

Agenda

Item #5



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

To: Commission Members
From: Jonathan Wayne, Executive Director
Date: November 17, 2008
Re: Calculation of Preliminary Penalty

Teri E. McRae was a 2008 candidate for re-election to the position of Registrar of Probate for Cumberland County. She was one day late in filing the campaign finance report due October 24, 2008. The staff has calculated the preliminary penalty under 21-A M.R.S.A. § 1020-A(4-A) to be \$132.10. She questions the calculation of the preliminary penalty amount, and also requests a waiver of the penalty.

Calculation of Preliminary Penalty Amount

Total Contributions or Expenditures

The preliminary penalty is based, in part, on the “the total contributions or expenditures for the filing period, whichever is greater.” During the period, Ms. McRae:

- Received \$1,270.00 in cash contributions (reported on Schedule A)
- Purchased \$3,133.38 in campaign services with her credit card (reported as a loan on Schedule C)
- Made an additional \$2,959.56 in campaign expenditures (reported on Schedule B)

The legal definition of contribution (21-A M.R.S.A. § 1012(2)(A)(1)) includes a loan, and the concept that most loans are a form of contribution is clarified in the Commission’s rules (Chapter 1, § 6(2)). The Commission staff therefore recommends using \$4,403.38 (cash contributions + loan amount) as the total contributions for calculation of the penalty.

Percentage

Subsection 4-A instructs the Commission to use a percentage of 1%, 3%, or 5% when calculating the preliminary penalty amount – depending on whether the candidate has had previous late-filing violations. The staff used 3% because our records indicated that Ms. McRae filed a previous report one day late on July 23, 2008. Following that late filing, Candidate Registrar Gavin O’Brien mailed the candidate a letter dated July 25, 2008 indicating that she filed the report one day late and that no penalty would be assessed for

the violation. The penalty contained language, however, warning the candidate that the late July report could increase the penalty for any other late reports (“Under the formula in the Election Law, the preliminary penalty for any other report filed late this year will be increased because of this violation.”) So, the staff believes it is consistent with the statute to use the percentage of 3%.

Ms. McRae’s Request for a Waiver

Ms. McRae cites relevant factors in support of her request for a reduction of the penalty, such as her workload, campaign pressures, and intention to file the report on Friday, October 24. The staff is sympathetic to a point, but suggests consideration of a few other factors as well:

- This is Ms. McRae’s second campaign as a candidate for Registrar of Probate.
- This filing was her second late report for this campaign.
- Although the candidate entered the information for the report on the Commission’s website on Friday, October 24, she did not file the report (by clicking on the “File Report” button on the report menu screen) until Saturday, October 25. Therefore, the information was not available to the public and to her opponent until October 25.
- The candidate should understand the value of timely filing based on her current position as Register of Probate and from her work as a controller for a private company.

We therefore recommend no waiver of the \$132.20 penalty.

Thank you for your consideration of this memorandum.

To: Gavin O'Brien
Candidate Registrar

November 7, 2008

RECEIVED

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Commission on Governmental Ethics and Election Practices
135 State House Station
Augusta, Maine 04333-0135

MAINE ETHICS COMMISSION

Dear Commissioners,

I am writing to request an abatement of the late filing penalty I was assessed on October 30th. In addition to disagreeing with the amount charged, I am asking for your consideration of events at the time that contributed to my delay in filing. I hope that after considering my situation you will reduce or remove the fee.

Penalty Calculation

The calculation was based on all receipts which included \$3133.38 in loans. In fact this was not a receipt at all but merely the fact that I had charged some expenses on my personal credit card. I thought I had to list it that way and show the bills as unpaid even though they had been paid. I pay things on my personal card and then plan to reimburse myself at the end.

I was assessed 3% meaning that I had filed late before. I don't remember ever being assessed a fee before so perhaps 1% would be more appropriate.

Mitigating Circumstances

1. Novice filer – while I ran for Register of Probate 4 years ago this is still a new and “foreign” process to me. I am not a professional politician and I did not have a committee. I didn't totally appreciate that the reports didn't cover the days immediately preceding the due date and so could safely be filed early. Hence I left it open until the last day and forgot to send it that night. In a future race I might be better served to file a few days early and amend if necessary.
2. Work Load – in addition to campaigning in all of Cumberland County, I hold 2 jobs – Register of Probate and Controller of a company called Puresend. I also have a 16 year old son who deserves and gets my time. I had no campaign staff or other people helping – it was all me and my husband. Needless to say, 11 days before the election, my plate was more than full.
3. Campaign Pressures - I was one of the few candidates for office that was running for her full time job, while doing her full time job. Register of Probate doesn't take election time off, the work continues and I believe that responsibility is paramount to my campaign. Hence I didn't have the luxury of putting my work aside for the campaign.

