

App. No. 25A-_____

In The
Supreme Court of the United States

ALASKA POLICY FORUM,
Petitioner,

v.

ALASKA PUBLIC OFFICES COMMISSION; YES ON 2 FOR
BETTER ELECTIONS; AND PROTECT MY BALLOT,
Respondents.

*On Application for Extension of Time to File a Petition for a
Writ of Certiorari to the Alaska Supreme Court*

**PETITIONERS' APPLICATION TO EXTEND TIME TO FILE
A PETITION FOR A WRIT OF CERTIORARI**

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Rule 29.6 Statement

Pursuant to Supreme Court Rule 29.6, Petitioner Alaska Policy Forum is a 501(c)(3) nonprofit organization. It has no parent companies and no publicly held company owns 10% or more of its shares.

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To the Honorable Elana Kagan, Associate Justice of the United States and Circuit
Justice for the United States Court of Appeals for the Ninth Circuit:

Pursuant to 28 U.S.C. § 2101(c) and Rule 13.5 of the Rules of this Court,
Petitioner Alaska Policy Forum respectfully requests that the time to file a Petition
for Writ of Certiorari in this matter be extended for sixty days, to and including
July 13, 2026. The Alaska Supreme Court issued its opinion on February 13, 2026.
See App. A., infra. Absent an extension of time, the petition would therefore be due

on May 14, 2026. Petitioner files this application at least ten days before that date. See S. Ct. R. 13.5. This Court would have jurisdiction over the judgment per 28 U.S.C. § 1257(a).

Background

1. The Alaska Supreme Court has held that a nonprofit education organization must register and file reports with the state, revealing its donors' identities, because it expressed opinions on an issue that became the subject of a referendum. But under this Court's precedents, political speech cannot be regulated unless it amounts to the functional equivalency of advocacy. See *Fed. Election Comm'n v. Wis. Right to Life*, 551 U.S. 449, 457 (2007) ("WRTL II") (Roberts, C.J., controlling op.); *Citizens United v. Fed. Election Comm'n*, 558 U.S. 310, 335 (2010). Not applying this test, as Alaska's Supreme Court failed to do, threatens to end the First Amendment's protection of associational privacy for anyone who comments about public policy.

2. Petitioner Alaska Policy Forum is a 501(c)(3) nonprofit established to educate Alaskans and policymakers about policies that promote prosperity through individual opportunity and freedom. Its research into election-related issues has made it skeptical of efforts to change the status quo, and APF has published about election funding, government spending to influence elections, universal mail-in

elections, the electoral college system, and election integrity. Given this history, APF agreed in January 2020 to join a national coalition called Protect My Ballot to educate about issues with ranked choice voting.

Employment Policies Institute Foundation (EPIF) organized Protect My Ballot in Washington, D.C., as a §501(c)(3) nonprofit. EPIF owns the coalition's web domain and trade name, and it successfully included nonprofits from Minnesota, Maine, Massachusetts, and Oklahoma in the coalition. PMB's website provided descriptions of how ranked-choice voting works, testimonials from elected officials in ranked-choice voting jurisdictions, frequently asked questions and responses, news articles, and opinion columns.

EPIF contacted APF in January 2020 about participating in the coalition, and APF explained as a § 501(c)(3) organization it could only participate in educational activities. When EPIF confirmed that PMB would only do educational work, APF agreed to join and began republishing PMB pieces on ranked choice voting. On February 11, 2020, APF reposted an opinion piece that had appeared in the Anchorage Daily News on February 9, written by an employee of another coalition member in response to an Anchorage Daily News piece on ranked choice voting.

APF emailed a July 24, 2020 press release from PMB to both a national and an Alaska-specific media list. The release announced that "a coalition of state-based

think tanks . . . had launched a national education campaign detailing the harmful consequences of . . . ranked choice voting.” The press release included statements from APF and coalition members in Minnesota, Oklahoma, and Maine.

On July 31, 2020, APF created a blog post that linked to a video discussing ranked-choice voting from PMB’s YouTube channel.

On October 8, 2020, APF issued a press release describing and linking to a white paper jointly authored by APF and another coalition member, describing an analysis of 96 elections in ranked-choice voting jurisdictions.

Lastly, on October 12, 2020, APF published a two-page article on its website titled “Ranked-Choice Voting Disenfranchises Voters.” The article explained the mechanics of ranked-choice voting and possible flaws in its operation—including problems of voter confusion, ballot exhaustion, and voter disenfranchisement—citing examples from San Francisco, Oakland, and Minneapolis, as well as two other jurisdictions that had repealed it.

