

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

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**SECTION 2. PROCEDURES FOR PARTICIPATION**

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

**B. Total Amount**

- (1) A participating candidate must limit the candidate's total seed money contributions to the following amounts:
- (a) fifty two hundred thousand dollars for a gubernatorial candidate;
  - (b) one thousand five hundred dollars for a candidate for the State Senate; or
  - (c) five hundred dollars for a candidate for the State House of Representatives.
- (2) Notwithstanding any other provision of this chapter, a candidate may carry forward to a new candidacy of that candidate campaign equipment or property, subject to the reporting requirements of Title 21-A, chapter 13 [Campaign Reports and Finances].
- (3) The Commission periodically will review these limitations and, through rulemaking, revise these amounts to ensure effective implementation of the Act.

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**C. Required seed money for gubernatorial candidates.** To qualify to receive Maine Clean Election Act funding, a candidate for Governor must collect at least \$40,000 in seed money contributions from registered voters in Maine during the qualifying period. The candidate must obtain documentation of the contributions as required by the Act [§1125(2-B)].

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

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

- ~~D. E.~~ **Return of Contributions Not in Compliance with Seed Money Restrictions.** A participating candidate who receives a contribution exceeding the seed money per donor restriction or the total amount restriction must immediately return the contribution and may not cash, deposit, or otherwise use the contribution.
- ~~E. F.~~ **Case-by-Case Exception.** A participating candidate who has accepted contributions or made expenditures that do not comply with seed money restrictions may petition the Commission to remain eligible for certification as a Maine Clean Election Act candidate. The Commission may approve the petition

and restore a candidate's eligibility for certification if the candidate successfully establishes all of the following criteria:

- (1) the failure to comply was the result of an unintentional error;
- (2) the candidate immediately returned all contributions that did not comply with seed money restrictions or paid for goods or services contributed that did not comply with seed money restrictions;
- (3) the candidate petitioned the Commission promptly upon becoming aware of the unintentional error; and
- (4) the failure to comply did not involve expenditures by the participating candidate significantly in excess of seed money total amount restrictions or otherwise constitute systematic or significant infractions of seed money restrictions.

~~F. G.~~ After becoming a candidate and prior to certification, accepting a loan from any source including a financial institution and spending money received in the form of a loan, are violations of the seed money restrictions of the Act.

~~G. H.~~ **Other.** A seed money contributor may also make a qualifying contribution to the same participating candidate provided that the contributor otherwise meets the requirements for making a qualifying contribution.

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

A. **General.** A participating candidate may collect qualifying contributions only during the relevant qualifying period. Qualifying contributions collected more than five days before filing a Declaration of Intent with the Commission will not be counted toward the eligibility requirement. Qualifying contributions must be acknowledged and reported on forms provided by the Commission.

The forms must include:

- (1) the name, residential address and signature of the contributor;
- (2) an affirmation by the contributor that the contribution was made with his or her personal funds, in support of the candidate and that the contributor did not receive anything of value in exchange for his or her signature and contribution;
- (3) a clear and conspicuous statement that the candidate is collecting signatures and qualifying contributions in order to obtain public funding to finance the candidate's campaign;
- (4) the signature of the municipal registrar or his or her designee verifying the voter registration of the contributors listed on the form; and
- (5) the signature of any person, other than the candidate, who circulated the forms and collected signatures and contributions, whether the services were provided for compensation or on a volunteer basis, affirming that

he or she collected the qualifying contributions, that the contributor signed the form in the circulator's presence, that to the best of the circulator's knowledge and belief each signature is the signature of the person whose name it purports to be and that the contribution came from the personal funds of the contributor, that the circulator did not give anything of value to the contributor in exchange for the contribution and signature, and that the circulator did not represent the purpose of collecting the contributions and signatures to be for any purpose other than obtaining public funds to finance the candidate's campaign; the form must also include the residential and mailing addresses and telephone number of the circulator.