The other aspect of this is that I had all the stress of potentially losing my job and health insurance. As I think of all of the people running for office – almost none of them had that at stake. Legislature is part time and was not in session. Local races are not for full time jobs, Probate Judges are part time. Best I can tell, Registers of Probate, Susan Collins and Tom Allen were the only ones that stood to lose their full time job.

4. Timing of Actual Filing – the report was done – I just thought I should keep it open in case something else came in. By Friday night I was exhausted and took the evening off. Saturday at 7 am, I remembered the report – came downstairs and filed it. The report was received before 8. I would offer that, for all practical purposes, the filing was done so that anyone interested could have that information as soon as they might have wanted it.

5. Financial Issues – to be honest, while the penalty is not huge – it is felt. We spent our own money on a very difficult race. Cumberland County is very large and no clean election money is available. After spending my own money on the campaign and then losing the election, my family is looking at losing a third of our income and our health insurance in 2 months. Not your problem, but any help you can offer would be appreciated.

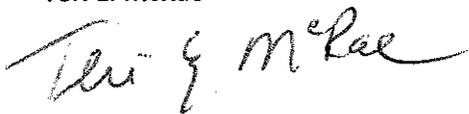
In summary, my best effort here fell a little short and I missed a deadline by 8 hours. Having spent 4 years learning and enforcing the laws that pertain to Probate Court, I would never minimize the importance of respecting and following the law.

As Register of Probate, I deal with people filing things individually and through attorneys, all of whom make errors in their filings and procedures. I always try to respect their effort and not be too punitive for honest errors. I know that most people try their best to get it right. I am hopeful that you can take a similar position here.

Thank you for your consideration.

Sincerely,

Teri E. McRae



619 Allen Ave
Portland, ME
04103

797-8633



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

October 30, 2008

Teri McRae
619 Allen Avenue
Portland, ME 04103

BY CERTIFIED MAIL

Dear Ms. McRae:

RE: Late 11-Day Pre-General Campaign Finance Report Due 10/24/2008.

You filed a 11-Day Pre-General campaign finance report on 10/25/2008. A penalty must be assessed for late reports based on the amount of financial activity conducted during the filing period, the number of calendar days a report is filed late, and the candidate's filing record. Based on the prescribed statutory formula, the preliminary determination of the penalty for the late filing of your report would be \$132.10. Please refer to the enclosed penalty matrix for more details on how the penalty is computed. If you agree with this preliminary determination of the amount of the penalty, you may use the enclosed billing statement to pay that penalty.

If you have a reason for filing late, you may request the Commission to make a final penalty determination. Any request for a Commission determination must be made within 10 calendar days of receipt of this notice, beginning on the day you sign its receipt. If this notice has been refused or left unclaimed at the post office, the 10-day period begins on the day the post office indicates it has given first notice of a certified letter. Upon receipt of your request for a Commission determination, we will schedule you to appear and will notify you of the date and time of the next Commission meeting. You or a person you designate may then appear personally before the Commission or you may send a written statement for the Commission's consideration. A statement must be notarized and contain a full explanation of the reason you filed late. Statements should be sent to the address shown on this letterhead. The Commission will notify you of the disposition of your case within 10 days after its determination.

NOTE: The Commission may waive penalties for late reports only in cases where tardiness is due to mitigating circumstances. The law defines "mitigating circumstances" as: 1) a valid emergency determined by the Commission, in the interest of the sound administration of justice, to warrant the waiver of the penalty in whole or in part; 2) an error by the Commission staff; 3) failure to receive notice of the filing deadline; or (4) other circumstances determined by the Commission that warrant mitigation of the penalty, based upon relevant evidence presented that a *bona fide* effort was made to file the report in accordance with the statutory requirements, including, but not limited to, unexplained delays in postal service.

The Maine Clean Election Act requires all revenues distributed to certified candidates from the fund to be used for campaign-related purposes. Commission guidelines regarding permissible campaign-related expenditures do not include the payment of a penalty as a permissible expenditure.

