

# MAINE STATE LEGISLATURE

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*Election Campaign Reporting Requirement*  
21 M.R.S.A. § 1397  
21 M.R.S.A. § 1-4-A

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DEPARTMENT OF THE ATTORNEY GENERAL  
AUGUSTA, MAINE 04333

September 22, 1976

Representative Charlotte Z. Byers  
Glidden Street  
Newcastle, Maine 04553

Dear Representative Byers:

This responds to your letter of September 14, 1976, in which you posed the following question:

"Does a 'write-in' candidate for state office who has announced his or her candidacy prior to the primary election, won the nomination, and signed acceptance of the nomination, have to file election expenses (final report July 24) as all other candidates are required to do?"

As we understand the fact situation behind your question, the person in question was a declared write-in candidate for a nomination in the June 8th primary and won a party nomination on that date.

Based on your question, and our understanding of the facts, it is our view that such a candidate would be required to file a final expense report, although the candidate might not have been required to file an expense report prior to the election.

Title 21, Section 1397, sub-section 1 requires that "each candidate" for state and county office file reports. Whether the person was a declared candidate sufficiently in advance of the election to have been required to file prior to the election is a question of fact which we do not address here. However, as such person clearly qualified in the election, the subsequent report is required. The law relating to campaign reports does not distinguish between write-in candidates and candidates who are on the ballot as a result of partisan nominating petitions. Thus, as indicated, the law requires that "each candidate" file a report.

Representative Charlotte Z. Byers  
September 22, 1976  
Page 2

However, the term "candidate" is defined in the law, 21 M.R.S.A. § 1-4-A as:

"Any person who has filed a petition pursuant to either section 445, 446 or sections 492 and 493 and is qualified as a candidate by either procedure."

In this case, no petitions have apparently been filed by the candidate. Instead, the candidate has qualified pursuant to the provisions of section 451 relating to write-ins in partisan primaries.

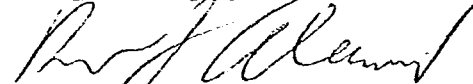
Despite this apparent difference between the way in which candidates are defined and the manner in which the candidate in question qualified in this case, no intention appears in the campaign reporting law, 21 M.R.S.A. § 1397, to exempt candidates who participate in primary elections as write-in candidates and are successful therein. In fact, the law applies to "candidates for all state and county offices", 21 M.R.S.A. § 1391. With nomination, write-in candidates are considered qualified candidates in the same way as any other candidates who gain a position on a general election ballot as a result of a petition or election. Thus they must file campaign reports.

The only question which the apparent gap in the definition of "candidate" leaves is the issue, not raised here, of a person who seeks to gain a position on a ballot as a write-in candidate but is unsuccessful.

Further, we would note that as the penalties relating to filing campaign reports are civil in nature, 21 M.R.S.A. § 1398, the doctrine that statutes with criminal penalties must be strictly and narrowly construed, does not come into play. Here the clear intent of the Campaign Reporting law that all candidates report governs.

Because the definition of "candidate" might have led to confusion, we are furnishing a copy of this letter to the Secretary of State to appropriately advise all write-in candidates.

Very truly yours,



DONALD G. ALEXANDER  
Deputy Attorney General

DGA:jg

cc: Markham Gartley