

Agenda

Item #2



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

To: Commissioners  
From: Jonathan Wayne, Executive Director  
Date: March 23, 2012  
Re: Chapter 3 Rule Amendments

---

In January 2012, the Commission agreed to accept public comment on proposed changes to its Rules. The Rules in Chapter 3 which relate to the Maine Clean Election Act are designated by statute to be major substantive. So, changes to the Chapter 3 Rules must be reviewed by the Legislature. The Commission held a public hearing at its February meeting to receive comments from the public and received written comments through March 12, 2012. The Commission received comments on the Chapter 3 Rule amendments from the Maine Citizens for Clean Elections and Joseph and Michele Greenier, which are attached. For your information, their comments also relate to the Chapter 1 Rule amendments.

In addition, the Commission received comments from the American Civil Liberties Union of Maine and the Maine Press Association concerning the Chapter 1 Rule changes. Those comments are included in the materials for agenda item #3, for your information. The staff recommends adopting the Chapter 1 Rules at a *future* meeting and to invite more comment on a revised Rule concerning the press exception.)

After considering the comments received, the Commission staff recommends adopting the Chapter 3 Rule amendments as proposed. Thank you for your consideration of the amendments.

To: Administrative Procedure Officer  
Office of the Secretary of State of Maine

From: Jonathan Wayne, Executive Director

Date: March 28, 2012

Re: Major Substantive Amendments to Chapter 3 of the Commission's Rules  
(94-270 C.M.R. Chapter 1)

---

**STATEMENT OF FACTUAL AND POLICY BASIS FOR AMENDMENTS  
AND SUMMARY OF AND RESPONSE TO COMMENTS**

**Elimination of Matching Funds from the Maine Clean Election Act Program**

Several of the changes adopted by the Commission relate to the elimination of matching funds from the Maine Clean Election Act program. This is the result of an order by the U.S. District Court for the District of Maine in Cushing v. McKee, No. 1:10-cv-00330-GZS (D. Me. July 21, 2011). Also, as of March 20, 2012, both chambers of the Maine Legislature passed LD 1774, which codifies the Cushing decision by eliminating matching funds from the Maine Clean Election Act statute (21-A M.R.S.A. § 1125(9)).

**Chapter 3, Section 2(4)(A)(5) – Affirmation by Circulator on Acknowledgement Form for Qualifying Contributions**

*Factual and Policy Basis:* When candidates or their campaign volunteers collect contributions of \$5 or more to qualify for Maine Clean Election Act (MCEA) funding, the donors are required to sign a "Receipt & Acknowledgment Form." Beginning in 2007, the Commission added a section to the "R&A" form for the "circulator" – the person other than the candidate who has collected the \$5 contributions. Also, in 2007, the Commission decided to list in Chapter 3, Section 2(4)(A)(5) all of the specific affirmations that the circulator must make.

Based on the Commission's experience in administering the qualification process, it may be interested in consolidating or simplifying the affirmations in the circulator section of the form in future election years. Therefore, the Commission has decided to simplify the affirmations that are required by Chapter 3, Section 2(4)(A)(5) in order to provide the Commission greater flexibility to amend the R&A form in future election years.

*Comments:* The Maine Citizens for Clean Elections commented through testimony by John Brautigam at a February 28, 2012 public hearing and in a letter dated March 9, 2012. The organization stated that it has no problem with the Commission providing its staff greater flexibility to amend the R&A form. It stated, however, that the public benefits from knowing whether a circulator was paid or volunteered and whether the form was signed in the circulator's presence. Eliminating these requirements would be of concern to the organization.

*Response by the Commission:* Prior to qualifying for MCEA funding, participating candidates are required to disclose in a seed money report all campaign expenditures. So, the public is able to discern from the seed money report whether any circulators have been paid. The R&A form has not included this information. The reference in the existing rule to paid circulators means that circulators must make the required affirmations *regardless whether* the circulator was paid or was a volunteer.

Unlike nominating petitions, there is no legal requirement *in statute* that qualifying contributions must be collected in the presence of someone who witnessed the collection of the contribution. The Commission added the circulator section in 2007 without any direction from the Legislature, in order to add confidence that candidates are qualifying correctly. Nevertheless, the Commission does not want the circulator's statement on the R&A form to restrict the means by which candidates collect qualifying contributions.

Campaigns are able to receive qualifying contributions through a variety of means. Sometimes, circumstances could be such that although a circulator was involved in the collection of the

qualifying contribution, the circulator did not personally witness the contributor signing the R&A form. For example, a circulator may go to the door of a voter, receive one resident's contribution, and leave the R&A form at the household temporarily for another voter to contribute and sign. Or, the campaign could send a solicitation and R&A form to supporters by mail, and request that they be returned to the campaign by mail, along with a \$5 contribution. So, the Commission has decided to adopt the proposed rule in order to provide its staff greater flexibility in any future changes to the R&A form, but will weigh the comments of the Maine Citizens for Clean Elections in any re-design of the form.

### **Chapter 3, Section 4(4) – Shortfall in the Maine Clean Election Fund**

*Factual and Policy Basis:* In Section 4(4), the Commission has set out procedures in case there is insufficient money in the Maine Clean Election Fund to make payments to candidates. The Commission proposes deleting two paragraphs and amending a third to reflect the elimination of matching funds from the MCEA program.

*Comments:* The Commission received no comments on this proposed change to the Commission Rules.

### **Chapter 3, Section 5 – Payment of Maine Clean Election Act Funds**

*Factual and Policy Basis:* Because of the elimination of matching funds from the MCEA program, the Commission proposes deleting subsections 5(2), 5(3), and 5(4), which mostly relate to the payment of matching funds.