Sincerely,

Gavin O'Brien
Candidate Registrar

cc: Treasurer

OFFICE LOCATED AT: 242 STATE STREET, AUGUSTA, MAINE
WEBSITE: WWW.MAINE.GOV/ETHICS

PHONE: (207) 287-4179

FAX: (207) 287-6775

October 30, 2008

Teri McRae
619 Allen Avenue
Portland, ME 04103

The Commission staff has made a preliminary determination, based upon application of the statutory formula, that a penalty of \$132.10 applies for the late filing of your 11-Day Pre-General campaign finance report. If you agree with this determination, please make your check or money order in that amount payable to "Treasurer, State of Maine," and send it, along with the bottom half of this letter, to the Commission on Governmental Ethics and Election Practices, 135 State House Station, Augusta, Maine 04333, within 30 days of the date noted above. Please see the instructions included in the attached letter if you would like the Commission to make a formal determination of any penalty to be assessed in this case.

Failure to pay the full amount of an assessed penalty is a civil violation. The Commission is required to report to the Attorney General the name of any person who fails to pay the full amount of any penalty. Please direct any questions you may have about this matter to Gavin O'Brien at 287-4709.

Cut Along Dotted Line

For Office Use Only:
Account: CGEEP
Fund: 014 Approp: 02

To Commission on Governmental Ethics and Election Practices
 135 State House Station
 Augusta, Maine 04333

From: Teri McRae

RE: Penalty for late filing of 11-Day Pre-General Campaign Finance Report

Penalty ID: 1510

Amount Enclosed: \$ _____

Check/M.O. No.: # _____

Please Make Check or Money Order Payable to Treasurer, State of Maine
Or Pay Online at <http://www.maine.gov/online/ethics/penalties>

COMMISSION ON GOVERNMENTAL ETHICS AND ELECTION PRACTICES

PENALTY MATRIX FOR LATE CANDIDATE REPORT FILINGS

BASIS FOR PENALTIES
21-A M.R.S.A. Section 1020-A(4)

The penalty for late filing of a required report is a percentage of the total contributions or expenditures for the filing period, whichever is greater, multiplied by the number of calendar days the report is filed late, as follows:

- For the first violation, 1%
- For the second violation, 3%
- For the third and each subsequent violation, 5%

Example: The treasurer files the candidate's report two (2) days late. The candidate has not had any previous late violations this biennium. The candidate reports a total of \$2,500 in contributions and \$1,500 in expenditures for the filing period. The penalty is calculated as follows:

\$2,500	Greater amount of the total contributions received or expenditures made during the filing period
<u>X .01</u>	Percent prescribed for first violation
\$25.00	One percent of total contributions
<u>X 2</u>	Number of calendar days late
\$50.00	Total penalty

Teri McRae

Your penalty is calculated as follows:

Receipts/Expenditures:	\$ <u>4,403.38</u>
Percent prescribed:	<u>3%</u>
	\$ <u>132.10</u>
Number of days late:	X <u>1</u>
Total penalty accrued:	\$ <u>132.10</u>

A penalty begins to accrue on the day following the due date of the report.

Any penalty of less than \$10 is waived.

Violations accumulate on reports with filing deadlines in a 2-year period that begins on January 1st of each even-numbered year. Waiver of a penalty does not nullify the finding of a violation.

A required report that is sent by certified or registered United States mail and postmarked at least 2 days before the deadline is not subject to penalty.

MAXIMUM PENALTIES
21-A M.R.S.A. Section 1020-A(5)

\$5,000 for reports required to be filed 42 days before an election,
11 days before an election, 42 days after an election, and for 24-hour reports;
\$1,000 for semiannual reports.



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

July 25, 2008

Teri E. McRae
619 Allen Avenue
Portland, ME 04103

Dear Ms. McRae:

RE: Late 42-Day Post-Primary Campaign Finance Report Due 7/22/2008 by 11:59 PM.

You filed a 42-Day Post-Primary campaign finance report on 7/23/2008. A penalty must be assessed for late reports based on the amount of financial activity conducted during the filing period, the number of calendar days a report is filed late, and the candidate's filing record. Based on the prescribed statutory formula, the preliminary determination of the penalty for the late filing of your report would be less than \$10. Any penalty of less than \$10 is automatically waived, but waiver of a penalty does not nullify the finding of a violation. Under the formula in the Election Law, the preliminary penalty for any other report filed late this year will be increased because of this violation.

