

**COMMISSION POLICY STATEMENT REGARDING INTERNET USE
(Adopted February 13, 2002)**

The purpose of this policy statement is to focus on three areas regarding Internet use under Maine's campaign finance and reporting laws:

1. To clarify the application of Maine's campaign finance and reporting laws (21A M.R.S.A. Chapters 13 and 14) to campaign-related Internet activity by individuals by stipulating that no contribution or expenditure results where an individual, without receiving compensation, uses computer equipment, software, Internet services, or Internet domain name(s) that he or she personally owns to engage in Internet activity for the purpose of influencing any election to State, County, or Municipal office that is subject to the Commission's jurisdiction.
2. To address the placement of hyperlinks on web sites, stipulating conditions and explaining limitations on expressly advocating the election or defeat of a candidate for State, County, or Municipal office that is subject to the Commission's jurisdiction.
3. To address the issue of endorsement press releases on web sites, stipulating four conditions, but in general enabling the posting of a press release announcing a candidate endorsement on a web site without limiting access to the press release to its restricted class. The provisions would not allow the posting of express advocacy materials, such as banner advertisements, for a candidate.

1. Internet Activity By Individuals:

To clarify the application of Maine's campaign finance and reporting laws to campaign-related Internet activity by individuals, the Commission interprets existing laws by describing certain types of individual Internet activities that would not be treated as contributions or expenditures. It is the Commission's interpretation that no contribution or expenditure results where an individual, without receiving compensation, uses computer equipment, software, Internet services, or Internet domain name(s) that he or she personally owns to engage in Internet activity for the purpose of influencing any election to State, County, or Municipal office that is subject to the Commission's jurisdiction. These exceptions would apply whether or not the individual's activities are known to or coordinated with any candidate, political committee, political action committee, or party committee. In addition, Internet services personally owned by an individual would include Internet access and web hosting services provided by an Internet service provider ("ISP"), if these services are provided to the individual pursuant to an agreement between the ISP and the individual acting in his or her individual capacity. The individual's use of servers, storage devices, and other equipment owned by the ISP pursuant to such a service agreement would also be covered by the exception, regardless of where that equipment is physically located. However, the exceptions would not apply to equipment, services, or software

owned by an individual's employer, even if the individual was using them as part of volunteer activity conducted on his or her own time.

The effect of the proposed contribution and expenditure exceptions would be that individuals would be able to engage in certain election-related Internet activity without that activity being subject to the campaign finance and reporting laws. The costs incurred in activities that fall within the contribution exception would not count toward the limits on individual contributions to candidates. Furthermore, the costs of activities that fall within the expenditure exception would not be independent expenditures under 21A M.R.S.A. §1019. As a result, individuals would not be required to disclose these costs under 21A M.R.S.A. §1017, nor would they be required to include disclosure (disclaimer) statements under 21A M.R.S.A. §1014.

The status of costs that are not covered by these exceptions would depend, among other things, on whether the costs at issue otherwise would constitute a "contribution" or "expenditure" under 21A M.R.S.A. §1012 and 1052, and whether the individual that incurs the costs coordinates his or her activity with a candidate, political committee, political action committee, or party committee, or instead conducts the activity independently. Coordinated expenditures that are not covered by the contribution exception would be in-kind contributions subject to the individual contribution limits, and independent expenditures that are not covered by the expenditure exception would be subject to the \$50 reporting threshold in 21A M.R.S.A. §1019.

2. Hyperlinks on Web Sites:

To address the placement of hyperlinks on web sites, the Commission interprets Maine's campaign finance and reporting laws to permit the establishment and maintenance of a hyperlink from a web site to the web site of a candidate for no charge or for a nominal charge. The cost of establishing and maintaining such a hyperlink would not be a contribution or expenditure, even if the originating web site selectively provides hyperlinks to one or more candidate(s), political committee(s), political action committee(s), or political parties without providing hyperlinks to any opposing candidate(s), political committee(s), political action committee(s), or political parties.

However, three conditions must be met in order for the hyperlink to be exempt from the contribution and expenditure definitions. First, the hyperlink will only be exempt if the owner of the originating web site does not charge or charges only a nominal amount for providing hyperlinks to other organizations. Second, the hyperlink may not be a coordinated general public political communication under 21A M.R.S.A. §1014. Finally, if the hyperlink is anchored to an image or graphic material, that material may not expressly advocate under 21A M.R.S.A. §1019. Similarly, the text surrounding the hyperlink on the originating web site may not expressly advocate. However, if the hyperlink is

anchored to the text of the Uniform Resource Locator (URL) of a candidate's web site, the text of the URL is not subject to the express advocacy limitation. Thus, even if the text of the URL itself expressly advocates, the hyperlink would be exempt, so long as the other conditions are met.

3. Press Releases Announcing Candidate Endorsements:

The Commission interprets Maine's campaign finance and reporting laws to address the issue of endorsement press releases on organizational web sites to permit a press release announcing a candidate endorsement available to the general public on the organization's web site, provided that four conditions are met: (1) The organization ordinarily makes press releases available to the general public on its web site; (2) The press release is limited to an announcement of the organization's endorsement or pending endorsement and a statement of the reasons therefore; (3) The press release is made available in the same manner as other press releases made available on the web site; and (4) The costs of making the press release available on the web site are *de minimis*.

This would enable an organization to post a press release announcing a candidate endorsement on its web site without limiting access to the press release to its restricted class. However, the organization would be required to limit the press release to an announcement of the organization's endorsement and a statement of the reasons for the endorsement. It would not allow the organization to post express advocacy materials such as banner advertisements for a candidate on its web site.