The current Section 5(2) contains two provisions that pertain to the Commission's payments of public campaign funds generally. The Commission proposes moving these two provisions from Section 5(2) to 5(1):

- That the Commission staff will pay MCEA funds to candidates in accordance with the schedule in 21-A M.R.S.A. § 1125(7) (the Commission proposes moving this provision to Section 5(1)(B); and
- That the Commission will coordinate with the Office of State Controller to make payments to candidates in a manner that is expeditious, ensures public accountability, and safeguards the integrity of the Maine Clean Election Fund (proposed to be a new Section 5(1)(C)).

*Comments:* The Commission received no comments on this proposed change to the Commission Rules.

### **Chapter 3, Section 6(1) – Limitations on Campaign Expenses**

The Commission proposes deleting the reference to matching funds from Section 6(1).

*Comments:* Joseph Greenier commented at a February 28, 2012 public hearing. Michele and Joseph Greenier commented in a letter received March 9, 2012. The Greeniers propose an insertion to Section 6(1) (“and must not overspend MCEA funds”). Also, the Greeniers propose deleting Section 6(5) from the Commission Rules in order to prohibit MCEA candidates from spending any MCEA funds on post-election parties, thank you notes, or advertising to thank supporters or voters.

*Response by Commission:* the rulemaking process for administrative agencies is governed by the Administrative Procedure Act (Title 5, Chapter 375, Subchapter 2). Two important steps in the process are: (1) that the agency provide notice to the public of exactly those rules being considered for amendment, and (2) that the public has an opportunity to comment on the proposed rule changes. An agency is not permitted to adopt rule amendments on topics or provisions which were not part of the proposed rule amendments.

In this case, the Greeniers are making policy suggestions concerning post-election parties and overspending that were not included in the rule amendments proposed by the Commission. Therefore, the Commission may not make these changes as part of this rulemaking.

### **Chapter 3, Section 7(1)(A) – Procedures for Candidates' Handling of Matching Funds**

Because the Commission will not be paying matching funds to MCEA candidates in the future, the Commission proposes deleting the provision specifying that MCEA candidates must deposit matching funds in a federally insured financial institution.

*Comments:* The Commission received no comments on this proposed change to the Commission Rules.

### **Chapter 3, Section 7(1)(C) – Using MCEA Funds to Reimburse for Vehicle Travel**

*Factual and Policy Basis:* This rule states that if a campaign uses MCEA funds to reimburse someone for their vehicle travel, the person being reimbursed must have kept a record showing the dates of travel, number of miles traveled, and destination and purpose of the travel.

The Commission proposes to re-organize the Rule for greater clarity. In addition, the Commission proposes two substantive changes:

- The details of the campaign trip would need to be recorded on the same day as the travel or within two calendar days afterward.
- The record should contain an affirmation by the person being reimbursed that it is an accurate record of the dates, purposes and distance of the campaign travel.

*Comments:* The Maine Citizens for Clean Elections support and welcome the proposed rule amendment because it will enhance transparency concerning the use of MCEA funds for travel,

which is an area in which the Commission's record-keeping and reporting requirements are complicated.

The Greeniers suggest some wording changes to the opening paragraph of Section 7(1) and to Section 7(1)(B) on topics for which the Commission did not invite public comment. These topics include eliminating the record-keeping requirement for meal expenses and the insertion of the requirement that MCEA candidates must return unspent MCEA funds (already required in statute).

With respect to Section 7(1)(C) (record of vehicle travel), the Greeniers suggest that the Commission's sample travel record should be mandatory for campaigns that use MCEA funds for travel. The Greeniers also recommend deleting section 1 and requiring that reimbursements to a volunteer for travel not exceed \$100 per election. The Greeniers suggest requiring the candidate to record the odometer reading for the beginning and end of each campaign trip and that mileage must be recorded on the same day as the campaign travel. Also, the Greeniers suggest that the candidate and the treasurer must sign the travel log.

*Response by the Commission:* the Commission declines to adopt the changes proposed by the Greeniers on topics that were not included in the proposed rule amendments, because that would be contrary to the procedures set out in the Administrative Procedure Act.

The Commission wishes to allow campaigns the flexibility to devise their own formats for vehicle travel records, provided that the records contain all of the required information. The Commission believes entering odometer readings in the travel records is a good practice. It does not wish to make this a requirement, however, in order to avoid being restrictive. There could be circumstances in which a candidate does not record an odometer reading, but may be able to accurately determine the mileage traveled for a campaign trip. For example, a candidate or volunteer could forget to look at their odometer at the beginning of a campaign trip, but may know the distance traveled for campaign purposes (such as the distance from their house to a neighboring town). The Commission declines to place a maximum \$100 on the reimbursement

to volunteers, because extensive travel by volunteers could merit greater reimbursements, particularly in larger legislative districts.

The vehicle travel log required by the Rule should be created by the person who conducted the campaign travel and who wishes to be reimbursed. This could be a volunteer, paid campaign staff, or the candidate. The Commission believes it is important for the person being reimbursed to affirm that the record is accurate, but believes that the signatures of the candidate and treasurer do not significantly add to the reliability of the record. Also, the treasurer's signature on the travel record could be an unnecessary burden. So, the Commission has provisionally adopted the Rule amendment as originally proposed.

### **Chapter 3, Section 7(2)(B) – Procedures for Candidates to Return Unspent MCEA Funds**

*Factual and Policy Basis:* Subsection 7(2) covers three different issues of financial reporting by MCEA candidates. Paragraph 7(2)(B) requires candidates to return unspent MCEA funds to the Commission after the election. The Commission proposes deleting references in Paragraph 7(2)(B) to unspent matching funds.

*Comments:* The Greeniers suggest a new requirement in Paragraph 7(2)(A) that MCEA candidates “must go by their real names.”

*Response by the Commission:* the Commission declines to adopt the changes proposed by the Greeniers on topics that were not included in the proposed rule amendments, because that would be contrary to the procedures set out in the Administrative Procedure Act.