If you have a reason for filing late, you may request the Commission to make a final determination. Any request for a Commission determination must be made within 10 calendar days of receipt of this notice, beginning on the day you sign its receipt. Upon receipt of your request for a Commission determination, we will schedule you to appear and will notify you of the date and time of the next Commission meeting.

NOTE: The Commission may waive a finding of late reporting only in cases where tardiness is due to mitigating circumstances [21A M.R.S.A. §1020-A(2)].

Sincerely,

Gavin O'Brien
Candidate Registrar

cc: Treasurer
encl.: Penalty Matrix



MAINE COMMISSION ON
**Governmental Ethics
 & Election Practices**

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REGISTRATION

- Lobbyist Registration

Candidate Reports For
 McRae, Teri

The following is a list of reports filed by campaign year. Please click on the report you would like to view.

Campaign Year 2008		
Report Type	Filed Date	Amendment
Candidate Registration	3/6/2008 1:47:12 PM	
11-Day Pre-Primary	5/29/2008 8:37:36 AM	
42-Day Post-Primary	7/23/2008 9:39:17 PM	
42-Day Pre-General	9/22/2008 9:04:58 AM	
11-Day Pre-General	10/25/2008 7:48:03 AM	

[Return to the previous list](#)

21-A M.R.S.A. § 1020-A. FAILURE TO FILE ON TIME

1. Registration. A candidate that fails to register the name of a candidate, treasurer or political committee with the commission within the time allowed by section 1013-A, subsection 1 may be assessed a forfeiture of \$10. The commission shall determine whether a registration satisfies the requirements for timely filing under section 1013-A, subsection 1.

[1995, c. 483, §15 (NEW) .]

2. Campaign finance reports. A campaign finance report is not timely filed unless a properly signed or electronically submitted copy of the report, substantially conforming to the disclosure requirements of this subchapter, is received by the commission by 11:59 p.m. on the date it is due. Except as provided in subsection 7, the commission shall determine whether a report satisfies the requirements for timely filing. The commission may waive a penalty if the commission determines that the penalty is disproportionate to the size of the candidate's campaign, the level of experience of the candidate, treasurer or campaign staff or the harm suffered by the public from the late disclosure. The commission may waive the penalty in whole or in part if the commission determines the failure to file a timely report was due to mitigating circumstances. For purposes of this section, "mitigating circumstances" means:

- A. A valid emergency determined by the commission, in the interest of the sound administration of justice, to warrant the waiver of the penalty in whole or in part; [1999, c. 729, §5 (AMD) .]
- B. An error by the commission staff; [1999, c. 729, §5 (AMD) .]
- C. Failure to receive notice of the filing deadline; or [1999, c. 729, §5 (AMD) .]
- D. Other circumstances determined by the commission that warrant mitigation of the penalty, based upon relevant evidence presented that a bona fide effort was made to file the report in accordance with the statutory requirements, including, but not limited to, unexplained delays in postal service. [1999, c. 729, §5 (NEW) .]

[2007, c. 443, Pt. A, §21 (AMD) .]

3. Municipal campaign finance reports. Municipal campaign finance reports must be filed, subject to all the provisions of this subchapter, with the municipal clerk on forms prescribed by the Commission on Governmental Ethics and Election Practices. The municipal clerk shall send any notice of lateness required by subsection 6 and shall notify the commission of any late reports subject to a penalty.

[1995, c. 625, Pt. B, §5 (AMD) .]

4. Basis for penalties.

[2001, c. 470, §7 (AMD); T. 21-A, §1020-A, sub-§4 (RP) .]

4-A. Basis for penalties. The penalty for late filing of a report required under this subchapter, except for accelerated campaign finance reports required pursuant to section 1017, subsection 3-B, is a percentage of the total contributions or expenditures for the filing period, whichever is greater, multiplied by the number of calendar days late, as follows:

- A. For the first violation, 1%; [2001, c. 714, Pt. PP, §1 (NEW); 2001, c. 714, Pt. PP, §2 (AFF) .]
- B. For the 2nd violation, 3%; and [2001, c. 714, Pt. PP, §1 (NEW); 2001, c. 714, Pt. PP, §2 (AFF) .]
- C. For the 3rd and subsequent violations, 5%. [2001, c. 714, Pt. PP, §1 (NEW); 2001, c. 714, Pt. PP, §2 (AFF) .]

