



May 21, 2026

Jonathan Wayne, Director
Maine Ethics Commission
135 State House Station
Augusta, ME 04333

Dear Director Wayne,

Campaign Legal Center (CLC) respectfully submits these comments to assist the Maine Ethics Commission (Commission) as it considers regulating redboxing.¹

CLC is a nonpartisan legal organization dedicated to solving the wide range of challenges facing American democracy. Since the organization's founding in 2002, CLC has participated in every major campaign finance case before the U.S. Supreme Court, as well as in numerous other federal and state court cases. CLC fights for every American's freedom to vote and participate meaningfully in the democratic process, particularly Americans who have faced political barriers because of race, ethnicity or economic status.

As American elections continue to see record-breaking spending,² contribution limits play a critical role in safeguarding our elections from the corrupting potential of large contributions made by wealthy special interests. Compounding the problems inherent in this explosion in election spending, outside spenders have increasingly used methods designed to evade contribution limits, allowing wealthy special interests to illicitly coordinate their spending with candidates.³

¹ Maine Comm'n on Governmental Ethics and Election Practices, Complaints against Democratic Gubernatorial Candidates on Redboxing (April 30, 2026), <https://www.maine.gov/ethics/sites/maine.gov.ethics/files/inline-files/6%20-%20Red%20Boxing.pdf> ("April 30 Memo").

² By one estimate, spending exceeded \$16 billion in federal elections and \$4 billion in state elections in the 2024 election cycle. Albert Serna Jr. and Anna Massoglia, *Big money, big stakes: 5 things everyone should about money in 2024 elections*, OPENSECRETS (Nov. 5, 2024), <https://www.opensecrets.org/news/2024/11/big-money-big-stakes-5-things-everyone-should-know-about-money-in-2024-election>.

³ See generally, SAURAV GHOSH ET AL., CAMPAIGN LEGAL CTR., THE ILLUSION OF INDEPENDENCE: HOW UNREGULATED COORDINATION IS UNDERMINING OUR DEMOCRACY, AND WHAT CAN BE DONE TO STOP IT, 3 (2023) <https://perma.cc/4VC9-KZKG>.

Unsurprisingly, Americans across the country—including both Republicans and Democrats—identify “the role of money in politics” as one of the biggest problems in our country.⁴ Campaign finance laws must address this pressing issue and protect the integrity of our elections, including by ensuring that contributions to candidates are subject to reasonable limits and that wealthy special interests cannot circumvent those limits to directly bankroll their preferred candidates.

In light of these challenges, CLC commends the Commission for taking action to address redboxing, an illegal practice by which a candidate coordinates with outside groups by communicating the candidate’s preferred campaign messaging and strategy—such as in an actual red box on the candidate’s campaign website—for use by outside groups to develop, run, and pay for ads that support the candidate. Both federal law and Maine law correctly treat coordinated spending between candidates and outside groups as contributions to those candidates. These laws play a crucial role in our democratic process by helping prevent wealthy special interests from using their ability to engage in unlimited fundraising and spending to directly underwrite a candidate’s campaign expenses, a practice that raises obvious corruption concerns.

In these comments, we first describe the practice of redboxing and its key features, demonstrating how candidates signal illicit requests in plain sight to outside spenders for specific advertising in support of their campaigns. Second, we provide an overview of the U.S. Supreme Court’s case law concerning coordination restrictions and explain how regulating redboxing is consistent with Supreme Court precedent. Finally, we explain how the Federal Election Commission’s (FEC) flawed approach to redboxing contradicts federal law by allowing illegal coordination to run rampant in federal elections and provide alternatives for effectively regulating redboxing.

I. Redboxing is coordinated election spending.

“Redboxing” is named for the tell-tale, red-outlined box on a candidate’s website that contains specific information detailing the campaign’s preferred messaging and strategy, which is then used by outside spenders—such as super PACs—to make political ads in support of the candidate.

An example from the New Hampshire race for U.S. Senate in 2014 illustrates how redboxing works: In April 2014, Senator Jeanne Shaheen’s campaign updated a redbox on their campaign website to “assert that when Shaheen’s opponent Scott ‘Brown was the Senator from Massachusetts[,] he gave big oil billions in special

⁴ Pew Research Center, *Money in politics is widely viewed as a big problem for the U.S.; partisan gaps are far larger on other issues* (May 11, 2026), <https://www.pewresearch.org/chart/money-in-politics-is-widely-viewed-as-a-big-problem-for-the-u-s-partisan-gaps-are-far-largelarger-on-other-issues/> (finding that 74% of Americans, including 79% of Democrats and 70% of Republicans, believe “the role of money in politics” is a “very big problem in the country today”).

