



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

To: Commission
From: Commission Staff
Date: May 22, 2020
Re: Question on Use of Maine Clean Election Act Funds

Under the heading of other business at the May 27, 2020 meeting, the Commission staff would appreciate your guidance on whether candidates may spend Maine Clean Election Act (MCEA) funds on facemasks or other personal protective equipment to promote themselves as candidates for elective office.

- Two candidates for Maine House of Representatives have proposed using MCEA funds to pay for cloth and/or elastic that volunteers would use to create masks. One candidate proposed that the mask would be distributed in a ziploc bag with a campaign sticker on it. The other candidate proposed that a promotional statement would appear on the handcrafted masks: “_____ for State Rep”.
- Two candidates for State Senate also made preliminary inquiries. One was interested in participating in a collaborative effort to purchase surgical grade masks for workers that interact with the public (*e.g.*, grocery clerks or food servers). The mask would be conveyed in a box that would state that the expense was sponsored by the candidate. The other question was a general inquiry whether the candidate could use MCEA funds personal protective equipment to hand out to first responders.

Applicable Law and Guidelines

MCEA candidates may spend public campaign funds for “campaign-related expenditures”:

All revenues distributed to a certified candidate from the fund must be used for campaign-related purposes. ... The commission shall publish guidelines outlining permissible campaign-related expenditures.

21-A M.R.S. § 1125(6). The Commission has prepared expenditure guidelines that are intended to provide flexibility to MCEA candidates to promote their campaigns while reassuring the Maine taxpayers that MCEA funds will be used exclusively for campaign purposes. For example, generally candidates may not use MCEA funds to make a donation to a charity or community organization other than in exchange for goods and services. I have attached the expenditure guidelines that we published late last year for 2020 candidates, with a few relevant provisions highlighted with arrows. The expenditure guidelines are not determined by law and you have the discretion to modify them or create exceptions. The Commission staff certainly understands that the proposed expenditures are intended as a public service, but we seek your guidance because they are not traditional campaign expenditures.

Thank you for your consideration of this memorandum.

2020 EXPENDITURE GUIDELINES

Candidates must spend Maine Clean Election Act (MCEA) funds for campaign-related purposes and not for other purposes such as the candidate's personal benefit, party-building, or to promote another candidate's campaign. Candidates are required to comply with these guidelines for all expenditures of MCEA funds.

PERMISSIBLE EXPENDITURES

Expenditures for "campaign-related purposes" are those which are traditionally accepted as necessary to promote the election of a candidate to political office. Candidates using MCEA funds must also take into account the public nature of the funds, the underlying objectives of the MCEA, and the reasonableness of the expenditures under the circumstances. In Maine, traditional campaign expenses have included:

- Political advertising expenses
- Campaign communications such as signs, bumper stickers, T-shirts, or caps with campaign slogans, etc.
- Campaign events (e.g., invitations, food, tent or hall rental, etc.)
- Printing and mailing costs
- Office supplies
- Campaign staff expenses
- An entry fee for an event organized by a party committee, charity, or community organization or an ad in an event publication, as long as the expenditure benefits the candidate's campaign
- Campaign travel expenses, such as fuel and tolls.

Ballot Questions

Candidates may state their position with respect to a ballot question in a communication financed with MCEA funds. Candidates may not use MCEA funds for a paid communication that primarily supports or opposes a referendum or citizen initiative.

Campaign Training

Candidates may use MCEA funds for tuition or registration costs for campaign or policy issues training.

If you have questions about these Guidelines or a specific expenditure, contact your Candidate Registrar at 287-4179.

PROHIBITED EXPENDITURES

Candidates may not use MCEA funds for personal expenses. This means candidates may not borrow from or use MCEA funds for personal or other non-campaign expenses, even if temporarily and with the intention of repaying the funds. Personal expenses are for goods and services that the candidate would otherwise purchase independently of the campaign, such as:

- Day-to-day household expenses and supplies
- Mortgage, rent, or utility payments for the candidate's personal residence, even if part of the residence is being used by the campaign
- Vehicle repair and maintenance
- Non-campaign transportation expenses
- Clothing, including attire for political functions such as business suits or shoes

MCEA funds may not be spent to:

- pay a consultant, vendor, or campaign staff for anything other than campaign goods or services
- compensate the candidate or their spouse or domestic partner for services provided
- make independent expenditures supporting or opposing any candidate, ballot question, or political committee
- assist in any way the campaign of any candidate other than the candidate for whom the funds were originally designated
- contribute to another candidate, a political committee, or a party committee other than in exchange for goods and services
- make a donation to a charity or a community organization, other than in exchange for campaign goods or services
- promote political or social positions or causes other than the candidate's campaign
- make a thank-you gift (including a gift card) to a volunteer or supporter, or hold an election night or post-election party
- pay civil penalties, fines, or forfeitures to the Commission, or defend the candidate in enforcement proceedings brought by the Commission
- assist the candidate in an election recount.

Car Travel

MCEA campaigns may reimburse the candidate or campaign workers for their car travel, as long as the person reimbursed has kept a *contemporaneous* travel log. The campaign may make a travel reimbursement up to the number of miles traveled as reported in the log multiplied by \$0.45. Campaigns must keep the travel logs for three years, and provide them to the Commission if requested. Candidates and their spouses/domestic partners may spend any amount of their personal funds for campaign travel without seeking reimbursement. Other individuals may spend up to \$350 of their personal funds to pay for travel without making a contribution to the campaign. Any mileage incurred during the pre-certification Seed Money period must be reimbursed with Seed Money if reimbursed.

Food

Candidates may spend a reasonable amount of MCEA funds on food for campaign events or to feed volunteers while they are working, but must take into account the public nature of MCEA funding. Legislative candidates may not use MCEA funds to purchase food that is consumed *only* by the candidate and/or members of the candidate's immediate family. Generally, reasonable amounts for food should not exceed \$5 per person for breakfast, \$10 per person for lunch, and \$20 per person for dinner. If candidates wish to spend greater amounts per person for food, the Commission recommends that the candidate contact the Commission staff for guidance.

Lodging

Candidates may use MCEA funds to pay for lodging if necessary for campaign purposes, but must keep lodging expenses reasonable and may not exceed the lodging rates approved by the Office of State Controller for state employees conducting travel for state business. MCEA candidates may use personal funds for lodging, provided that they are not reimbursed by others.

Office Supplies

Candidates may spend MCEA funds for office supplies that they reasonably anticipate will be used for campaign purposes only. MCEA funds may not be spent for office supplies to be used for constituent communications or for other expenses associated with service as a public official. The Commission may require candidates to repay their campaign for any office supplies with a value of \$50 or more that were not used for campaign purposes or were used minimally for campaign purposes.

Post-Election Notes & Parties

Candidates may spend up to the following maximum amounts of MCEA funds on post-election thank you notes or advertising to thank supporters or voters: \$250 for State Representative candidates and \$750 for State Senate candidates. Candidates may also use personal funds for these purposes. Candidates may not spend any amount of MCEA funds on post-election events or parties.

Promotional Items

Candidates may spend MCEA funds on inexpensive items to promote their candidacies or to gain visibility at public events. Purchases of apparel generally should not cost more than \$10 per item. Candidates may purchase other types of promotional items, but the cost should not exceed \$5 per item. Candidates may purchase up to two pieces of outerwear (e.g., fleeces or sweatshirts) to promote their election. Professional clothing is not considered a promotional item.

Property & Equipment

Goods purchased with MCEA funds for \$50 or more that could be converted to personal use after the campaign (e.g., computers, fax machines, and cell phones) must be sold at fair market value and the proceeds returned to the Maine Clean Election Fund no later than 42 days after the final report for the campaign. 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 75% of the original purchase price paid by the campaign. Candidates are welcome to lease electronic and other equipment.

Salary & Compensation

Candidates may use MCEA funds to pay for campaign-related services by staff or consultants, provided that compensation is made at or below fair market value and sufficient records are maintained to show what services were received. Documentation must include a description of the labor performed by the staff member or consultant, and an itemization of any goods or services purchased from other vendors including date, vendor, and amount.

Unnecessary Goods

Legislative candidates may not spend MCEA funds for goods not typically necessary for a House or Senate campaign, such as office furniture, a brief case, or large storage items. If you are unsure whether an item you wish to purchase is within this category, please call the Ethics Commission for guidance.

If you are unsure if an expenditure is allowable under the MCEA Guidelines, contact your Candidate Registrar by email or call 287-4179 .