### **Chapter 3, Section 7(2)(C) – Selling Property or Equipment Purchased with MCEA Funds**

*Factual and Policy Basis:* If a campaign has used MCEA funds to purchase property or equipment that could be converted to the candidate's personal use after the election, this Rule requires the campaign to sell the equipment after the election and to return the proceeds to the

Maine Clean Election Fund. The existing Rule states that if the campaign sells the property or equipment to the candidate or a member of the candidate's immediate family or campaign staff, the campaign must receive at least 40% of the original purchase price. In the 2011 session, the Maine Legislature enacted a resolve (Resolve Chapter 19) directing the Commission to amend its Rules so that the campaign must recover at least 75% of the original purchase price.

*Comments:* The Commission received no comments on this proposed change to the Commission Rules.

**SECTION 2. PROCEDURES FOR PARTICIPATION**

...

**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~~ an affirmation by the person who circulated the form that the circulator collected the contribution, that the contribution came from the personal funds of the contributor, that nothing was provided to the contributor in exchange for the contribution,

and any additional information required by the Commission in order to protect the reliability of the qualification process.

...

#### 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. **Authorizing Contributions due to Shortfall in the Fund.**
  - A. **Authorization by Commission to accept contributions.** If the Commission determines that the revenues in the Fund may be insufficient to make payments under section 1125 of the Act, the Commission may reduce payments of public campaign funds to certified candidates and permit them to accept and spend contributions in accordance with the Act [§1125(13)].
  - B. **Limitations on permitted contributions.** If permitted to accept contributions, a certified candidate may not accept a contribution in cash or in-kind from any contributor, including the candidate and the candidate's spouse or domestic partner, that exceeds \$750 per election for gubernatorial candidates and \$350 per election for State Senate and State House candidates. A candidate may not solicit or receive any funds in the form of a loan with a promise or expectation that the funds will be repaid to the contributor. If a contributor made a seed money contribution to a candidate, the amount of the seed money contribution shall count toward the contribution limit for the primary election. For a replacement candidate or candidate in a special election, a seed money contribution shall count toward the contribution limit for the election in which the candidate is running.
  - C. **Apportioning reductions in public funds payments.** Upon determining the amount of the projected shortfall, the Commission shall then determine the amount and apportionment of the reductions in payments to certified candidates. ~~The Commission shall reduce the initial payments to legislative candidates for the general election and the matching funds available for gubernatorial candidates in the general election, unless the Commission determines that there are policy reasons to apportion the reductions differently.~~

- ~~D. Campaign contributions to replace matching funds. If the Commission reduces the amount of matching funds to be paid to certified candidates, it may permit candidates to raise contributions to replace matching funds in advance of the authorization to spend matching funds. Any amount of contributions raised that exceeds the amount of campaign funds the candidate has been authorized to spend must be deposited into a separate account with a bank or other financial institution. The candidate may spend the contributions as matching funds only if authorized by the Commission staff. The unauthorized expenditure of contributions raised to replace matching funds is a substantial violation of the Act and this rule.~~
- E. **Written notice to candidates.** The Commission shall notify participating and certified candidates in writing of any projected shortfall in the Fund and specify timelines and procedures for compliance with this subsection in the event of a shortfall.
- F. **Procedures for candidates.** The candidate shall deposit any authorized contributions into the campaign account into which Maine Clean Election Act funds have been deposited, except funds which must be deposited in a separate account under paragraph D. The candidate shall disclose all contributions received in regular campaign finance reports. The Commission's expenditure guidelines for Maine Clean Election Act funds apply to the spending of the contributions authorized under this subsection.
- G. **Disposing of surplus campaign funds.** After the election, the candidate must return any surplus campaign funds which the candidate was authorized to spend to the Commission upon the filing of the 42-day post-election report except for any money retained for purposes of an audit by the Commission pursuant to section 7, subsection 2(B). If the candidate has collected campaign contributions which the candidate was not authorized to spend, the candidate may dispose of those funds within 60 days after the election by returning them to the contributors, donating them to the Maine Clean Election Fund, or by making an unrestricted gift to the State. All expenditures of surplus campaign funds must be disclosed in campaign finance reports in accordance with 21-A M.R.S.A. § 1017.
- ~~H. Effect of fundraising on matching funds calculation. If the Commission authorizes a certified candidate to accept campaign contributions pursuant to section 1125(13) of the Act and this subsection, the amount of the 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. Any reduction in the amount of public campaign funds paid to a certified candidate under sections 1125(8) or (10) of the Act will not affect the fundraising or spending threshold that triggers accelerated reporting by an opponent of the certified candidate under 21 A M.R.S.A. § 1017(3 B).~~

## 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 in accordance with the time schedule specified in the Act [§ 1125(7)] 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.
- C. **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.

### 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 campaign 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)]. 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.~~

#### ~~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.~~

## **SECTION 6. LIMITATIONS ON CAMPAIGN EXPENSES**

A certified candidate must:

1. limit the candidate's campaign expenditures and obligations to the applicable Clean Election Act Fund distribution amounts ~~plus any authorized matching fund allocations~~;
2. not accept any contributions unless specifically authorized in writing to do so by the Commission in accordance with the Act [§1125(2) and §1125(13)];
3. use revenues distributed from the Fund only for campaign-related purposes as outlined in guidelines published by the Commission, and not for personal or any other use;
4. not use revenues distributed from the Fund to purchase goods to sell for profit;
5. not spend more than the following amounts of Fund revenues on post-election parties, thank you notes, or advertising to thank supporters or voters:
  - A. \$250 for a candidate for the State House of Representatives;
  - B. \$750 for a candidate for the State Senate; and
  - C. \$2,500 by a gubernatorial candidate.

The candidate may also use his or her personal funds for these purposes; and

6. not use revenues distributed from the Fund for the payment of fines, forfeitures, or civil penalties, or for the defense of any enforcement action of the Commission.