breaks.”⁵ The Democratic Senatorial Campaign Committee tweeted out a message that linked directly to the redbox on Senator Shaheen’s campaign website and three days later “the super PAC Senate Majority PAC came out with an advertisement on Scott Brown’s ‘big oil baggage’ taking the Shaheen campaign’s redbox message point-by-point and incorporating it into the script of the ad.”⁶

Although the exact redboxing tactics may vary from one campaign to another, redboxing schemes tend to include commonly understood signals and phrasing that make it easy for outside groups to identify a candidate’s requests for desired communications, including who should be targeted with what messages, delivered via which media channels. A redbox generally includes a combination of two or more of these elements to get the attention of supportive outside spenders:

A. Signals and repositories. Candidates typically signal their messaging and strategy to outside spenders by circumscribing the information within a discrete part of their campaign website, such as in a literal red box or on a separate web page. But despite the name, “redboxes” come in a variety of forms (and colors). Candidates typically signal their redbox with specific phrases like, “Voters Need to Know” or “All Mainers Need to Know,” highlighting a section or page of the candidate’s website that contains messaging and strategy information directed at super PACs.⁷ Redboxes also often signal how recently they have been updated, so that super PACs know they are using the latest message and strategy information from the candidate to create their political ads.⁸

Political parties also create and maintain their own online aggregated repositories of redboxes to support their party’s candidates.⁹ These websites streamline the process of communicating campaign strategy and messages to outside spenders, making it easy to find updated party messaging for specific elections across the country.

B. Targeted audience information. Redboxes often contain information telling outside spenders who the intended audience is for particular campaign messaging. This tactic ensures that their ads are more effective for the candidate because the campaign is sharing crucial targeting

⁵ Kaveri Sharma, *Voters Need to Know: Assessing the Legality of Redboxing in Federal Elections*, 130 Yale L.J. 1898, 1917 (2022) <https://www.yalelawjournal.org/note/voters-need-to-know>.

⁶ *Id.*

⁷ See, e.g., Karin Norington-Reaves Democrat for Congress, *Voter Alert*, https://www.votekarin.com/?page_id=993 [<https://perma.cc/84KM-PNQQ>].

⁸ *Id.*

⁹ See e.g., Nat’l Republican Senatorial Comm., *New Hampshire*, <https://www.nrsc.org/state-facts/new-hampshire/> [<https://perma.cc/W75E-QKU8>]; see also Gabriel Foy-Sutherland & Saurav Ghosh, *Coordination in Plain Sight: The Breadth and Uses of “Redboxing” in Congressional Elections*, 23 ELECTION L.J. 149 (2024) (analyzing “dozens of...webpages hosted on microsites maintained by the national parties” for the purpose of redboxing).

information, often based on the campaign’s polling data.¹⁰ This information often includes specific demographic and location signals, like “voters in St. Louis over the age of 65” or “men who are Democrats under 50.”

C. Communication methods. In addition to providing targeting information, campaigns specify to outside spenders how to disseminate a communication using widely known code words. For example, a redbox indicating that voters need “to see” means the outside group should run television ads; content that a voter needs “to read” should be sent via direct mail; and the phrasing “see on the go” is a request for digital ads.¹¹

D. Messaging content. Candidates use redboxes to specify particular messages they want outside spenders to use in political ads, combining their signals for who to target and how with specific campaign messages. For example, when Karen Carter Peterson ran for Congress in a special election in Louisiana in 2021, her campaign website’s redbox signaled to super PACs that “[y]oung Black voters and White Women who are non-GOP voters need to **read and see on the go** that Karen Carter Petersen has been endorsed by Gary Chambers and Stacey Abrams.”¹² This instruction to super PACs identified specific groups to target and called for direct mail and digital ads highlighting the candidate’s endorsements.

In Wisconsin, the website for Mandela Barnes’s 2022 campaign for the U.S. Senate instructed outside groups that “voters outside of the Madison and Milwaukee media markets need to read that Mandela Barnes grew up in middle-class Wisconsin, his mom a teacher and his dad a third shift worker.”¹³ To a super PAC looking to support Barnes’s campaign, it’s a clear set of instructions for a direct mail campaign conveying a specific message about the candidate, targeted outside of the state’s two major cities where Barnes’s campaign thought that message would resonate most effectively.

In addition to providing specific messaging, candidates also make documents, photos, and videos available through their redboxes, allowing super PACs to use ready-made advertising production elements to quickly

¹⁰ Chris Moody, *How the GOP Used Twitter to Stretch Election Laws*, CNN (Nov. 17, 2014) <https://www.cnn.com/2014/11/17/politics/twitter-republicans-outside-groups/index.html>.

¹¹ Shane Goldmacher, *The Little Red Boxes Making a Mockery of Campaign Finance Law*, N.Y. TIMES (May 16, 2022) <https://www.nytimes.com/2022/05/16/us/politics/red-boxes-campaign-finance-democrats.html>.

