as combs, emery boards, plastic tableware, swizzle sticks, and rulers equal to or shorter than 12 inches long.
- The following communications are excluded from these disclaimer requirements, so long as they are paid for, prepared, and distributed by individuals who are not required to register or file campaign finance reports with the Ethics Commission and are working independently of any candidate or committee:
  - Handbills or other literature produced and distributed at a cost of no more than \$100 and prepared for by individuals who are not required to register or file campaign finance reports and are acting independently of any candidate or committee;
  - Campaign signs produced and distributed at a cost of no more than \$100; and
  - Internet and e-mail activities costing less than \$100.
- In addition, a communication that is funded by an entity making an independent expenditure must conspicuously include the following statement:

"The top 3 funders of (name of entity that made the independent expenditure) are (names of top 3 funders)."

The information required may appear simultaneously with any other statement required. A communication that contains a visual aspect must include the statement in written text. A communication that does not contain a visual aspect must include an audible statement. This statement is required only for communications made through broadcast or cable television, broadcast radio, Internet audio programming, direct mail or newspaper or other periodical publications. Details related to the statement are as follows:

- If funders have given equal amounts, creating a tie in the ranking of the top 3 funders, the tie must be broken by naming the tying funders in chronological order of the receipt of funding until 3 funders are included in the statement. If the chronological order cannot be discerned, the entity making the independent expenditure may choose which of the tying funders to include in the statement. In no case may a communication be required to include the names of more than 3 funders.
- The statement required under this subsection is not required to include the name of any funder who has provided less than \$1,000 to the entity making the independent expenditure since the day following the most recent general election day.
- If only one or 2 funders must be included pursuant to this subsection, the communication must identify the number of funders as "top funder" or "top 2 funders" as appropriate. If there are no funders required to be included under this subsection, no statement is required.
- When compiling the list of top funders, an entity making an independent expenditure may disregard any funds that the entity can show were used for purposes unrelated to the candidate mentioned in the communication on the basis that funds were either spent in the order received or were strictly segregated in other accounts.
- In any communication consisting of an audio broadcast of 30 seconds or less or a print communication of 20 square inches or less, the requirements of this subsection are satisfied by including the name of the single highest funder only.
- If the list of funders changes during the period in which a recurring communication is aired or published, the statement appearing in the communication must be updated at the time that any additional payments are made for that communication.
- [21-A M.R.S.A. § 1014\(6\)](#).
- The requirements noted above also apply to non-express advocacy communications disseminated during the 21 days before a primary election or the 35 days before a general election, unless the communication was not made for the purpose of influencing an election.
- Pre-recorded or scripted live telephone calls naming a candidate during the 21 days before a primary election or the 35 days before a general election also must clearly state the name and address of the person or entity who paid for the communication and whether or not it was authorized by a candidate. This requirement applies regardless of whether the calls contain express advocacy, but does not apply to calls made to research the views of voters. [21-A M.R.S.A § 1014](#).

# REGISTRATION AND REPORTING REQUIREMENTS

## In-State PACs

### Registration

- Any organization that meets the legal definition of a political action committee (PAC) must register with the Commission within seven days of accepting contributions or making expenditures of the threshold amount (\$1,500 or \$5,000 depending on the type of organization; see next bullet point) in a calendar year to support or defeat state candidates or ballot questions. A [PAC Registration Form](#), along with an initial campaign finance report ([2018 PAC Campaign Finance Report](#)), must be filed within seven days of meeting the threshold to qualify as a PAC. PACs that receive contributions or make expenditures to influence municipal campaigns in towns or cities with populations of 15,000 or more must register and file reports with the municipal clerk *and* with the Ethics Commission.
- A political action committee (PAC) includes:
  - Any separate or segregated fund established by any corporation, membership organization, cooperative or labor organization whose purpose is to initiate or influence a campaign;
  - Any organization, including any corporation or association, that has as its major purpose initiating or influencing a campaign and that receives contributions or makes expenditures aggregating more than \$1,500 in a calendar year for that purpose; and
  - Any organization that does not have as its major purpose influencing candidate elections but that receives contributions or makes expenditures aggregating more than \$5,000 in a calendar year for the purpose of influencing the nomination or election of any candidate to political office.
- A PAC does *not* include:
  - A candidate or a candidate's treasurer;
  - A candidate's authorized committee;
  - A party committee; or
  - An organization whose only payments of money in the prior 2 years for the purpose of influencing a campaign in Maine are contributions to candidates, party committees, PACS or ballot question committees registered with the Ethics Commission or a municipality and that has *not raised and* accepted any contributions during the calendar year for the purpose of influencing a campaign in Maine.  
[21-A M.R.S.A. § 1052\(5\)](#).
- PAC [registration forms](#) require disclosure of:
  - If the PAC is formed by one or more for-profit or non-profit corporations or other organizations, the registration form must state the names and

addresses of those corporations and organizations.

