



Minutes of the May 6, 2026 Meeting of the
Commission on Governmental Ethics and Election Practices
45 Memorial Circle, Augusta, Maine

Present: William Schneider, Esq., Chair; Brooke Bailey, Esq.; Colton Gross, Esq.; and Sarah LeClaire, Esq.

Staff: Jonathan Wayne, Executive Director; and Jonathan R. Bolton, Assistant Attorney General.
Commissioner Schneider convened the meeting at 9:00 a.m.

1. Ratification of the February 25, 2026 Meeting Minutes

Mr. Schneider moved to approve the minutes of the February 25, 2026 meeting as presented. Ms. LeClaire seconded the motion. The motion passed 2-0. Mr. Gross and Ms. Bailey abstained, as they did not participate in the February 25 meeting.

2. Request for Waiver of Late-Filing Penalty – Grow Maine

Grow Maine PAC was required to file a quarterly campaign finance report by April 10, 2026 covering January - March. The PAC filed the report six days late on April 16, 2026. The preliminary penalty for the late filing was \$1,847.52. The PAC requested a waiver, citing its good track record of timely filing and the lack of automated reminders from the Commission's new e-Filing system. Commission staff recommended a full or substantial waiver of the \$1,847.52 penalty.

Ms. LeClaire asked for a status update on the new e-Filing system. Mr. Wayne explained the old e-Filing system had over 10 years of transactions and other data that needed to be converted by the Commission's new vendor so the new system would display the information correctly. The new vendor underestimated how long the data conversion would take. He stated staff was confident most of the functionality for the public and users will be rolled out in the next four to eight weeks, including automated reminders for future deadlines. In the interim, staff had sent one email reminder to PACs for the April 10, 2026 reporting deadline.

Rep. David Boyer, Principal Officer of Grow Maine PAC, stated he and his treasurer rely on the automated email reminders, but they missed the one staff reminder for the April 10 filing.

Mr. Schneider moved to find the filing was late and assess a \$100 penalty. Ms. LeClaire seconded the motion. The motion passed 4-0.

3. Reclaim Maine – Late PAC Registration and Initial Campaign Finance Report

Reclaim Maine acknowledged in writing it was late filing a PAC registration and initial campaign finance report in 2025. It said it would not dispute the penalties recommended by staff. The Commission asked the matter to be handled by agency staff.

4. Request for Investigation – Maine Democratic Party

At its January 28, 2026 meeting, the Commission directed staff to investigate the financial activities by the Maine Democratic Party (MDP) to oppose Question 1 on the November 4, 2025 ballot, in response to a complaint from Mr. Alex Titcomb. He alleged that the party should have filed campaign finance reports as a “ballot question committee” pursuant to statutes that apply generally to organizations spending money to influence ballot questions. At the Commission’s February meeting, it adopted a recommendation by its counsel that party committees should disclose their financial activities to support or oppose a ballot question in their regular campaign finance reports.

Mr. Wayne summarized the staff’s investigative findings. The MDP stated it received \$250,000 for the purpose of opposing Question 1 and spent about \$173,000 on the effort, which was mostly for staff expenses. The MDP is prepared to amend its reports to clearly identify which transactions were in opposition to Question 1. On March 3, 2026, Commission staff sent a notice of penalties to the MDP’s counsel, Kate Knox, recommending late filing penalties totaling \$9,000 for not filing five campaign finance reports. The MDP responded in writing by explaining its campaign finance reporting around the ballot question and disagreeing with the recommended penalties, which the MDP described as excessive.

Mr. Titcomb emphasized that he filed the complaint as a private citizen. He argued that the MDP’s explanations and reported figures had changed over time, which raised concerns about its credibility and compliance. Mr. Titcomb maintained that the party was a sophisticated organization with legal counsel, compliance firms, staff, and financial resources, so it should

have understood and followed campaign finance laws correctly. He disagreed with the party's arguments that reporting errors were caused by confusing guidance documents, saying the law itself was clear and that less experienced organizations would have sought additional guidance if they were uncertain.

Mr. Titcomb referenced email exchanges between MDP counsel and Commission staff, arguing those communications demonstrated that the party was required to file additional pre-election reports. He acknowledged the Commission has already decided political parties do not need to register as ballot question committees (BQCs), but he criticized that policy because he believed it reduced transparency for the public. He believed every unreported contribution or expenditure connected to the ballot measure should count as a separate violation and that the proposed penalties were too lenient. He said that reducing penalties weakened accountability and created a precedent that large political organizations could violate reporting laws without meaningful consequences.

Ms. Kate Knox, counsel for MDP, said the party acknowledged it did not file all required reports and accepted the findings of violations. She emphasized the errors were not intentional and described them as filing mistakes caused by confusion and circumstances outlined in prior memos. While accepting responsibility for understanding the law, she argued there were substantial mitigating circumstances that justify further reducing the proposed penalties. She stressed that the transactions in question were disclosed publicly, but categorized incorrectly, rather than hidden or omitted entirely. She said there was no evidence that the party intended to evade compliance and argued the record instead showed efforts to comply in good faith. A \$9,000 fine was significant considering the party had already spent considerable time and money dealing with the complaint. She said the MDP was willing to amend its reports and urged the Commission to further reduce the penalties because of the mitigating factors present.

Mr. Schneider moved to find that five campaign finance reports were missing and filed late and assess a fine of \$9,000. Ms. LeClaire seconded the motion. The motion passed 4-0.

5. Criteria for Accepting Qualifying Contributions

Mr. Wayne provided an informational update about the Commission staff's procedures for accepting qualifying contributions by candidates seeking Maine Clean Election Act funding.