- B. **Required Number of Qualifying Contributions.** A participating candidate must obtain the number of qualifying contributions during the qualifying period as required by the Act [§1122(7); §1122(8); §1125(3)].
- C. **Exchanges for Qualifying Contributions Prohibited**
- (1) A participating candidate or an agent of that candidate may not give or offer to give a payment, gift, or anything of value in exchange for a qualifying contribution.
  - (2) This provision does not prohibit a participating candidate or that candidate's agent from collecting qualifying contributions at events where food or beverages are served, or where campaign promotional materials are distributed, provided that the food, beverage, and campaign materials are offered to all persons attending the event regardless of whether or not particular persons make a qualifying contribution to the participating candidate.
  - (3) This provision does not prohibit a candidate from using seed money to pay the fee for a money order provided the qualifying contributor pays the \$5 amount reflected on the money order as permitted by 21-A M.R.S.A. §1125(3).
- D. **Checks Drawn on Business Accounts.** Qualifying contributions must be made with the personal funds of the contributor. The Commission will not count a check drawn from an account with a business name toward the eligibility requirements, unless the name of the contributor is included in the name of the account or the candidate submits a written statement from the contributor indicating that he or she uses the business account for personal expenses.
- E. **Family Members.** Family members, domestic partners, and live-in caregivers who reside in a single household may make qualifying contributions in the form of a single check or money order of more than \$5 provided that:
- (1) all contributors sign the receipt and acknowledgement form;
  - (2) all contributors are registered to vote at the address of the household; and
  - (3) all contributions are made with the personal funds of the contributors.

**F. Verification of Registered Voters**

- (1) Before submitting qualifying contributions to the Commission, a participating candidate must establish that contributors who made qualifying contributions to that candidate are registered voters.
- (2) For qualifying contributions made by check or by money order, a participating candidate must obtain written verification from the Registrar of the number of persons providing qualifying contributions who are registered voters within the electoral division for the office the candidate is seeking.
- (3) For contributions made over the Internet, the Commission may establish an automated system by which the contributor can verify his or her voter registration based on data derived from the Central Voter Registration System. If the contributor is unable to verify the voter registration, the participating candidate must obtain written verification from the Registrar.
- ~~(3)~~ (4) Upon request of a participating candidate, and within 10 business days after the date of the request, the Registrar must verify the names of contributors of qualifying contributions who are registered voters within the electoral division for the office the candidate is seeking.

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21-A M.R.S.A.  
§ 1125(3)

- G. Timing of Verification.** For purposes of this chapter, the Commission will deem verification of registered voters by the Registrar at any time during the qualifying period to be an accurate verification of voter registration even if the registration status of a particular voter may have changed at the time the Commission determines certification of the participating candidate. Proof of voter verification submitted after the qualifying period will not be accepted by the Commission and those qualifying contributions will not be counted toward the number required for certification.

**SECTION 3. CERTIFICATION OF PARTICIPATING CANDIDATES**

1. **Request for Certification.** A participating candidate may submit a completed request for certification to the Commission at any time during the qualifying period but not later than 5:00 p.m. on the last day of the relevant qualifying period. The request will be deemed complete and considered for certification only when the candidate has submitted to the Commission:
- A. the qualifying contributions attached to the corresponding original receipt and acknowledgement forms that have been verified by the Registrar(s) of the electoral division for the office the candidate is seeking;
- B. for gubernatorial candidates, the following documentation for required seed money contributions as required by the Act ([1125(2-B)]: the acknowledgement forms signed by the contributors of seed money, list of seed money contributions, photocopies of checks or money orders received from seed money contributors, and bank or merchant account statements which list contributions made by credit or debit card;

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

#### SECTION 4. FUND ADMINISTRATION

1. **Coordination with State Agencies.** The Commission will coordinate with the Office of the Controller and other relevant State agencies to ensure the use of timely and accurate information regarding the status of the Fund.
2. **Publication of Fund Revenue Estimates.** By September 1st preceding each election year, the Commission will publish an estimate of revenue in the Fund available for distribution to certified candidates during the upcoming year's election. The Commission will update the estimate of available revenue in the Fund after April 15th of an election year and again within 30 days after the primary election in an election year.
3. **Computation of Disbursement Amounts.** By July 1, 1999, and at least every 4 years after that date, the Commission will determine the amount of revenue to be distributed to

certified candidates based on the type of election and office in accordance with the Act [§1125(8)].