¹² Karen Carter Peterson for Congress, *What Voters Need to Know*, https://www.karencarterpeterson.com/what_voters_need_to_know/ [<https://perma.cc/W38U-XA7R>] (emphasis in original).

¹³ Mandela Barnes for U.S. Senate, *Media*, <https://mandelabarnes.com/media/> [<https://perma.cc/273C-P3B8>].

develop political ads, instead of spending time and resources producing their own materials.¹⁴

Putting these mechanisms together, candidates communicate their desired strategy and messaging to supportive outside spenders and quickly turn an effective redbox into large advertising buys in support of their candidacy. For example, in Matt Rosendale’s 2018 campaign for a U.S. Senate seat in Montana, Rosendale updated his campaign website to include points attacking his opponent, Jon Tester, “for his ‘D’ rating from the NRA and his votes for anti-Second Amendment judges.”¹⁵ In response and on the same day, “the NRA ordered a \$93,000 flight of radio ads to attack Rosendale’s opponent.”¹⁶

II. Redboxing enables quid pro quo corruption and the appearance of such corruption.

Regulating redboxing as a form of coordination addresses a growing issue in contemporary elections: the circumvention of existing coordination rules and contribution limits by wealthy special interests who effectively underwrite candidates’ campaigns by coordinating their spending with their preferred candidates in the public domain. Closing the redboxing loophole is not only good policy and essential for reducing political corruption; it is also constitutional, as decades of U.S. Supreme Court precedent has established.

Beginning with its seminal decision in *Buckley v. Valeo*, the Supreme Court has consistently maintained that outside expenditures “controlled by or coordinated with a candidate” may be constitutionally limited in the same manner as direct contributions to the candidate’s campaign.¹⁷ Because coordinated expenditures are essentially indirect or in-kind contributions to candidates, limiting expenditures made in coordination with candidates furthers the same anti-corruption interests served by limits on direct campaign contributions and, critically, “prevent[s] attempts to circumvent the [limits] through prearranged or coordinated expenditures amounting to disguised contributions.”¹⁸

In *McConnell v. FEC*, the Supreme Court upheld the Bipartisan Campaign Reform Act’s expansion of federal coordination rules to cover coordinated expenditures made in the absence of “an agreement or formal collaboration” with a candidate.¹⁹ *McConnell* noted that the existence of a formal agreement did not establish “the dividing line” between coordinated and independent spending, and explained that “expenditures made after a ‘wink or nod’ often will be ‘as useful to

¹⁴ See, e.g., John Gibbs for United States Congress, *Media*, <https://www.votejohngibbs.com/media> [<https://perma.cc/XN4Q-C4EA>].

¹⁵ Sharma, *supra* note 5, at 1917.

¹⁶ *Id.*

¹⁷ 424 U.S. at 46-47.

¹⁸ *Id.* at 455.

¹⁹ 540 U.S. 93, 220-23 (2003).

the candidate as cash.”²⁰ Moreover, the Court reiterated that only “wholly independent” spending is constitutionally distinguishable.²¹

Even in *Citizens United v. FEC*, the majority’s assumption that *independent* expenditures are made without “prearrangement and coordination” with candidates was central and essential to the Court’s holding that independent expenditures, unlike direct campaign contributions, do not create a risk of “quid pro quo” corruption, underscoring the importance of the distinction between coordinated and independent spending.²² Since the Supreme Court struck down the ban on corporate independent expenditures in *Citizens United*, coordination rules have become especially critical to enforcing statutory limits on contributions.

As the examples in Part I illustrate, redboxing belies any commonsense understanding of “independent” spending and undermines limits on campaign contributions that are key to maintaining accountability and preventing corruption in our democratic process. Instead, when an ostensibly “independent” outside spender pays to run advertisements following the explicit request and instructions from a candidate, those ads will plainly be “as useful to the candidate as cash.”²³ Ads run by outside spenders according to the express wishes of their preferred candidates are plainly not “wholly independent” spending, and such spending poses a clear risk of corruption and the appearance of the corruption.

III. The FEC’s failure to regulate redboxing contradicts federal law and should not be followed.

Federal law and Maine law similarly define coordinated spending to include election spending by another person that is in “cooperation, consultation, or concert with” a candidate or at the “request or suggestion of” a candidate.²⁴ Neither law contains any exception to this general rule for coordination that occurs through publicly available sources. The FEC’s failure to enforce this standard in the context of redboxing is misguided and inconsistent with federal law; the Commission need not—and should not—follow the FEC’s poor example of abdicating responsibility on this critical issue.