- PACs must have both a treasurer and principal officer (cannot be the same person) and must disclose the name of fundraisers involved in PAC fundraising and individuals with decision-making roles in the PAC.
- PACs must establish a separate bank account (discussed below) and must include on the registration form, the name on the campaign bank account and the name and address of the financial institution where the account is established.
- The [treasurer](#), [principal officer](#), and [decision-makers](#) for the PAC must submit a signed acknowledgement of responsibilities within 10 days of either PAC registration, or within 10 days of joining the PAC, if they join after initial registration.
- Committees must file an updated registration form between January 1 and March 1 of each year in which a general election is held.

## Reporting

- Donors who give an aggregate of more than \$50 must be disclosed, with their name and mailing address, employer and occupation, and the amount and date of the contribution(s) reported publicly. [21-A M.R.S.A §1057](#); Ethics Commission Rules Chapter 1, §6(3).
- All PACs must file reports electronically.
- Quarterly Reports – All PACs must file quarterly reports according to the following deadlines:
  - January 15, reporting through December 31;
  - April 10, reporting through March 31;
  - July 15, reporting through June 30; and
  - October 5, reporting through September 30.
  - [21-A M.R.S.A. § 1059\(2\)\(A\)](#).
- Pre-election and Post-election Reports – Additional reports for special elections and ballot measure campaigns must be filed:
  - on the 11th day before the date on which the special election is held (reporting through the 14th day before that date); and
  - on the 42nd day after the date on which the election is held (reporting through the 35th day after that date).
  - [21-A M.R.S.A. § 1059\(2\)\(C\)](#).
- 24 Hour Reports – Reports are required within 24 hours of any expenditure of \$500 or more (regardless of purpose) made by a committee between the 14th day before an election and Election Day. [21-A M.R.S.A §1059\(E\)](#).
- Independent Expenditure Reports – As noted above, after a PAC has spent more than \$250 on independent expenditures relating to a particular candidate per election within 60 days of an election, it must file a report within 24 hours. Once the total spent per candidate exceeds \$250, each subsequent expenditure, regardless of the amount, must

be reported within 24 hours. During the 13- day period before an election, all independent expenditures must be reported within 24 hours.

### Termination

- To end a PAC's existence, the committee must file a [Termination Report](#) that includes all financial activity from the end date of the previous reporting period through the date of termination with the commission. If a termination report is not filed, the committee must continue filing periodic reports. [21-A M.R.S.A § 1061](#).

### Recordkeeping

- PACs are required to maintain a separate bank account for campaign activity. All contributions must be deposited into the account and all campaign payments must be made out of the campaign account.
- PACs are required to keep records of their finances for four years following the election to which they pertain.
- Failure to comply with the recordkeeping provisions can result in a \$2,500 fine. (21-A MRSA §1062-A, sub-§1.)

### Out-of-State PACs

- A PAC organized outside Maine that makes expenditures or receives contributions in Maine must follow the same registration and reporting requirements as in-state PACs. If contributions or expenditures are made relating to a municipal office or referendum, the report must be filed with the clerk in the subject municipality (and not the Ethics Commission). [21-A M.R.S.A. § 1053-B](#).
- The PAC is not required to register and file reports if the committee's only financial activity within the State is to make contributions to candidates, party committees, political action committees or ballot question committees registered with the commission or a municipality and the committee has not raised and accepted any contributions during the calendar year to influence a campaign in this State. [21-A M.R.S.A. § 1053-B](#).

## BALLOT QUESTION COMMITTEES

### Registration

- Individuals or groups that do not meet the definition of a political action committee as defined above, but that receive contributions or make expenditures of more than \$5,000 to influence the outcome of a statewide ballot question, are considered to be ballot question committee and must register and file campaign finance reports with the Ethics Commission. Ballot measure committees must [file registration](#) and an initial campaign finance report ([2018 BQC Campaign Finance Report](#).) within seven days of meeting the qualifying threshold, and all campaign activities leading up to meeting the \$5,000 threshold must be included on the initial report, with the start date of the initial report being the date of the initial contribution or expenditure, whichever is earlier. [21-A M.R.S. § 1056-B](#). The reports are filed according to a [set schedule](#).