## **SECTION 7. RECORD KEEPING AND REPORTING**

1. **Record Keeping by Participating and Certified Candidates.** Participating and certified candidates and their treasurers must comply with applicable record keeping requirements set forth in Title 21-A, chapter 13, subchapter II [§1016], and chapter 14 [§1125(12-A)]. Failure to keep or produce the records required under Title 21-A and these rules is a

violation of the Act for which the Commission may impose a penalty. The Commission may also require the return of funds for expenditures lacking supporting documentation if a candidate or treasurer is found in violation of the record keeping requirements. The candidate or the treasurer shall have an opportunity to be heard prior to any Commission decision imposing a penalty or requiring the return of funds under this section. In addition to these specific actions, the Commission may also take any other action authorized under Title 21-A.

- A. **Fiduciary Responsibility for Funds.** All funds provided to a certified candidate or to a candidate's authorized political committee must be segregated from, and may not be commingled with, any other funds, other than unspent seed money. ~~Matching fund advance revenues for which no spending authorization has been issued must be deposited in a federally insured account and may not be used until the candidate receives authorization to spend those funds.~~
- B. **Meal Expenses.** A candidate or treasurer must obtain and keep a record for each meal expenditure of more than \$50. The record must include itemized bills for the meals, the names of all participants in the meals, the relationship of each participant to the campaign, and the specific, campaign-related purpose of each meal.
- C. **Vehicle Travel Expenses.** If a campaign uses public campaign funds to reimburse the candidate or another individual for their vehicle travel, the A candidate or treasurer must obtain and keep a record of vehicle travel expenses for which reimbursements are made ~~from campaign funds.~~
- (1) **Amount of reimbursement.** ~~Reimbursement must be based on~~ may not exceed the standard mileage rate prescribed for employees of the State of Maine for the year in which the election occurs. ~~For each trip for which reimbursement is made, a record must be maintained showing the dates of travel, the number of miles traveled, the origination, destination and purpose of the travel, and the total amount claimed for reimbursement.~~ A candidate may be reimbursed for vehicle travel expenses at a rate less than the standard mileage rate. A candidate may also reimburse a volunteer for vehicle travel expenses at a rate less than the standard mileage rate as long as the difference does not exceed \$100 per volunteer per election.
- (2) **Contents of record.** For each trip for which reimbursement is made, a record must be maintained showing the dates of travel, the number of miles traveled, the origination (if different than the residence of the person reimbursed), destination and purpose of the travel, and the total amount claimed for reimbursement. The record should contain an affirmation by the person being reimbursed that it is an accurate record of the dates, purpose, and distance of the campaign travel. The person seeking the reimbursement must have recorded the details of the campaign travel contemporaneously with the travel or within two calendar days afterward.

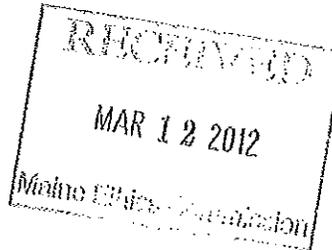
(3) **Penalties for non-compliance.** The Commission may disallow any vehicle travel reimbursements for which the candidate or the treasurer cannot produce an accurate record maintained in accordance with this Rule and may require the campaign to repay the amount of the reimbursement to the Maine Clean Election Fund. The Commission may also assess a penalty pursuant 21-A M.R.S.A. § 1127(1) if a campaign reimburses travel expenses without having kept a record that is fully compliant with the requirements of this Rule.

## 2. Reporting by Participating and Certified Candidates

- A. **General.** Participating and certified candidates must comply with applicable reporting requirements set forth in Title 21-A, chapter 13, subchapter II [§1017].
- B. **Return of Matching Fund Advances and Unspent Fund Revenues.** Matching fund advance revenues that have not been authorized for spending and unspent Unspent Fund revenues shall be returned to the Fund as follows:
- (1) ~~Unauthorized Matching Funds.~~ Candidates must return all matching fund advance revenues for which no spending authorization was issued prior to an election to the Commission by check or money order payable to the Fund within 2 weeks following the date of the election.
  - (2) **Unspent Fund Revenues for Unsuccessful Primary Election Candidates.** Upon the filing of the 42-day post-primary election report for a primary election in which a certified candidate was defeated, that candidate must return all unspent Fund revenues to the Commission by check or money order payable to the Fund, except that a gubernatorial candidate may be allowed to reserve up to \$2,000 in order to defray expenses associated with an audit by the Commission.
  - (2 A) ~~Unspent Matching Funds for Successful Primary Election Candidates.~~ Upon the filing of the 42 day post primary election report for a primary election in which a certified candidate was successful, that candidate must return any unspent matching funds received for the primary election. Matching funds received for the primary election may not be used for campaign expenditures for the general election.
  - (3) **Unspent Fund Revenues for All General and Special Election Candidates.** Upon the filing of the 42-day post-election report for a general or special election, all candidates must return all unspent Fund revenues to the Commission by check or money order payable to the Fund, except that a gubernatorial candidate may be allowed to reserve up to \$3,500 in order to defray expenses associated with an audit by the Commission.
- C. **Liquidation of Property and Equipment.** Property and equipment that is not exclusive to use in a campaign (e.g., computers and associated equipment, etc.) that has been purchased with Maine Clean Election Act funds loses its campaign-related purpose following the election. Such property and equipment purchased

for \$50 or more must be liquidated at its fair market value and the proceeds thereof reimbursed to the Maine Clean Election Fund as unspent fund revenues in accordance with the schedule in paragraph B above. Candidates may not return unsold property or equipment to the Commission.

