



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

To: Interested Persons

From: Jonathan Wayne, Executive Director

Date: December 11, 2012

Re: Summary of Proposed Amendments to Chapter 1 Rules

Chapter 1, Section 4(2)(B)(7) – Elimination of Matching Funds as Factor in Penalty Recommendations

In Section 4(2)(B), the Commission's Rules contain a number of factors the Executive Director must consider when recommending a penalty for late filing of a campaign finance report. The Commission proposes deleting a reference to the payment of matching funds, because these payments have been deleted from the Maine Clean Election Act program.

Chapter 1, Section 5 – Fact Finding and Investigations

The Commission proposes changes to its rule concerning fact finding and investigations to conform the rule to current practice and to clarify the Commission's procedures. The sentence suggesting that the Chair receives recommendations concerning the staff's preliminary investigation would be deleted, because the Commission staff usually gathers preliminary information independently of the Chair. Under the proposed amendment, if the preliminary investigation conducted by the Executive Director suggests that a complaint does not have any factual basis, the Executive Director may inquire with the person filing the complaint whether he wishes to withdraw the request for further investigation. If the request is not withdrawn, the complaint would be scheduled for a public meeting of the Commission.

The current description of the Commission's subpoena power is moved to subsection 5(3) for greater clarity. Subsection 5(4) states that the Commission has the discretion to hold a hearing to receive testimony under oath, if necessary for the conduct of an investigation.

Chapter 1, Section 7(11) – Shared Expenditure by Candidates

From time to time, candidates wish to share the cost of a communication to voters such as an advertisement or mailing. To respond to requests for guidance on this topic, the proposed rule states that the candidates will not be considered to have received an in-kind

contribution if the cost is allocated among the candidates in proportion to the benefit received by each candidate.

Chapter 1, Section 10(3)(C) – Independent Expenditures – Additional Information Required Seven Days before the Election

Independent expenditures are paid communications to voters (e.g., advertisements or mailings) by non-candidate organizations such as PACs or political parties that advocate for or against candidates.

To improve the operation of the matching funds program, the Commission has required by rule that independent spenders disclose additional information in the last seven days, to verify that the spenders have promptly filed their reports:

- the date of placing the order
- the date when the vendor began providing services
- the date on which the spender first learned of the amount of the expenditure
- a statement why the expenditure could not be reported by the eight day before the election

Most of this information is not required by statute. With the elimination of matching funds, the Commission staff believes that spenders no longer need to provide this information to the Commission.

Chapter 1, Section 10(4)(C) – Independent Expenditures – Matching Funds Resulting from Multi-Candidate Communications

The Commission proposes deleting a provision authorizing the Commission to pay additional matching funds when an independent spender incorrectly allocates a multi-candidate communication among different candidates.

Chapter 1, Section 14 – Sources of Income Reporting

Members of the Legislature and managers in the executive branch of government are required to file annual reports of the sources of certain kinds of income, positions held in nonprofit organizations or businesses, and certain liabilities. (1 M.R.S.A. § 1016-G and 5 M.R.S.A. § 19) Some of the reporting relates to income received by members of the official's immediate family.

In 2012, the Maine Legislature amended these reporting requirements in P.L. 2011, Chapter 634. The chapter law required the Commission to adopt rules to exclude from the definition of immediate family an estranged spouse or domestic partner of an official.

Thank you for your consideration of these proposed rule amendments.



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To: Interested Persons

From: Jonathan Wayne, Executive Director

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Re: Summary of Proposed Amendments to Chapter 3 Rules

Chapter 3, Section 5 – Restrictions on Use of Maine Clean Election Act Funds for Post-Election Parties and Advertising

The Commission's current rules restrict the amount of Maine Clean Election Act (MCEA) funds that candidates may spend after an election for post-election parties, advertising to thank voters or supporters, and thank you notes. The rule allows candidates to use personal funds for these purposes. The Commission's expenditure guidelines also prohibit candidates from using MCEA funds for a gift to a supporter, including a gift card.

The Commission proposes amending its rules to clarify permitted uses of MCEA funds by a candidate who has won a *primary* election. The primary winner could use MCEA funds for advertising to thank voters or supporters or for thank you notes, but could not use MCEA funds for a post-primary election party.

Thank you for your consideration of these proposed rule amendments.