

The preliminary investigation by the Commission staff has shown the following:

1. The American Legislative Exchange Council (ALEC) provides its legislative members with access to software named ALEC CARE as a free membership benefit. ALEC asserts its purpose is to assist its members in managing their relations with constituents. ALEC CARE contains features that ALEC's members could use to record their contacts with constituents and communicate with them, although it does not contain some features found in other case tracking and management software.
2. ALEC CARE is rooted in Voter Gravity, which is a voter data management software marketed to political candidates by a for-profit corporation of the same name. The software provides voter data to the candidates and allows them to create campaign communications. It is designed as a tool to help candidates promote their nomination and election.
3. The investigation to date has not disclosed major differences between ALEC CARE and Voter Gravity. During the 2020 election cycle, ALEC CARE contained several features that appear more useful in campaigning than constituent communications, such as providing voter history, party affiliation and turnout score for the constituents in the database, and creating walk lists and maps for legislators to use going door-to-door to meet district residents.
4. As of the time of the Commission staff's investigation, when ALEC members log in to use ALEC CARE, they see a message stating that ALEC CARE is a constituency management system and that, by signing in, the member agrees not to use the software for any campaign-related purpose.
5. In attorney correspondence to the Commission and a May 18, 2022 demonstration and interview, ALEC did not voluntarily provide data about Maine legislators who have used the software for any purpose.
6. If an ALEC member were to use the software for campaign purposes contrary to the agreement on the log-in page, which is possible without modification of the software, the software would have value to the member in providing relevant voter data that could be used in campaign communications. The constituent/voter data in the software demonstrated on May 18, 2022 contains their names and addresses, and demographic and other political information, but does not contain phone numbers or email addresses. It is noted that in a 1/7/21 email (6/15/22 ETH -77) ALEC asserts "This software would cost \$3,000 if bought by a member, but is a member benefit." However, based on the investigation to date, the Commission cannot determine a dollar amount value for the software as a tool for either constituent relations or campaigning.
7. The Commission cannot conclusively ascertain that ALEC's purpose in providing the CARE software to its legislative members was campaign-related without dedicating more staff resources to make documentary requests to ALEC. This could entail issuing and litigating subpoenas on ALEC, which is domiciled in Virginia.

Therefore, in consideration of making the best use of the Commission staff and resources, and in the interests of providing clarity on this issue going forward, I move that the Commission suspend the investigation into the provision of software by the American Legislative Exchange Council to its Maine members pending production by Commission staff of guidance and educational materials, communicated to candidates through whatever means Commission staff deems effective, that will:

- (a) inform candidates that receipt of, or access to, campaign assistive software provided to the candidate for less than fair market value is a contribution under 21-A M.R.S. §1012(2)(A)(1);
- (b) notify Maine candidates that receiving or accessing such campaign assistive software at a discounted cost constitutes acceptance of an in-kind contribution that violates the Maine Clean Election Act or may violate the contribution limits that are applicable to traditionally financed candidates, and
- (c) clearly remind candidates that if they receive a contribution of campaign assistive software that they should comply with Maine laws and regulations governing in-kind campaign contributions.