- (1) The liquidation of campaign property and equipment may be done by sale to another person or purchase by the candidate.
- (2) Liquidation must be at the fair market value of the property or equipment at the time of disposition. Fair market value is determined by what is fair, economic, just, equitable, and reasonable under normal market conditions based upon the value of items of similar description, age, and condition as determined by acceptable evidence of value. A campaign's sale of property or equipment through an on-line commercial auction shall be considered by the Commission as a factor in favor of determining that the campaign has recovered the fair market value of the property or equipment.
- (3) If the campaign sells the property or equipment to the candidate or a member of the candidate's immediate family or campaign staff, the campaign must receive at least 40% 75% of the original purchase price.



March 10, 2012

Jonathan Wayne  
Executive Director  
Commission on Governmental Ethics and Election Practices  
135 State House Station  
Augusta, ME 04333-0135

Re: Proposed Rule 2012-P10 and 2012-P11

Dear Director Wayne:

On behalf of Maine Citizens for Clean Elections ("MCCE") we appreciate the opportunity to submit these comments on proposed rules number 2012-P10 and 2012-P11.

MCCE is a nonpartisan organization that has been advocating for the full and effective implementation of the Maine Clean Election Act since it was passed in 1996. As part of its mission MCCE works for reform that is inclusive, fair, just, consistent with constitutional values, fiscally responsible, and workable.

**General Comments:**

We believe that the following principles should guide the Commission whenever it considers possible changes to the rules governing the MCEA system and other campaign finance and reporting regulations:

- Keep true to the spirit of the laws, whether passed by the legislature or by initiative;
- Regarding the amount and timing of disclosure, be guided by the strong public interest in access to all information at the time and in the format when it is of the most use to the public;
- Keep the rules clear to help ensure high compliance;
- Make every effort to ensure that changing technologies and the evolving use of new media don't create gaps in the disclosure system;
- Beware of the unprecedented national trend to thwart the principles of disclosure and cloak more and more campaign activity in secrecy.

**Member Organizations**

AARP Maine, Common Cause Maine, EqualityMaine, League of Women Voters of Maine, League of Young Voters, Maine AFL-CIO, Maine Council of Churches, Maine People's Alliance/Maine People's Resource Center, Maine State Employees Association/SEIU Local 1989, Maine Women's Lobby, NAACP-Portland, Sierra Club Maine Chapter

P.O. Box 18187, Portland, ME 04112 • [info@mainecleanelections.org](mailto:info@mainecleanelections.org)

Jonathan Wayne  
March 9, 2012  
Page | 2

**Specific Comments:**

1. Reporting Schedule for Independent Expenditures.

We have no objection to replacing the quarterly reports with a 60-day pre-election report, since there are few if any independent expenditures during the rest of the campaign cycle. We also do not object to moving the reporting deadline from 14 days to 11 days for clarity and simplicity.

Our single greatest concern with the current reporting system for independent expenditures is that the public often does not receive information about the true source of the funds for the expenditure – information which we believe is vitally important to an informed public.

We are not suggesting that there is a need for additional reporting when a single person makes an expenditure from his or her own funds, or when a committee makes an expenditure from a single pool containing funding commingled from a variety of sources. When, however, a person or committee is acting as a conduit for a contributor who has earmarked their contribution to be spent in a particular way, the public has an interest in knowing the true source of the funds and the nature of the earmarking. Without this, the disclosure of the expenditures alone is hollow and even misleading. We would ask that the rules regarding accelerated reporting of independent expenditures address these scenarios so that the public has information not only about the money that is spent but the source of the funds – at least where the funds can be traced to one source.

We believe accelerated contribution reporting by PACs and those making independent expenditures is feasible. Under current rules, candidates must engage in accelerated reporting of large contributions toward the end of a campaign. There is no reason this rule could not be applied to others engaged in electoral advocacy.

2. Expanding the “press exemption” to internet publishers of news and commentary.

We support a clear but limited bona fide press exception that is appropriate for the variety of new media now common in campaigns.

The draft rule sets forth a five-part test for determining whether an internet-based publication should be entitled to the press exemption. We believe the five-part test is generally appropriate, except under part “d.” we do not believe that the “purpose” test should be required. If the person or entity publishing the item is being compensated or reimbursed by a candidate or committee, etc., that should be enough. There is no need to also prove that the purpose was to influence an election.

Jonathan Wayne  
March 9, 2012  
Page | 3

As a matter of drafting, the first sentence of paragraph 10 seems redundant and potentially confusing. Those items are already exempt by function of the definition of expenditure elsewhere in the rule (and statute). For clarity this section of the rules should be limited to laying out the test for what kind of "internet periodical publications" are entitled to the expenditure exception.

3. "Testing the waters" provisions for "contributions" and "expenditures".

Where a contributor gives a gift for the purpose of influencing the election, it is a "contribution" under the current statutory definition. 21-A M.R.S.A. 1012 (2)(A)(1). Once that occurs, the Commission has authority to treat the recipient as a "candidate" and apply all the limitations and reporting requirements in the law.

We are concerned that candidates are tempted to "game the system" – side-stepping contribution limits and reporting requirements on the grounds that the donor supposedly is not intending to influence the election, or the recipient supposedly is still only exploring a possible candidacy. While there is some subjectivity in the test, there is nothing about the exploratory phase that makes it more difficult to discern the donor's intent than it would be later in the campaign. Thus, complaints that the test is unclear should be taken with a grain of salt.

As the Commission considers a new rule for exploratory activities, we would suggest that reporting requirements and contribution limits may be analyzed separately. While we think there is some rationale for waiving campaign finance reporting requirements during the "exploratory" or "testing the waters" phase (especially when a person ultimately chooses not to run for office), we do not see any rationale for waiving contribution limits. Simply put, we think contribution limits should apply during all phases of the campaign – even the earliest. And we think there is adequate authority for considering any gift to a person that relates to that person's possible candidacy to be a "contribution" subject to the limits – regardless of when that gift is received.