In March 2020—in the middle of PMB’s national education campaign—the lieutenant governor accepted the petition to put Measure 2 on the November 2020 ballot. Measure 2 proposed to replace a party primary with an open nonpartisan primary, impose additional disclosure requirements on certain groups, and require ranked-choice voting in the general election.

None of the five alleged advocacy communications mentioned Measure 2. But in September 2020, Measure 2’s proponent filed a complaint against APF and Protect My Ballot, alleging that they failed to comply with the registration, reporting, and identification requirements at AS 15.13.050(a), 15.13.040(d), 15.13.140(b), and 15.13.090. The Commission issued a Final Order on Reconsideration on July 12, 2021. It held that Protect My Ballot’s website did not trigger the requirements and dismissed the complaint against it. The Commission nonetheless held that APF’s communications as part of the coalition—reposting the other coalition member’s newspaper opinion piece, emailing Protect My Ballot’s July 2020 press release, reposting Protect My Ballot’s video about ranked-choice voting, posting the October 2020 white paper with another coalition member, and posting the October website article—triggered the requirements.

The Superior Court affirmed the Commission’s decision on August 16, 2022, as did the Alaska Supreme Court on February 13, 2026. *See Alaska Pol’y F. v. Alaska Pub. Offices Comm’n*, No. S-18533, 2026 Alas. LEXIS 13, at *1 (Feb. 13, 2026)

Reasons for Granting an Extension of Time

1. The forthcoming petition for certiorari raises substantial First Amendment concerns. The rationale for the decision below guts the functional equivalent standard for express advocacy, and it would allow regulators to impose registration,

reporting, and disclosure obligations on anyone speaking about a public issue—the environment, gun control, abortion, or taxes—if a ballot measure on such a topic is even on the horizon. While the government may regulate express advocacy and its functional equivalent, it may not regulate any speech about a topic that happens to be the subject of a campaign.

In upholding the Commission’s decision to regulate speech about ballot measures,¹ including any speech that happens to mention a topic covered in a ballot measure, the court below applied an out-of-date standard, one made obsolete by 30 years of campaign-finance decisions protecting issue speech. In doing so, the court failed to apply the test for the functional equivalent of express advocacy this Court laid out in *WRTL II* and later reaffirmed, *see, e.g., Citizens United*, 558 U.S. at 335. Among other errors, the Commission and the court below failed to examine each alleged piece of advocacy without intent-based considerations—isolating each communication from extraneous contextual factors but examining each communication as a whole. And the failure to follow the *WRTL II* test led here to

¹ When defining what constitutes an “express communication” to be regulated under AS 15.13.400(1)(A) and (8), the Alaska legislature limited the definition to candidates. While the Commission acknowledged that the definitions apply only to candidates, it concluded that they provided “a useful framework” for regulating speech related to ballot measures. *APF*, 2026 Alas. LEXIS 13, at *18. The court below evaded the issue, claiming confusion why *APF* would object to the ultra vires regulation of an entirely new category of speech when the Commission did so using a definition that allegedly narrows the reach of a single term within the regime. *Id.* at *19.

precisely the absurdity predicted in that opinion, “the bizarre result that identical ads aired at the same time”—APF’s sharing of materials created by Protect My Ballot—“could be protected speech for one speaker” but not for another. 551 U.S. at 468.

In addition to being unconstitutionally vague, the regulations at issue also fall short of the exacting scrutiny required since *Buckley v. Valeo*, 424 U.S. 1 (1976) (per curiam), and reiterated in *Americans for Prosperity Foundation v. Bonta*, 594 U.S. 595 (2021). There can be no substantial informational interest in registration, reporting, and disclosure requirements triggered at a zero-dollar threshold, the requirements are not substantially related to the purported interests, and the court below ignored multiple less restrictive alternatives. Alaska’s Supreme Court and other courts continue to ignore in the campaign finance context the rigor of the exacting scrutiny standard as reiterated in *AFPF v. Bonta*. This case presents an excellent vehicle to emphasize that exacting scrutiny and the *WRTL II* test apply in the campaign finance cases from which they came.

2. An extension of time is needed to adequately complete this petition given counsel’s other deadlines. Counsel must prepare for oral argument before the Colorado Supreme Court on April 14, 2026, and prepare a petition for rulemaking and materials for another regulatory meeting, on separate issues and before

different federal agencies, in that same period. These are not counsel's only professional obligations, and counsel also has pre-existing family obligations March 16-20, April 20-29, May 18-22, and June 22-26, including pre-purchased tickets for a family vacation, graduation ceremonies, and travel for anticipated service academy entrance.

Conclusion

For the foregoing reasons, the time to file a Petition for a Writ of Certiorari in this matter should be extended by sixty days, to and including July 13, 2026.

Dated: March 17, 2026

Respectfully submitted,

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