6. Complaint about Red Boxing by Democratic Gubernatorial Candidates

Mr. Wayne discussed complaints against the gubernatorial campaigns of Nirav Shah, Hannah Pingree, and Troy Jackson concerning “red boxing” on their campaign websites. “Red boxing” is a campaign tactic where candidates post strategic messaging information on their websites, sometimes visually highlighted with red boxes, that signal to outside groups how they should spend money supporting the candidate. These messages can include proposed campaign themes, target audiences, and timing recommendations for advertisements. Under Maine law, candidates cannot suggest spending by outside groups because it could count as an in-kind contribution and potentially exceed legal contribution limits. Red boxing itself is not illegal under Maine law, however, staff warned in its memo to the Commission that, depending on the facts and circumstances, it could potentially be interpreted as suggesting to outside groups that they spend money in support of a candidate, which could result in contribution limit violations. He said the tactic carries an element of risk under current Maine law.

The original complaint was filed by James Kilbreth against the Nirav Shah campaign. Mr. Kilbreth requests the Commission issue a statement declaring that red boxing will be treated as a request or suggestion for outside spending. The Commission also received written comments from the Maine Citizens for Clean Elections supporting a similar position.

The Shah campaign responded to the complaint, defending its actions under current Commission rules, and proposed rather than immediately pursuing enforcement, the Commission could instead issue an advisory or educational statement to clarify expectations for candidates going forward.

Ms. LeClaire raised the possibility of seeking a legal opinion from the Office of the Attorney General regarding the legality and regulation of “red boxing” practices in political campaigns, and whether there might be room for either regulatory changes or legislative clarification to better define the practice and its limits.

Mr. Alex Titcomb said red boxing is protected free speech. He stated candidates and campaigns should be able to publicly say whatever they want on their websites or in public messaging.

Ms. Kate Knox spoke on behalf of the Pingree for Governor campaign and agreed with Mr. Titcomb’s comments. She said that an opinion from the Commission could be helpful, because the issue is legally nuanced and difficult to evaluate factually, and that campaigns and

political action committees need predictability and clarity regarding what conduct is permissible. She questioned how regulators could realistically determine whether an outside group's spending decisions were influenced by seeing campaign website content, especially when the material may have been posted only briefly.

While acknowledging that the draft advisory guidance addressed some concerns, such as explicit wording and messaging, Ms. Knox said compliance questions would remain complicated and raised concerns about the difficulty of "proving a negative," meaning demonstrating that outside groups did not rely on publicly posted campaign information. She emphasized that information placed on public campaign websites is visible not only to supporters but also to opponents, reducing the idea that campaigns are secretly signaling allied groups. Because all campaigns monitor one another's websites, the practical value of red boxing as a coordination tool may be less clear-cut than critics suggest raising concerns about balancing campaign finance enforcement with constitutional free speech protections.

Mr. Robin Logsdon, spoke on behalf of the Troy Jackson campaign. In his federal campaign experience the Federal Election Commission's three-part coordination framework was useful because it focused on evidence of actual cooperation or consultation between campaigns and outside groups and that framework helps avoid trying to draw vague distinctions between protected public speech and unlawful coordination. While not specifically advocating that Maine adopt the exact federal standard, he suggested it should consider a similarly clear and evidence-based approach. He criticized the idea of regulating the "red box" format itself, arguing that the distinction often appeared to be based more on style or presentation than substance. Mr. Logsdon warned that overly broad or unclear rules could unintentionally turn ordinary campaign messaging into potential violations and cautioned against a system where legality depends on subjective judgments by regulators, summarized as a "we know it when we see it" approach. He emphasized the need for clear, objective standards that protect free political speech, while still addressing genuine coordination concerns.

Mr. Schneider stated the Commission was not interested in restricting free speech rights. The Commission may want to make the point that a candidate is stepping into risky territory if they openly request a third party make expenditures on their behalf. Their key concern is not public political speech itself, but situations where a candidate openly requests or encourages third parties to spend money on the candidate's behalf. Any potential campaign finance violation

would occur only when outside expenditures are made in response to such requests, not merely when speech is posted publicly. He supported Commissioner LeClaire's earlier proposal to seek a legal opinion from Assistant Attorney General Jonathan R. Bolton.

Mr. Schneider framed the Commission's role as primarily educational, helping campaigns understand legal risks and compliance expectations going forward. He moved that the Commission request legal analysis and advisory guidance from counsel regarding how to evaluate red boxing practices. Ms. LeClaire seconded the motion. The motion passed 4-0.

Executive Session

Mr. Schneider moved pursuant to 1 M.R.S. §§ 405(4) and 1013(3-A) to go into executive session pursuant to 1 M.R.S. to discuss whether to pursue a legislative ethics complaint. Ms. LeClaire seconded the motion. The motion passed 4-0 at 9:58 a.m.

The Commission met in executive session until 10:26 a.m., when it reconvened in public session. Mr. Schneider moved that no investigation was required and to take no further action on the complaint. The motion was seconded by Ms. Bailey. The motion passed 4-0.

Other Business

Mr. Bolton provided the Commission with an update on two federal lawsuits. One action challenged a 2023 law restricting foreign government and foreign government-influenced spending in Maine elections. The law is currently preliminarily enjoined, with dispositive motions pending that could potentially end the case. In the second case, the district court struck down a law limiting contributions to PACs for purposes of making independent expenditures. The state has appealed to the U.S. Court of Appeals for the First Circuit.

Adjournment

Mr. Schneider made a motion to adjourn. Mr. Gross seconded. The motion passed 4-0. The meeting adjourned at 10:35 a.m.

Respectfully submitted,

Jonathan Wayne, Executive Director