For reporting requirements, we would favor a "bright line" test. For purposes of clarity, we would suggest that the Commission establish a dollar amount of campaign finance activity beyond which reporting is necessarily required. This is preferable to the factor set forth in the draft rule – "what could reasonably be expected to be used for exploratory activities". There should be different dollar amounts for House, Senate and Gubernatorial campaigns. The seed money amounts in the MCEA might provide a good guide to what these exploratory amounts should be.

Jonathan Wayne  
March 9, 2012  
Page | 4

4. Disclaimer exemption for certain expenditures less than \$100 made independent of any candidate or campaign.

We support this rule and offer only a few comments.

First, rather than a new definition of "independent," perhaps the definition set forth in Rules Ch. 1 at Section 10 (2)(C) could be used. Although the context is somewhat different, there may be some value in having only one definition to which all stakeholders could become accustomed.

Second, perhaps the rule could be redrafted with greater clarity and simplicity. For example:

*No disclaimer is required of any handbill, campaign sign or internet or email communication costing less than \$100 if it is produced and distributed without any suggestion, request, direct or indirect authorization or compensation from any candidate or committee or agent thereof.*

*This exemption does not apply to any handbill, campaign sign or internet or email communication made by any person who is required to register or file campaign finance reports with the Commission.*

5. Repeal of accelerated reporting schedule for non-MCEA candidates.

We acknowledge the rationale for changing this reporting requirement in light of the elimination of matching funds, but we note that the information previously reported for purposes of calculating matching funds also had value to the general public. We do not propose any changes to the draft rule, but ask that the existing reporting requirements be closely monitored in the 2012 election cycle to determine whether the public would benefit from any additional reporting by privately funded candidates in the future.

6. Membership Communications reporting schedule.

We support the adoption of a schedule, but ask whether it should be parallel with the other reporting requirements which are triggered 11 days before the election rather than three days before as proposed.

Jonathan Wayne  
March 9, 2012  
Page | 5

7. Circulation Form for Qualifying Contributions.

We have no objection to giving Commission staff more flexibility in devising a clear and straightforward qualifying contribution form. We believe, however, that there is an important public purpose served by verifying whether the circulator was paid or a volunteer, and that the forms were signed in the circulator's physical presence. Eliminating those requirements would be a concern for us. At the very least, if this revision is approved we would appreciate the opportunity to work with the staff on a revised form.

8. Using MCEA Funds for Vehicle Travel Reimbursement.

We support and welcome this change as it will enhance transparency regarding the use of MCEA funds for travel – one area where record keeping and reporting are somewhat more complicated compared to the more straightforward purchase of goods and services.

Thank you again for considering these comments. We look forward to continuing to work with you and the Commission.

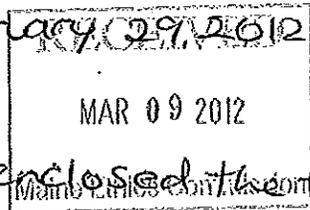
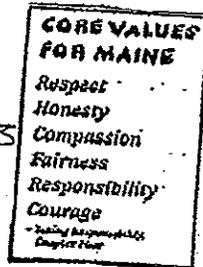
Sincerely yours,



John Brautigam

To: Commission on Governmental Ethics and Election Practices

Re: Invitation to Comment on Proposed Rule Amendments  
Public Hearing held on Wednesday, February 29, 2012  
at 9:00am. under Agenda Item #4



As Concerned Citizens, we have enclosed the following comments:

Chapter 1: SECTION 4. INITIATION OF PROCEEDINGS

2 C. "Any person may make an official complaint

① Add: and/or request for an Audit for a Commission investigation...

"A copy of the signed request may be filed by facsimile or by

② Cross off: electronic mail, because e-mails are not included in the files and Agendas, and e-mails don't include signatures, unlike a fax is signed and telephone number is disclosed. There have been secret, undisclosed emails, between Executive Director and Lawfirm which the content is unethical. All previous e-mails must be in candidate files and disclosed under FOIA and the public's right to know.

③ Add: The Ethics Commission must never destroy faxes, as this violates the Freedom of Access laws. It was explained, this happened in the Candidate Katz investigation, that the fax was destroyed.

④ Add: The candidate(s) shouldn't be entitled to the complaint, until after all the interviews are conducted by the Executive Director and the staff. The interviews must be documented in writing, including questions asked, to avoid past errors. The interviews must include: Candidate, Campaign Staff, Treasurer, Vendors and Complainant (not excluded, as in our complaint.) All interviews must be included in the investigation and Agenda, as public information (not hidden from the public.)

⑤ Add: The staff must disclose their names and signatures, regarding Findings of Fact. The

To: Commission on Governmental Ethics and Election Practices  
(cont)

Findings of Fact must be based on facts, not fabrications by the candidate, to get away with violations of the MCEA. The Executive Director must fully investigate complaints, based on the merits and proof provided.

⑥ "The Director may conduct."

Cross off: preliminary  
fact finding.

Add: for

presentation to the Commission."

⑦ "The Director, in consultation with Counsel, will prepare a summary of staff findings and recommendations"

Cross off: for inclusion

Add: "with 100% full disclosure of the investigation on the Agenda, for the public's right to know."

⑧ Add: In requests for investigations, where there are direct conflicts of interest with the Chair and/or members of the Commission, the individual as an obligation to recuse themselves immediately on the record and inform the Executive Director of recusal in writing. If the Chair and/or members of the Commission have direct conflicts of interest (i.e. their clients or business partners) they must recuse themselves. The remaining Commissioners must appoint an Interim Chair until the investigation is completed, to prevent conflicts of interest.

2E ⑨ Cross off: "The signature of a person to"

Add: The Treasurer and Candidate must sign all Campaign reports, for completeness and accuracy. There must be a hard copy of all reports, in the candidates files, for public inspection.

# To Commission on Governmental Ethics and Election Practices (cont)

2E ⑨ cont

Cross off: the rest of 2E.