Any penalty of less than \$10 is waived.

Violations accumulate on reports with filing deadlines in a 2-year period that begins on January 1st of each even-numbered year. Waiver of a penalty does not nullify the finding of a violation.

A report required to be filed under this subchapter that is sent by certified or registered United States mail and postmarked at least 2 days before the deadline is not subject to penalty.

A registration or report may be provisionally filed by transmission of a facsimile copy of the duly executed report to the commission, as long as the facsimile copy is filed by the applicable deadline and an original of the same report is received by the commission within 5 calendar days thereafter.

The penalty for late filing of an accelerated campaign finance report as required in section 1017, subsection 3-B may be up to but no more than 3 times the amount by which the contributions received or expenditures obligated or made by the candidate exceed the applicable Maine Clean Election Fund disbursement amount, per day of violation. The commission shall make a finding of fact establishing when the report was due prior to imposing a penalty under this subsection. A penalty for failure to file an accelerated campaign finance report must be made payable to the Maine Clean Election Fund. In assessing a penalty for failure to file an accelerated campaign finance report, the commission shall consider the existence of mitigating circumstances. For the purposes of this subsection, "mitigating circumstances" has the same meaning as in subsection 2.

[2007, c. 443, Pt. A, §22 (AMD) .]

5. Maximum penalties.

[2001, c. 470, §8 (AMD); T. 21-A, §1020-A, sub-§5 (RP) .]

5-A. Maximum penalties. Penalties assessed under this subchapter may not exceed:

A. Five thousand dollars for reports required under section 1017, subsection 2, paragraph B, C, D, E or H; section 1017, subsection 3-A, paragraph B, C, D or F; section 1017, subsection 4; and section 1019-B, subsection 3; [2003, c. 448, §4 (AMD).]

B. Five thousand dollars for state party committee reports required under section 1017-A, subsection 4-A, paragraphs A, B, C and E; [2003, c. 628, Pt. A, §4 (AMD).]

C. One thousand dollars for reports required under section 1017, subsection 2, paragraphs A and F and section 1017, subsection 3-A, paragraphs A and E; [2003, c. 628, Pt. A, §4 (AMD).]

D. Five hundred dollars for municipal, district and county committees for reports required under section 1017-A, subsection 4-B; or [2003, c. 628, Pt. A, §4 (AMD).]

E. Three times the unreported amount for reports required under section 1017, subsection 3-B, if the unreported amount is less than \$5,000 and the commission finds that the candidate in violation has established, by a preponderance of the evidence, that a bona fide effort was made to file an accurate and timely report. [2001, c. 714, Pt. PP, §1 (NEW); 2001, c. 714, Pt. PP, §2 (AFF).]

[2003, c. 628, Pt. A, §4 (AMD) .]

6. Request for a commission determination. Within 3 days following the filing deadline, a notice must be sent to a candidate and treasurer whose registration or campaign finance report is not received by 11:59 p.m. on the deadline date, informing them of the basis for calculating penalties under subsection 4 and providing them with an opportunity to request a commission determination. The notice must be sent by certified United States mail. Any request for a determination must be made within 10 calendar days of receipt of the commission's notice. The 10-day period during which a determination may be requested begins on the day a recipient signs for the certified mail notice of the proposed penalty. If the certified letter is refused or left unclaimed at the post office, the 10-day period begins on the day the post office indicates it has given first notice of a certified letter. A candidate or treasurer requesting a determination may either appear in person or designate a representative to appear on the candidate's or treasurer's behalf or submit a notarized written explanation of the mitigating circumstances for consideration by the commission.

[2007, c. 443, Pt. A, §23 (AMD) .]

21-A M.R.S.A. § 1012. DEFINITIONS

As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings. [1985, c. 161, §6 (NEW).]

1. **Clearly identified.** "Clearly identified," with respect to a candidate, means that:

- A. The name of the candidate appears; [1985, c. 161, §6 (NEW).]
- B. A photograph or drawing of the candidate appears; or [1985, c. 161, §6 (NEW).]
- C. The identity of the candidate is apparent by unambiguous reference. [1985, c. 161, §6 (NEW).]

[1985, c. 161, §6 (NEW) .]