## Reporting

- Ballot question committees must file all reports electronically.
- A report must contain:
  - an itemized account of each expenditure made to and each contribution received from a single source aggregating in excess of \$50 in any election;
  - the date of each contribution;
  - the date and purpose of each expenditure (including expenditures for staff time);
  - the name and address of each contributor, payee or creditor; and
  - the occupation and principal place of business, if any, for any individual whose aggregate contributions exceed \$50.  
[21-A M.R.S.A §1056-B\(2\)](#).
- Only those contributions and expenditures made for the purpose of influencing the outcome of a ballot question are required to be reported, and expenditures made from the organization's general treasury must be reporting as being made by the organization.

## Termination

- After completing all financial activity, the ballot question committee must file a Termination Report.

# ENFORCEMENT AND PENALTIES

- The Commission on Governmental Ethics and Election Practices administers the state's election and campaign finance laws, investigates alleged violations of those laws and brings civil actions to collect forfeitures. It may subpoena alleged violators or their records and notify the district attorney or attorney general of any grounds for civil or criminal prosecution. In most instances, the Commission works with an alleged violator to reach a settlement agreement and relies on the Attorney General to prosecute matters it does not settle.
- The penalty for late filing of a report is a percentage of the total contributions or expenditures for the filing period, whichever is greater, multiplied by the number of calendar days late, as follows:
  - For the first violation, 2%;
  - For the 2nd violation, 4%; and
  - For the 3rd and subsequent violations, 6%.
- Any penalty of less than \$10 is waived.
- Violations accumulate on reports with filing deadlines in a 2-year period that begins on January 1st of each even-numbered year. Waiver of a penalty does not nullify the finding of a violation. A report that is sent by certified or registered United States mail

and postmarked at least 2 days before the deadline is not subject to penalty.

- A registration or report may be provisionally filed by transmission of a facsimile copy of the duly executed report to the commission, as long as the facsimile copy is filed by the applicable deadline and an original of the same report is received by the commission within 5 calendar days thereafter.
- **Maximum penalties.** Penalties assessed under this subchapter may not exceed:
  - Five thousand dollars for gubernatorial and all other candidates, except that if the financial activity reported late exceeds \$50,000, the maximum penalty is 100% of the amount reported late;
  - Five thousand dollars for independent expenditure reports, except that if the financial activity reported late exceeds \$50,000, the maximum penalty is 100% of the amount reported late;
  - Five thousand dollars for state party committee reports except that if the financial activity reported late exceeds \$50,000, the maximum penalty is 100% of the amount reported late;
  - Five hundred dollars for municipal, district and county committees

## USE OF RANKED-CHOICE VOTING

Maine is the first state in the nation to use ranked-choice voting (also known as instant-runoff voting) in a statewide election. The system applies to all state and congressional races in the June 12 primary election, but for the general election, ranked-choice voting will be in place only for the U.S. Senate race and both U.S. House races. It will not apply to the governor's race or to any state legislative races.

Voters approved ranked-choice voting by referendum in 2016 but it wasn't implemented until this year because of multiple legal challenges. One of those challenges led the Maine Supreme Judicial Court to issue an advisory opinion concluding that applying ranked choice voting to general elections for state representative, state senator or governor would violate the Maine Constitution. However, elections for federal offices are governed by statute and not the Maine Constitution, according to the Secretary of State's Office.

Ranked-choice voting only comes into play if no candidate reaches 50 percent on the first ballot. If that doesn't happen, the lowest-ranked candidates is then eliminated and the votes are re-tabulated with the second choices. This happens until there are two candidates left and one receives a majority of votes.

# CONTACT INFORMATION FOR STATE AND LOCAL AGENCIES

## Commission on Governmental Ethics and Election Practices

Address for U. S. Mail  
135 State House Station  
Augusta, Maine 04333

Office Hours: 8:00 a.m. - 5:00 p.m., Monday - Friday

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

Campaign Finance Information: [www.mainecampaignfinance.com/public/home.asp](http://www.mainecampaignfinance.com/public/home.asp)

### Office Location

242 State Street  
Augusta, Maine 04333

General Telephone Number: (207) 287-4179

Fax Number: (207) 287-6775

### Ethics Commission Personnel

Jonathan Wayne

Executive Director

(207) 287-4179

[Jonathan.Wayne@maine.gov](mailto:Jonathan.Wayne@maine.gov)

Michael V. Saxl, Verrill Dana, LLP, 45 Memorial Circle, Augusta, ME 04332-5307

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## FOR FURTHER ASSISTANCE

For assistance regarding these resources or for more information about federal law, please contact our attorney one-on-one counseling service:

Email: [advocacy@afj.org](mailto:advocacy@afj.org)

Telephone: 1-866-NPLOBBY (675-6229)

For assistance regarding state law in Minnesota, please contact:

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