The FEC has not issued any advisory opinions or promulgated any regulations to address coordination through redboxing. Instead, the FEC has declined to enforce coordination rules when redboxing is at issue. For example, in 2022, the FEC dismissed a complaint alleging coordination between a presidential

²⁰ *Id.* at 221 (quoting *FEC v. Colo. Republican Federal Campaign Committee*, 533 U.S. 421, 446 (2001)); see also *id.* at 222 (“A supporter could easily comply with a candidate’s request or suggestion without first agreeing to do so, and the resulting expenditure would be virtually indistinguishable from a simple contribution.” (internal quotation marks and brackets omitted)).

²¹ *Id.* at 221.

²² 558 U.S. 310, 357 (2010).

²³ *McConnell*, 540 U.S. at 221.

²⁴ 52 U.S.C. § 30116(7)(B)(i); 21-A M.R.S.A. §1015(5).

candidate and a supportive super PAC after the candidate’s campaign posted instructions for supportive ads through social media.²⁵ In doing so, the four Commissioners who voted to dismiss the complaint explained that the FEC had previously interpreted its “request or suggestion” standard for coordination to “cover requests to select audiences, not statements to the general public.”²⁶ Relying on agency guidance from 2003—well before the widespread adoption of social media platforms—that indicated a request “posted on a web page that is available to the general public” would not be considered a “request or suggestion” for an expenditure (whereas “an email to a discrete group of recipients” would be), those Commissioners dismissed the complaint.²⁷

That reasoning, though, fundamentally misunderstands the nature of redboxing. When a candidate explicitly indicates the specific audiences, platforms, and/or content of political ads they want outside spenders to run, the candidate is not making a “statement to the general public.” Rather, the candidate is delivering a targeted message to a particular audience—supporting groups with the resources to spend big on campaign ads—through a public platform. Indeed, many of the hallmarks of redboxing—such as the use of coded language and placing the instructions on a discrete webpage or section of a website—bely any argument that those messages are intended for the general public.

In light of the FEC’s tacit endorsement of this activity, redboxing has exploded in federal elections. According to one study, over 200 federal candidates in the 2022 election engaged in redboxing,²⁸ and the illegal practice has only increased in the years following the FEC’s VoteVets dismissal.²⁹ Following the FEC’s example undoubtedly would lead to an increase in redboxing in Maine elections and, as a result, substantial weakening of contribution limits.

The Commission should, instead, follow the example of other jurisdictions that have taken on redboxing by providing guidance that incorporates the common tactics by which campaigns make request or suggest political spending publicly and thereby engage in coordinated spending. For example, Philadelphia and Allegheny County have followed a similar approach to regulating redboxing,³⁰ and this

²⁵ See FEC MUR 7700 (VoteVets), Statement of Reasons of Chairman Allen J. Dickerson, Commissioner Sean J. Cooksey, Commissioner James E. “Trey” Trainor, III, and Commissioner Ellen L. Weintraub (Apr. 29, 2022), https://www.fec.gov/files/legal/murs/7700/7700_14.pdf.

²⁶ *Id.* at 1.

²⁷ *Id.* at 2.

²⁸ Foy-Sutherland & Ghosh, *Coordination in Plain Sight*, *supra* n.9.

²⁹ Redboxing by federal candidates has also grown even more egregious, with increasingly detailed instructions on ad content, targeting, and even prioritization. See, e.g., Rabb for Congress, *Media*, <https://www.chrisrabb.com/media>; Talarico for Texas, *What Voters Need to Know About James*, <https://jamestalarico.com/what-voters-need-to-know-about-james/>; Rushern Baker for Congress, *Media*, <https://www.rushernbaker.com/media>.

³⁰ See Phila. Bd. of Ethics Reg. No. 1 ¶ 1.37(e), <https://www.phila.gov/media/20240506141243/BOE-regulation-1.pdf> and Allegheny Cty. Code of Ordinances § 220-7 part G, <https://alleghenycounty.legistar.com/LegislationDetail.aspx?ID=6170938&GUID=787A6DC4-3D2A->

approach is also reflected in a recently introduced bill in Congress to address redboxing in federal elections following the FEC's inaction.³¹ As these alternatives illustrate, there are clear and reasonable guidelines that agencies can use to identify redboxing and enforce coordination rules in those circumstances.

Conclusion

Thank you for your consideration of CLC's comments and recommendations to address redboxing. We would be happy to answer questions or provide additional information to assist the Commission as it considers this important issue in Maine elections.

Respectfully submitted,

/s/

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[4B19-AEFB-12691C9786B0&Options=Advanced&Search=&FullText=1](#); *see also* N.Y. City Campaign Finance Bd. Rules, § 6-04(a)(xi)(B) (including as a factor in determining coordination whether person making the expenditure “utilized strategic information or data” that “has been made publicly available by the candidate ... in a manner which the candidate ... knew or should have known would facilitate such utilization”).

³¹ *See* Stop Illegal Campaign Coordination Act, H.R. 2476, 119th Cong. (2025), <https://www.congress.gov/bill/119th-congress/house-bill/2476>.