2. **Contribution.** The term "contribution:"

A. Includes:

- (1) A gift, subscription, loan, advance or deposit of money or anything of value made for the purpose of influencing the nomination or election of any person to state, county or municipal office or for the purpose of liquidating any campaign deficit of a candidate, except that a loan of money to a candidate by a financial institution in this State made in accordance with applicable banking laws and regulations and in the ordinary course of business is not included;
- (2) A contract, promise or agreement, express or implied, whether or not legally enforceable, to make a contribution for such purposes;
- (3) Funds received by a candidate or a political committee that are transferred to the candidate or committee from another political committee or other source; and
- (4) The payment, by any person other than a candidate or a political committee, of compensation for the personal services of other persons that are provided to the candidate or political committee without charge for any such purpose; and [1995, c. 483, §3 (AMD).]

B. Does not include:

- (1) The value of services provided without compensation by individuals who volunteer a portion or all of their time on behalf of a candidate or political committee;
- (2) The use of real or personal property and the cost of invitations, food and beverages, voluntarily provided by an individual to a candidate in rendering voluntary personal services for candidate-related activities, if the cumulative value of these activities by the individual on behalf of any candidate does not exceed \$100 with respect to any election;
- (3) The sale of any food or beverage by a vendor for use in a candidate's campaign at a charge less than the normal comparable charge, if the charge to the candidate is at least equal to the cost of the food or beverages to the vendor and if the cumulative value of the food or beverages does not exceed \$100 with respect to any election;
- (4) Any unreimbursed travel expenses incurred and paid for by an individual who volunteers personal services to a candidate, if the cumulative amount of these expenses does not exceed \$100 with respect to any election;
- (4-A) Any unreimbursed campaign-related travel expenses incurred and paid for by the candidate or the candidate's spouse or domestic partner;
- (5) The payment by a party's state, district, county or municipal committee of the costs of preparation, display or mailing or other distribution of a party candidate listing;
- (6) Documents, in printed or electronic form, including party platforms, single copies of issue papers, information pertaining to the requirements of this Title, lists of registered voters and voter identification information, created, obtained or maintained by a political party for the general

SECTION 6. CONTRIBUTIONS AND OTHER RECEIPTS

1. The date of a contribution is the date it is received by a candidate, an agent of the candidate, a candidate's committee, a party committee and its agents, or a political action committee and its agents.
- * 2. A loan is a contribution at the time it is made unless the loan was made by a financial institution in the State of Maine in the ordinary course of business. Loans continue to be contributions until they are repaid. Loans are subject to the candidate contribution limitations, except for loans made by the candidate, the candidate's spouse, or a financial institution in the State of Maine in the ordinary course of business.
3. Candidates and political action committees must report the name, address, occupation and employer of each individual contributor who gives, in the aggregate, more than \$50 for the reporting period. The reporting is required for private contributions raised by privately financed candidates and for seed money contributions to candidates participating in the Maine Clean Election Act. Candidates and political action committees must make a reasonable effort to obtain the employment information of the contributor. If a candidate or political action committee is unable to obtain the information from the contributor in response to a request, the candidate or committee shall indicate "information requested" in the occupation and employer sections of the campaign finance report.
4. Unless specifically exempted under Title 21-A M.R.S.A. §§ 1012 and 1052 or this section, the provision of any goods or services without charge or at a charge that is less than the usual and customary charge for such goods or services is an in-kind contribution. Examples of such goods and services include, but are not limited to: equipment, facilities, supplies, personnel, advertising, and campaign literature. If goods or services are provided at less than the usual and customary charge, the amount of the in-kind contribution is the difference between the usual and customary charge and the amount charged the candidate or political committee.
5. An employer that has authorized an employee to provide services without charge to a candidate or political committee during the employee's paid work-time has made an in-kind contribution to the candidate or political committee. No contribution has been made if the employee is providing services as a volunteer outside of the employee's paid work-time.
6. A commercial vendor that has extended credit to a candidate or political committee has not made a contribution if the credit is extended in the ordinary course of the vendor's business and the terms are substantially similar to extensions of credit made to nonpolitical customers that are of similar risk and size of obligation.
7. For the purposes of the limitations imposed by 21-A M.R.S.A. §1015(1), 21-A M.R.S.A. §1015(2), 21-A M.R.S.A. §1015(3), and 21-A M.R.S.A. §1056, the following guidelines shall apply:
 - A. All contributions made to a candidate through the day of the primary election for which the candidate seeks office are deemed to be made in the primary election.