## Additional Information:

The campaign finance reports must be physically signed by the Treasurer and the Candidate, within 5 days after emailed to the Commission. The purpose for signing reports is to hold the Treasurer and candidate jointly responsible for the accuracy of the reports. This would prevent the practice of appointing a Treasurer in name only, with no intention of the Treasurer filing the campaign reports. This would assist the Ethics Commission in determining the candidates who are filing their own reports, as the Treasurer. It would assist in enforcing the new rule that candidates can't act as their own Treasurer. In some past investigations, Treasurers were not interviewed or required to attend Commission meetings, for violations of MCEA. Treasurers must be held accountable for campaign reports, including testifying at the Ethics Commission, so both the Candidate and Treasurer are held accountable for violations, including both being fined, if violations have occurred. How can this Commission stop violations of MCEA, if you don't hold Treasurers and Candidates accountable and responsible, for filing false finance reports? The MCE funds are the people's money and the public expects the Commission to enforce its rules and laws, in every investigation.

## 3. Lobbyist Disclosure Procedures

A. Report Review. The Commission staff will review

lobbyist registration

Cross off: and  
"monthly reports"

Add: and annual reports

③

To: Commission on Governmental Ethics and Election Practices  
(Cont)

"for compliance with disclosure requirements..."  
"The Commission staff will establish a reasonable deadline

Add: of 15 days

which a lobbyist must remedy any apparent omission or error. If the lobbyist fails to respond by the deadline,

Crossoff: the Commission staff may extend the deadline by which the lobbyist must comply or may place the

Add: it will be on the agenda of the next Commission meeting, with fines for the violation.

Cross off: "Additionally, the Commission staff... remedied the violation."

Additional Information: If a lobbyist refuses to comply with the first deadline, chances are they won't comply with the second deadline either. A deadline means a time certain, not keep extending the deadline, until the lobbyist decides to comply.

Add: Lobbyists must sign a hard copy of all reports and mail to Ethics Commission, within 5 days of filing reports. As a matter of public record, any lobbyist who resigns must do so in a written statement to the Ethics Commission, the moment they stop lobbying, (not three months later). A phone call is not acceptable notice, it must be in writing. No lobbyists may be hired or appointed as head of any State Agency.

B. Late Registrations and Reports

"Notice will be given by mail to any lobbyist who registration

Crossoff: or

Add, monthly disclosure reports or annual report

TO: Commission on Governmental Ethics and Election Practices  
(Cont)

is late"

Add: A penalty of \$200.00 will be assessed for first month late and \$300.00 for each month afterwards that reports are late.

Additional Information: It must be specified in the rules what the penalties will be if they choose to file late reports. If the penalty is not specifically stated in the rules, then what incentive do lobbyists have to file reports in a timely manner? This Commission waives too many penalties for violations. It sends a strong message that the Ethics Commission is not enforcing the MCEA and they lose credibility and the public's trust. Lobbyists are professional, well paid individuals who must follow the rules and the laws. The role of this commission must be to encourage good behavior and stop violations of the MCEA. By the Commission waiving its own penalties, this goes directly against the intent of "clean elections" to be clean. In addition, the Lobbyists are praised at the legislature for their institutional knowledge, but we understand they have to be reminded to file their reports on time, at the Ethics Commission. Lobbyists are professionals and they should need reminding to file reports on time, as this is a waste of time and resources of state money, especially in these tough, economic times.

C. Suspensions. "The Commission may suspend...  
Cross off: report or pay an assessed fee.

Add: all reports and annual report or pay a fine.

To: Commission on Governmental Ethics and Election Practices (cont)

F. Faking Duly Executed Lobbyist Registration Reports

"Any registration or report required by 3 MRSA Chapter 15 may be provisionally filed by transmission of a facsimile copy

Add: and backed up in the U.S. Mail by an original signed and dated reports and annual reports, to the Commission within 5 days.

## SECTION 6 CONTRIBUTIONS AND OTHER RECEIPTS

10. Cross off: "Funds or services received solely for the purpose of conducting activities to determine whether an individual should become a candidate are not contributions if the individual whether an individual should become a candidate are not contributions. . . . accordance with the Commission's procedure for reporting contributions."

Cross off: "Funds or services used by an individual for activities indicating that he or she has decided . . . as a candidate or taking action to qualify for the ballot."

Add: Any funds or services used by a candidate whether they run for office or not, is considered a contribution and must be reported in campaign finance reports,

Additional Information: The moment candidates collect money, they have 5 days to report it to the Ethics Commission. Then this Section 6 should be identical. By taking money, you make a commitment, to run for office.

TB: Commission on Governmental Ethics and Election Practices  
(cont)

SECTION 7. EXPENDITURES

1. "Expenditures by Consultants, Employees, and other Agents of a Political Campaign. Each expenditure made on behalf of a candidate, political committee or... or assisting the candidate"

Cross off, the candidates committee,

Add: and

"or the political action committee must be reported separately by"

Cross off: candidate

Add: Treasurer

"or incurred by the candidate or committee directly,

Cross off "The report must include the name of the third party vendor... or payee for campaign-related goods and services,

Add: Section 7 1 A as follows:

All expenditures for candidates must be made exclusively by the Candidate and reported to the Treasurer, immediately. No third party vendors are allowed.

Additional Information:

No candidate should go 100 miles out of their District, to purchase political signs, by a Vendor, to avoid paying sales taxes, to the State of Maine. There must be no vendors involved in designing signs and/or traveling thousands of miles for primary and general election, for free. It gives an unfair advantage, to these candidates

To: Commission on Governmental Ethics and Election Practices  
(cont)

Who deliberately circumvent the Maine Clean Election laws and financially it saves these candidates thousands of dollars in campaign related goods and services and cheats the taxpayers of Maine by not paying sales taxes. These practices gives an unfair advantage, over the opponents who follow the MCEA and pay sales taxes on goods and services. The moment the Ethics Commission is notified, in writing that sales taxes are not being paid, in any campaign and/or campaign finance report, the Commission must request the Treasurer(s) to amend the campaign finance reports, to correct violators. In addition, the Ethics Commission must contact the Maine Revenue Service, to report non-payment of sales taxes, in any campaign and obtain proof that the sales taxes are paid to Maine Revenue Services, by proof of cancelled check.