4. **Distributions Not to Exceed Amount in Fund.**

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- A. **Authorization by Commission to accept contributions.** If the Commission determines that the revenues in the Fund ~~are~~ may be insufficient to ~~meet~~ distributions ~~make payments~~ under this chapter, the Commission will permit certified candidates to accept and spend contributions in accordance with the Act [§1125(13)]. The candidates may not accept money from any contributor exceeding the limitations set forth in the Act [§1125(13)]. Any seed money collected from a contributor during the qualifying period shall be counted toward the limitations. Depending on the timing and amount of the projected shortfall, the Commission shall determine whether the contributions will replace initial payments, matching funds which the candidate may become entitled to receive under the Act, or both.
- B. **Written notice to candidates.** The Commission will notify participating and certified candidates in writing of any projected shortfall in the Fund and will specify timelines and procedures for compliance with this ~~chapter~~ subsection in the event of ~~any such~~ a shortfall. The written notice to the candidate will indicate to the candidates whether they can spend the contributions upon receipt or must await further written authorization from the Commission staff.
- C. **Procedures for candidates.** The candidates must deposit any authorized contributions into the campaign account into which Maine Clean Election Act funds have been deposited. The candidate will disclose all contributions received in regular campaign finance reports. The candidate may spend the contributions only if authorized by the Commission staff. Unauthorized expenditures of contributions will be considered a violation of this rule. The Commission's expenditure guidelines for Maine Clean Election Act funds will apply to the spending of the contributions authorized under this subsection.

**SECTION 5. DISTRIBUTION OF FUNDS TO CERTIFIED CANDIDATES**

1. **Fund Distribution**

- A. **Establishment of Account.** Upon the certification of a participating candidate, the Commission will establish an account with the Office of the Controller, or such other State agency as appropriate, for that certified candidate. The account will contain sufficient information to enable the distribution of revenues from the Fund to certified candidates by the most expeditious means practicable that ensures accountability and safeguards the integrity of the Fund.
- B. **Manner of Distribution of Fund.** The Commission will authorize distribution of revenues from the Fund to certified candidates by the most expeditious means practicable that ensures accountability and safeguards the integrity of the Fund. Such means may include, but are not limited to:
- (1) checks payable to the certified candidate or the certified candidate's political committee; or

- (2) electronic fund transfers to the certified candidate's or the certified candidate's political committee's campaign finance account.

## 2. **Timing of Fund Distributions**

- A. **Distribution of Applicable Amounts.** The Commission will authorize the initial distribution of applicable amounts from the Fund to certified candidates in accordance with the time schedule specified in the Act [§1125(7)] and this Chapter.
- B. **Matching Fund Allocations.** At any time after certification, revenues from the Fund may be distributed to certified candidates in accordance with subsection 3, below.
- C. **Advances**
  - (1) To facilitate administration of the Matching Fund Provision of this chapter, and to encourage participation in the Act, the Commission may authorize the advance distribution of revenues from the Fund to certified candidates. In determining whether to authorize such advances and the amounts of any such advances, the Commission will consider the amount of revenue in the Fund, the number of certified candidates, the number of nonparticipating candidates, and information contained in campaign finance and independent expenditure reports.
  - (2) A certified candidate may only draw upon, spend or otherwise use, such advance Fund distributions after receiving written notification from the Commission authorizing a matching fund allocation in a specified amount. Written notification by the Commission may be by letter, facsimile or electronic means.

## 3. **Matching Fund Provision**

- A. **General.** The Commission will authorize immediately an allocation of matching funds to certified candidates in accordance with the Act when the Commission determines that the eligibility for receipt of matching funds has been triggered [§1125(9)].
- B. **Matching Fund Computation Involving Only Certified Candidates**
  - (1) For each certified candidate, the Commission will:
    - (a) add to the initial distribution amount for that election:
      - (i) the sum of any matching funds previously provided for that election, and
      - (ii) the sum of independent expenditures made in support of each certified candidate; and

- (b) subtract the sum of independent expenditures made in opposition to each certified candidate.
- (2) The Commission will compare the final computed amounts and will immediately authorize a matching fund allocation equal to the difference to the certified candidate with the lesser amount.
- (3) In computations involving only certified candidates, the Commission will not use seed money raised or unspent funds remaining after a primary election in computing the amount of matching funds.

C. **Matching Fund Computation Based on Nonparticipating Candidates' Receipts or Expenditures.** In races in which there is at least one certified and one nonparticipating candidate, and the matching fund computation is triggered by the financial activity of nonparticipating candidate, including any independent expenditures in support of the nonparticipating candidate:

- (1) The Commission will first determine the applicable amount for the nonparticipating candidate
  - (a) by adding:
    - (i) the sum of the nonparticipating candidate's expenditures, obligations and in-kind contributions, or the sum of the nonparticipating candidate's cash and in-kind contributions and loans, including surplus or unspent funds carried forward from a previous election to the current election, whichever is greater, and
    - (ii) the sum of independent expenditures made in support of the same nonparticipating candidate; and
  - (b) by subtracting the sum of independent expenditures made in opposition to the same nonparticipating.
- (2) The Commission then will determine the applicable amount for the certified candidate
  - (a) by adding:
    - (i) the amount of the initial distribution for that election;
    - (ii) the sum of independent expenditures made in support of the certified candidate;
    - (iii) the sum of matching fund allocations already provided to the certified candidate; and
    - (iv) the amount of:

- a) any seed money raised by an enrolled certified candidate in a primary or special election or by a replacement candidate in a general election; or
    - b) any unspent funds carried forward from the primary election to the subsequent general election by an enrolled certified candidate in a general election; or
    - c) any seed money raised and, if applicable, any other distribution received prior to the general election distribution by an unenrolled certified candidate in a general or special election; and
  - (b) by subtracting the sum of independent expenditures made in opposition to the same certified candidate.
  - (3) The Commission will compare the final computed amounts and, if the amount for the certified candidate is less than the amount for the nonparticipating candidate, will immediately authorize a matching fund allocation equal to the difference to the certified candidate.
- D. Matching Fund Computation Not Involving a Nonparticipating Candidate.** In races in which there are two or more certified candidates and at least one nonparticipating candidate,
- (1) if the matching fund computation is triggered by an independent expenditure in support of or opposition to a certified candidate, and
  - (2) the campaign totals, including independent expenditures, of any nonparticipating candidate in the race are equal to or less than the campaigns totals, including independent expenditures, of at least one certified candidate in the race; then
  - (3) the matching fund computation must be completed according to the procedure in paragraph B of this subsection.
- E.** The Commission will make computations promptly upon the filing of campaign finance reports and independent expenditure reports.
- F.** To prevent the abuse of the Matching Fund Provision, the Commission will not base any calculation on independent expenditures that, although containing words of express advocacy, also contain other words or phrases that have no other reasonable meaning than to contradict the express advocacy. For example, expenses related to a communication saying, "Vote for John Doe -- he's incompetent and inexperienced," will not be considered a communication in support of John Doe in the calculation of matching funds.
- G. Matching Fund Cap.** Matching funds are limited as provided in the Act [§1125(9)]. ~~to 2 times the amount originally distributed to a certified candidate from the Fund for that election.~~ Certified candidates are not entitled to cumulative matching funds for multiple opponents.

- H. **Other.** Any distribution based on reports and accurate calculations at the time of distribution is final, notwithstanding information contained in subsequent reports.
- I. **Coordination with Other State Agencies.** The Commission will coordinate with the Office of the Controller and other relevant State agencies to implement a mechanism for the distribution of Fund revenues to certified candidates that is expeditious, ensures public accountability, and safeguards the integrity of the Fund.
- J. **Disbursements with No Campaign Value.** If a privately financed candidate has received monetary contributions which are disbursed in ways that do not in any way influence the nomination or election of the candidate, those receipts will not be considered by the Commission in calculating matching funds for his or her opponent. Such disbursements may include repaying a loan received by the candidate, refunding a contribution to a contributor, or transferring funds to a party or political committee for purposes that do not relate to the candidate's race.
- K. **Treatment of Authorized Contributions to Certified Candidates.** If a certified candidate has been authorized to collect and spend contributions pursuant to section 1125(13) of the Act and Section 4(4) of this chapter, the amount of private contributions that the candidate has been authorized to spend shall be treated as Fund revenues received by the candidate for the purpose of calculating matching funds.

#### 4. **Advance Purchases of Goods and Services for the General Election**

- A. If, prior to the primary election, a candidate purchases or receives in-kind contributions of consulting services, or the design, printing, or distribution of campaign literature and advertising, including radio and television advertising, but uses or will use a preponderance of those services exclusively for the general election, then the portion used or to be used for the general election must be counted as a general election receipt or expenditure in calculating the amount of matching funds for any certified candidate in the same race.
- B. If a certified candidate in a general election believes that an opponent, or person or committee making an independent expenditure, has failed to disclose an advance purchase for the general election, the certified candidate shall submit a written request for an investigation to the Commission no later than August 30 of the election year, or within 30 days of the opponent's filing of the 42-day post-primary report, whichever is later. The request must identify the pre-primary election expenditure that is believed to be for the general election and must state a specific basis for believing that the goods and services purchased were not used for the primary election.
- C. The Commission will request a response from the opposing candidate or other respondent, and will make a determination whether the expenditure should be counted toward the certified candidate's eligibility for matching funds.