### 3 Timing of Reporting Expenditures

Add: Under A & B! Candidates must not pick up any order without paying for it. If sales taxes are not on the Invoice, then immediately request an amended Invoice, prior to paying for goods and/or services, to insure sales taxes are paid. All candidates must sign invoices, as proof of delivery.

Additional Information: This will prevent candidates from claiming they didn't know sales taxes were

To: Commission on Governmental Ethics and Election Practices  
(cont)

paid for campaign signs, in previous election.

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

This section has been entirely crossed off. We object to this because it will allow candidates to purchase goods in one campaign (i.e. primary), to use in the general election.

We are requesting this section to be reinstated.

#### 6. Cross off: this entire section

Add: All expenditures, including bank fees and travel must be paid in both the primary and general election, not at the end of the campaign. There are candidates who wait until the end of the campaign and attempt to use up all of the campaign funds by fudging the travel log, to pay themselves when in fact, they are paying their volunteers (without naming them in campaign reports). When the Ethics Commission finds that travel is not accounted for as campaign expense (due to lack of documentation), then candidates must reimburse the Ethics Commission. When the Auditor determines mileage is not authorized, the candidate must return the Clean Elections money, no matter who the candidate is.

To: Commission on Governmental Ethics and Election Practices (cont)

8. Cross off: The entire two paragraphs

Add: All money expended for political office is construed as an expenditure, whether a candidate ultimately runs or not for public office, within 5 days.

Additional Information: Within 5 days of collecting signatures and donations, candidates must report this activity to the Ethics Commission. This is no different than what is already in the rules.

9. Exception to Disclaimer Requirements for Certain Handbills, Campaign Signs and Internet or E-Mail Communications

Cross off: The entire Section 9 A & B

10. Press Exemption

Cross off: The entire Section 10

## Section 10 REPORTS OF INDEPENDENT EXPENDITURES

3. Reporting Schedules

(1) Quarterly Reports

We object to crossing off Quarterly Reports and request that this section be reinstated.

Cross off: (1-A) and (1-B) and paragraph below it regarding independent expenditures

Additional Information: Quarterly reports assure that receipts won't be lost and the public's right to know regarding expenditures throughout the campaign.

To: Commission on Governmental Ethics and Election Practices (cont)

Add: All independent expenditures must be reported Quarterly and signed and dated by the individual who made the expenditure.

### Chapter 3:

#### Section 6. LIMITATIONS ON CAMPAIGN EXPENSES

A. certified candidate must:

1. "Limit the candidate's campaign expenditures and obligations to the applicable Clean Election Act Fund distribution amounts"

Add: and must not overspend MCE funds.

5. Cross off: This section must be crossed off. After an election is over, there is no need to spend anymore of the taxpayers money.

Add: Candidates may use their own money to send thank you notes.

#### Section 7. RECORD KEEPING AND REPORTING

1. Cross off: Participating and Certified

Add: All

"candidates and their treasurers must comply with applicable record keeping requirements."

Add: The commission must require the return of MCE funds, under Title 21 - A.

B. Meal Expenses

Cross off: This section must be crossed off.

C. Vehicle Travel Expenses

Add (at the very end) "expenses for which reimbursement are (11) made" on Mandatory Travel Log.

# To: Commission on Governmental Ethics and Election Practices (cont)

## C. Vehicle Travel Expenses (cont)

### (1) Amount of Reimbursement.

Cross off: The entire Section 1.

Add: Reimbursement must be the standard rate prescribed by the state of Maine. A volunteer is only entitled to \$100.00 reimbursement, in the primary and \$100.00, in the general election.

### (2) Contents of Records. "For each trip for which reimbursement is made, a record must be maintained showing the

Add: mileage start and end odometer reading. The mileage must be maintained in the mandatory mileage log, with

the dates of travel, the number of miles traveled, ... The person seeking the reimbursement must have recorded the details of the campaign travel

Add: on the same day, for accuracy of the records.

Cross off: contemporaneously with the travel or within two calendar days afterward.

Add: The candidate and the Treasurer must sign the Travel Log, as proof of accuracy, of the record.

## 2. Reporting by Participating and Certified Candidates.

### A. General.

Cross off: Participating and certified candidates

Add: All candidates must go by their real names,

"and must comply with applicable reporting...."

To: Commission on Governmental Ethics and Election Practices (cont)

In Conclusion, we have enclosed our recommendations, to the Ethics Commission, to strengthen the MCEA. Our concerns are that there are candidates, especially those in the last election cycle, who are not complying with the Maine Clean Election Act, are overspending and not properly documenting mileage on the Travel Log. We contend the travel log must be mandatory and the Odometer Reading (start and end) should be recommended, it should be required. As a state, we must be frugal with the taxpayer's money, to protect the integrity of clean elections. For many years, the Ethics Commission used to be extremely strict, in enforcing the laws and rules. A case in point is the Chris McCarthy case, in which an Independent was fined \$10,000 (approximately), but in the last few years, candidates appear to make their own deals and a \$100.00 fine is reduced 50% to \$50.00. This sends the message to candidates that you can break as many laws as you want and the maximum fine is \$50.00. There are candidate(s) that should reimburse the Ethics Commission for overspending, not paying taxes (sales taxes) and unaccountable reimbursement of travel and the Commission refuses to do their job. By not enforcing the MCE Act and rules, it sends the wrong message, that the Ethics Commission doesn't enforce the Act. It's time the Ethics Commission, enforces the MCEA and does their job, for the people of Maine.

(13)

Concerned Citizens,  
Michele Greenier  
Joseph Sheenier